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CIV.APP.41/2006

IN THE COURT OF APPEAL OF SIERRA LEONE

BETWEEN:

TECHPROFIT LIMITED - DEFENDANTS/APPELLANTS/RESPONDENTS

SUMATU INTERNATIONAL  
LIMITED - DEFENDANTS/APPELLANTS/RESPONDENTS

AND

NATIONAL DEVELOPMENT  
BANK LIMITED - PLAINTIFF/RESPONDENT/APPLICANT

CORAM:

Hon. Justice U.H. Tejan-Jalloh, JA

Hon. Justice S. Koroma, JA

Hon. Justice S. Bash-Taqi, JA

*Hearing: 5<sup>th</sup> December, 2006*

*Judgment: 19<sup>th</sup> December, 2006*

*Advocates:*

*E. PABS-GARNON ESQ. for the Applicant/Respondents*

*ELVIS KARGBO ESQ. for the Respondents/Appellants*

**RULING**

Delivered this 19th day of December, 2006.

TEJAN-JALLOH JA: This is an application by way of Notice of Motion dated the 27<sup>th</sup> October, 2006 on behalf of the Respondent for the following Orders:-

1. That the Notice of Appeal dated the 1<sup>st</sup> day of August, 2006 filed on behalf of the Defendants/Appellants/Respondents be struck out by this Honourable Court.

2. Any further or other reliefs.
3. That the costs of this application be borne by the Defendants/  
Applicants/Respondents.

The application is supported by the affidavit of Editayo Pabs-Garnon sworn to on the 27<sup>th</sup> day of October 2006 and filed herein together with Exhibits attached hereto, to wit,

Exh. EPG1 – Final Judgment of the Hon. A.N.B. Stronge J.A. dated 25<sup>th</sup> day of May, 2006.

Exh. EPG2 – Notice of Appeal dated 21<sup>st</sup> day of July, 2006.

Exh. EPG3 – Notice of Civil Appeal dated 18<sup>th</sup> August, 2006.

There is an affidavit in opposition sworn to by Elvis Kargbo Esq., Barrister and Solicitor of the High Court of Sierra Leone and No.14 Upper Patton Street, Freetown in the Western Area of Sierra Leone.

Editayo Pabs-Garnon Esq. appears for the Plaintiff/Respondent/Applicant and Elvis Kargbo Esq., for the Defendant/Appellant/Respondent.

We have heard the arguments of Counsel and their submissions in respect of this application. We are of the view that to grant this application will be tantamount to keeping in the file the grounds of appeal filed by the previous solicitors, who have been replaced by Messrs. Betts and Berewa, whilst the grounds of appeal filed by them would result in being discountenanced. To start with, this fetters the discretion of the present Solicitors and deprives the Appellant of his constitutional right of appeal.

The fact that Messrs. Betts and Berewa are the new Solicitors cannot be ignored and the affidavit in opposition is clear and unequivocal that E.E.C. Shears-Moses Esq., is no longer in the matter. The question may be asked, will it be just and in consonant with the principles of justice to force Betts and Berewa to adopt the grounds of appeal filed by the former Solicitor? The answer no doubt, will be a resounding no. It is our view that the Appellant should have an unimpeded access to this Court. Application is accordingly dismissed. Each party to bear its costs.

Hon. Justice U.H. Tejan-Jalloh, JA ..... 

Hon. Justice S. Koroma, JA..... 

Hon. Justice S. Bash-Taqi JA..... 