FOREIGN JUDGEMENTS ENFORCEMENT AND INTER-SOVEREIGN CONSTITUTIONAL SUPREMACY: AN EVALUATION OF WESTERN APPROACH

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Introduction

It is important to note that globalization and inter-dependence have been identified as two sides of the same coin. Thus, globalization is only possible by means of cross border trades and resource mobility. These business and cross cultural transactions possess their own attendant problems in terms of judicial settlement of disputes between contracting parties. Consequently, there exist international and regional statutory framework specifically initiated for the handling of such activities.

At certain point, contracting parties are faced with very limited choices for the settlement of their disputes and consequently proceed to the forum court of the Plaintiff and after serious legal contentions the Plaintiff is further subjected to different difficulties of enforcing his judgement in the Defendant's country. This study thus evaluates the Western approach to this situation and proceeds to draw some lessons for the developing nations of the world.

Accordingly, the inevitable reason why courts of various jurisdictions are sometimes saddled with many civil or commercial disputes between parties in various territories has been addressed [1]. Interestingly, there is no world-wide mechanism to adequately allocate judicial jurisdiction among countries and to recognize or enforce foreign judgments based on that judicial allocation of jurisdiction.

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This situation necessitated the convening of The Hague Conference on Private International Law which was to harmonize these issues by making a convention on jurisdiction and foreign judgment enforcement in civil and commercial matters. However, recognition and enforcement generally refers to the procedure whereby a local court accepts a judgment obtained by a litigant in a foreign judicial proceeding as binding and subsequently compels compliance by the party to whom the judgment is directed irrespective of the judicial jurisdiction which awarded the verdict.

Accordingly, there is no extra-territorial effect for local judgment [2], meaning that a court has no direct force outside its jurisdiction to enforce a judgment. Consequently, a judgment will have effect in a foreign jurisdiction only if the courts of such jurisdiction are willing to provide their assistance by "recognizing" and "enforcing" the judgment.

Secondly, a foreign judgment is recognized when a local court concludes that a particular claim or factual dispute has already being adjudicated by a foreign court and that such claim of dispute will not be litigated further. Thus, "Recognition" in this instance is similar to the doctrines of *res judicata* ("claim preclusion") and *collateral estoppels* ("issue preclusion") thirdly, a foreign judgment is recognized when a local court uses its coercive powers to order the relief granted by the foreign court.

In the United States for instance, Recognition and Enforcement in a domestic context of Constitutionality is spelt out in the "Full Faith and

Credit" clause of the United States Constitution, (Article IV section1) which state that;

> "Full Faith Credit shall be given in each State to the Public Acts, Records and Judicial Proceeding of every other States…"

Thus, this provision only required state courts to recognized valid and final sister state's judgments. This implies that enforcement of a foreign judgment is an issue left at the *discretionary empathy* of the judgment enforcing court. However, this study could not confirm if the United State is a party to any international convention governing the recognition and enforcement of foreign judgments.

In the view of the study, this posture is a proclivity to *jurisdictional supremacy preemptivism* as enshrined in Article VI of the United States Constitution, for which Federal Laws are said to preempt State or Provincial Laws. This partial ideology of ubiquitous supremacy is further transferred to jurisdictions of foreign nature, to the extent that neither the United States courts nor any other court of other sovereign states are under any obligation to recognize and or enforce a foreign judgment, from both contracting and non-contracting states.

In support of the foregoing postulation, in 1976 the United States and United Kingdom initialed a convention on the Reciprocal Recognition and Enforcement of Jurisdiction in Civil Matters. According to the United State Department of Commerce (supra), negotiations over the final text broke off in 1981. To the knowledge of this researcher, no further development has been recorded with regard to that Convention. Secondly in 1979, the United States participated in the negotiation of the "inter-

American Convention on the Extraterritorial Validity of Foreign Judgments and Arbitral Awards", but to date it is not clear if the US has signed the treaty, nor is it expected to do so in the future.

