

**SCOPE OF THE ADMIRALTY JURISDICTION OF THE  
FEDERAL HIGH COURT OF NIGERIA:**

**A REVIEW OF THE COURT OF APPEAL DECISION IN  
GRAND MARINE OIL & GAS (NIG) LTD, MT NAMISA V.  
OTHNIEL BROOKS LTD**

 LAGOS | ABUJA



## INTRODUCTION

The jurisdiction conferred on the Federal High Court with respect to civil and criminal admiralty matters include shipping and navigation in the rivers Niger, Benue and their effluents, and also the international inland waterways and carriage by sea. In essence, any dispute arising from these transactions can only be entertained by the Federal High Court of Nigeria (FHC). The case under review examines the scope of the jurisdiction of the FHC to hear and decide matters related to reimbursement of sums paid on behalf of another entity as demurrage.

## BACKGROUND FACTS

This is an appeal against the judgment of the FHC, Lagos Judicial Division, delivered on 12<sup>th</sup> February, 2019. Pursuant to an agreement between the 1<sup>st</sup> Appellant and the Respondent, the 2<sup>nd</sup> Appellant duly delivered petroleum products to the Respondent in Calabar on 20<sup>th</sup> July, 2015. However, the 2<sup>nd</sup> Appellant spent about 11 (eleven) days at the delivery jetty after the discharge of the products because the crew refused to move the 2<sup>nd</sup> Appellant from the jetty due to protests relating to the non-payment of their salaries and because a Court order restraining the movement of the vessel on account of the Appellants' debt to third parties. As a result, the Respondent filed an action against the Appellants claiming the sum of **US\$165,000.00 (One Hundred and Sixty-Five Thousand United States Dollars)** being demurrage accrued from the 2<sup>nd</sup> Appellant's overstay at the jetty and paid by the

Respondent's associated company, Ontario Oil and Gas Limited with interest at the rate of 21% per annum from 31<sup>st</sup> July, 2015 until full liquidation and recovery fees at 10% of the claim and cost of this action. The trial Court entered judgment in favour of the Respondent.

Dissatisfied, the Appellants filed an appeal at the Court of Appeal. The Appellant argued that since the claim is for reimbursement of the sum paid by the Respondent to the Jetty owners, it does not qualify as a maritime claim within the admiralty jurisdiction of the FHC. However, the Respondent contended that the claim is for payment of demurrage and not a simple debt recovery claim.

The key issue presented for determination before the Court of Appeal was ***“whether the trial Court drawing from the Plaintiff/Respondent statement of claim, the relief sought and the finding of facts in the judgment therein, it had jurisdiction to adjudicate on the subject matter of the suit.”*** In conclusion, the appeal was partly allowed.

## BASIS OF THE COURT'S DECISION



The Court of Appeal resolved that where a Court is faced with the question as to whether it has jurisdiction over the subject matter before it, the materials to consider are the Statement of Claim filed along with the Writ of Summons as the Court is not allowed to look elsewhere apart from the writ of summons and statement of claim. The Court relied on its decision in **Abdulraheem vs. Oloruntoba-Oju (2006) 15 NWLR (Pt. 1003) 581; (2006) LPELR-11822(CA)**.

The Court of Appeal was of the opinion that the averments contained in the Respondent's statement of claim are very unambiguous and as a matter of fact, the facts of the case were largely undisputed as the Respondent's in its statement of claim sought a sole relief, that is the sum of **US\$165,000.00 (One Hundred and Sixty-Five Thousand United States Dollars)** being demurrage accrued from the 2nd Defendant's overstay at the Jetty and paid by the Plaintiff's/Respondent associated company, Ontario Oil and Gas Limited with interest at the rate of 21% per annum from 31st July, 2015 until full liquidation and recovery fees at 10% of the claim and cost of this action.

Having considered the statement of claim and reliefs sought and the arguments canvassed by the parties, the Court of Appeal held that a combine interpretation of the provision of Sections 1(1)(a); 2(1) and 2(3)(f) of the Admiralty Jurisdiction Act ought to leave no one in doubt that the case falls within the admiralty

jurisdiction of the Federal High Court and by Section 2(3)(f) of the Admiralty Jurisdiction Act, general maritime claim includes a claim arising out of an agreement relating to the carriage of goods or persons by a ship or to the use or hire of a ship, whether by charter-party or otherwise. The Court held that there is no doubt that the Respondent's claim arose out of the use or hire of a ship and that it is of no moment that the claim was brought by the Respondent and not the delivery Jetty Owners.

Furthermore, the Court held that the fact that the claim was not initiated by the Jetty Owners does not change or alter the nature of the subject matter or cause of action, which is a claim for demurrage. The fact remains that the Respondent has taken the identity and status of the Jetty Owners who have charged the 2nd Appellant for overstaying at its Jetty, following the delivery/discharge of the petroleum products, it was contracted by the Respondent to deliver. The Court therefore concluded that the claim of the Plaintiff/Respondent is a general maritime claim and only the FHC can exercise jurisdiction over the Claimant/Respondent's claim.

However, the Appellate Court held that the claim was undoubtedly in the nature of special damages which requires particulars and must be strictly proved. See the case of **Onviorah vs. Onviorah & Anor (2019) LPELR-49096 (SC) 6 paras E-F**. Thus, having regard to the fact that the Respondent was able to adduce evidence to show that the 2<sup>nd</sup> Appellant overstayed at the delivery Jetty for about 11 days and in view of the



sum charged by the Jetty Owner being the daily **US10,000 (Ten Thousand United States Dollars)** as evidenced by Exhibit M007A, the Court considered that the Respondent had only been able to establish by credible evidence, its entitlement to the cumulative sum of **US110,000 (One Hundred and Ten Thousand United States Dollars)** but failed to substantiate its claim to the additional **US5,000 (Five Thousand United States Dollars)**, which according to the Respondent, represents amongst others the cost of funds and cost of community engagement. In the circumstances, the Appellants' appeal was partly allowed and the portion of the judgment of the Federal High Court, Lagos Judicial Division, delivered on 12<sup>th</sup> February, 2019 granting the sum of **US165,000 (One Hundred Sixty-Five Thousand United States Dollars)** was set aside and in its place the Respondent was granted the sum of **US110,000 (One Hundred and Ten Thousand United States Dollars)** being amount proved as having been incurred as demurrage as a result of the 2<sup>nd</sup> Appellant's overstay at the delivery Jetty.

### COMMENTS

The Court of Appeal's decision in this case demonstrates that claims arising from a vessel charter agreement fall within the purview of section 2(3)(f) of the Admiralty Jurisdiction Act and, as such, are within the admiralty jurisdiction of the FHC. By virtue of this judgment, it is settled that a claim for reimbursement of the sum paid on behalf of another entity as demurrage or by a party's associated company to the Jetty owners

qualifies as a maritime claim within the admiralty jurisdiction of the Federal High Court.

Players in the shipping and maritime sectors of the economy are advised to take this decision of the Court of Appeal into consideration in dealings with counter parties in maritime transactions.

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