

PRESS RELEASE

ON THE PUBLICATION OF JUDGMENT IN SUIT NO: FHC/L/CS/1633/14

BETWEEN

DIAMOND BANK PLC

AND

- 1. ROBERT DYSON & DIKET LIMITED**
- 2. SIO PROPERTIES LIMITED**
- 3. CHIEF SONNY ODOGWU**
- 4. CORPORATE AFFAIRS COMMISSION**
- 5. THE REGISTRAR OF TITLE FEDERAL LAND REGISTRY**
- 6. LEADWAY TRUSTEES LIMITED**

CAVEAT EMPTOR

We have been retained as counsel to the 1st to 3rd Defendants and Appellants in respect of the appeal against the above judgment.

Our attention has been drawn to the publication of the judgment of Honourable Justice Saidu of the Federal High Court, Lagos delivered on the 3rd November, 2015 in various national dailies, with an advertisement for sale of property at no. 31-35 Ikoyi Crescent, Lagos. We wish to state as follows:

1. The 1st to 3rd Defendants/judgment debtors have pursuant to their constitutional rights filed a Notice of Appeal dated 5th November, 2015
2. The 1st – 3rd Defendants have also filed a motion for Stay of Execution dated 5th November, 2015 and served same on the plaintiff/judgment creditor's counsel Messrs. Kemi Balogun & Co.
3. The act of publishing the judgment and putting the property up for sale via THISDAY Newspaper of November, 6, 2015, whilst the appeal and the motion for stay are pending is seriously prejudicial to the 1st – 3rd Defendants who have a right of appeal and have exercised same.
4. The said publication is an attempt to deprive the 1st – 3rd Defendants of their right to fair hearing which includes their right of appeal, and we urge the general public to respect the rights of the Defendants as well as the judicial system of Nigeria, and dis countenance the advertisement of the property for sale. The right to sell the property is part of the subject matter of the pending appeal and stay application.

5. It is pertinent to state that the unholy speed with which the said publication was made is in breach of the holding period prescribed by the Sheriff and Civil Process Act.
6. The judgment being essentially a money judgment amongst other reliefs sought has a procedure for execution under the Sheriff and Civil Process Act. Under the Act real property cannot be sold until after execution against the moveables of the judgment debtor. No Writ of Fidei Jussio was issued against the moveables of the judgment creditors before the advertisement of the immovable property for sale. Grant of leave to foreclose in the judgment did not remove the need for compliance with the provisions of the Sheriff and Civil Process Act in execution of the judgment.
7. The judgment creditor cannot execute the said Judgment whilst there is pending a motion for stay of execution and a Notice of Appeal. We wish to emphasise the judgment of the Supreme Court in the case of ***Vaswani Trading Co. v. Savalakh (1971) 1 ANLR (Pt. 2) 483*** where the apex Court stated as follows :
"More important, however, is the duty of this court, as indeed that of the other courts, to ensure that its orders are not nugatory. The applicants are exercising their undoubted right of appeal. The respondents are well aware of this and the applicants are certainly entitled to so exercise that right as long as they do so in accordance with the provisions of the statute conferring the right.
8. The judgment relates to a bridge finance of **₦5.052 billion** (the Facility) for development of Le Meridien Grand Towers Project at Ikoyi Lagos (the Project). The bridge finance was to last till when Diamond Bank Plc was to arrange the full project finance which was to take it out, precisely why it was called bridge finance to bridge between construction and financial closing but Diamond Bank Plc refused, failed, omitted and or neglected to achieve full project finance and financial closure for the Project in accordance with usual professional banking practice.
9. Instead the bank brought a whopping and incredible claim for the sum of **₦26,229,943,035.22 (i.e. over ₦ 26.2 Billion)** based on the bridge finance of **₦5.052 billion** (the Facility). The claim was deeply disputed resulting in intervention by the apex regulator as mediator and regulator of the banking industry. Counsel for 1st to 3rd Defendant to the knowledge of the Plaintiff had actually intimated the Court formally in October 12, 2015 about the above and ensuing settlement talks, and the major parties were still billed

to report amicable settlement and obtain an adjournment from the court's adjourned date for judgment (November 3, 2015) to finalize resolution of the dispute.

10. Notwithstanding the foregoing and request for time for the parties to conclude settlement, the Federal High Court coram Honourable Justice Saidu delivered a judgment endorsing all the reliefs sought by the judgment creditor including a monetary judgment in the sum of **₦26,229,943,035.22 and ordering the 3rd Defendant to guarantee the said sum personally.**

11. All members of the general public are therefore warned by this present advertisement to avoid purchasing litigation as opposed to a proper real property interest from a judgment creditor whose interest has not in any way crystallized. We implore the applicable adage ***Caveat Emptor*** ("**Buyer beware** "). We also contend that the doctrine of ***lis pendens*** is applicable.

In this premise, we urge the general public to disregard the advertisement for sale in the publication under reference, as the property is the subject of an appeal with pending application for stay of execution. We further restate the commitment of the promoters to the Project and to all their creditors including reasonable claim by Diamond Bank Plc.

SIGNED

CHIEF ANTHONY I. IDIGBE SAN
COUNSEL TO 1ST TO 3RD DEFENDANTS/JUDGMENT DEBTORS/APPELLANTS