The foregoing point that similar instance are traceable to various nation states with advanced legal systems to the extent that enforcement of foreign judgments are not only relegated but are diplomatically rejected on irrelevant grounds of; *public policy concerns, *special notice procedures, *treaty requirements *confusion over lack of uniformity of sovereign states laws, *fraudulent obtainment of judgment, etc.

However, the real and consistent issue in these jurisdictions is the constitutional supremacy preemtivism of sovereign states. This is replicative of *colonialistic-neocolonialistic dogma of subjugation and consummate imperialism.* Though judicial in nature, this anti-judicial propensity is pre-dispositional of prejudice and a prevarication (or and equivocation) of good conscience, fairness and equity.

Multi-jurisdictional Comparative Analysis and the Subjugation of International Instruments

Cases have come before various courts of varying distinctions and jurisdictions, which required complimentary pronouncements and or actions but were denied due to many lame excuses by the supposedly enforcing courts. These attempts have always relied on the lack of constitutional provisions of the *lex loci* state to comply with judgment of an alien state [3].

However, in line with the foregoing reasoning, suffice it to state that in countries as France, Sweden, Peru or Japan one single system of law obtains for the whole country and diversity exist in many others,

especially nations organized upon a Federal System of Government; such countries includes the United States of America, Canada, Nigeria and to some limited extent, Germany, Switzerland, Mexico and the Soviet Union. The foregoing situation of *admini-jurisdictional heterogeneity* thus clandestinely imply differences in the approach and perception of foreign judgments. In view of this position, cross-border trades and other socio-economic conditions necessary for human development are distorted.

However, in some sovereign jurisdictions, such as United States, the laws of New York are not the same with those of California, and lllinois laws are different from those of Indiana (even though, Article IV of the U.S. Constitution insists that states must recognize their various laws for purposes of enforcement). In Canada, the law of Quebec differs from that of Ontario or Newfoundland; that of Chihuahua is not quite the same as that of Michoacan. Even in countries whose political structure is of the Unitary, rather than the Federal System, differences can be found. In the United Kingdom for example, considerable difference exist between the laws of England Scotland and the Isle of Man, the Channel Island, and Northern, Ireland.

Diversity of laws also exists in frequency between a country and its colonies. The laws of Mauritius which was a British Colony until 1968 were different from any of the laws prevailing in the United Kingdom and although in the remaining British colonies such as Nigeria and Ghana the laws are more or less patterned after the Common Law of England.

Further, diversity of laws develop where a country is divided; such as former East and West Germany, Victorian and Korea. Where a new

country is formed or a territory is annexed, it takes considerable time to achieve legal unification. For instance, after the re-annexation of Alsace-Lorraine by France in 1920, the German private law remained affective there for many years; and when after World War I Poland was formed out of old Russia, Germany and Austria, legal uniformity was not brought about until after the end of the World War II.

It is also imperative to point that diversities of law also exist on an ethnic or religious basis. Such situations are evident in the legal systems that are operational in countries of the Near and Middle East, Nigeria, Canada, USA etc. Thus, in these instance religion play an integral role in the designing of the legal framework of such jurisdictions. For instance in Nigeria with predominant Moslems in the Northern part of the Country, Sharia Islamic Law and the Penal Code are operational and down the Southern part with Predominant Christians, the Criminal Code enforced by the Administration of Criminal Justice Act are used; in the United States and Canada, American Indians are in several respect subject to their tribal laws, the same applied to Latino Americans.

Unification Treaties and Enforcement of Foreign Judgments

Studies have shown that one means of arresting this divergence in national laws of contracting states is to form enforcement treaties within regional economic and commercial blocks[4]. Accordingly, Stone pointed that Articles 1(3) and 68(1) of the Brussels I Regulation and Articles 54B(1) and 2(e) of the Lugano Convention was carefully crafted to make adequate judgment enforcement provisions between European Community members in such a way that no constitutional framework, legislative instrument or administrative conditions of any nation state can

abort a foreign obtained judgment of a member state that has passed through a due process of law and is enforceable in the issuing state. [5]

Consequently, Stone argued that under the European Community treaties on judgement enforcement, what constitute a judgment in one country also constitute a judgement in the other countries and should be treated as such[6]. This study observed that under the Brussels I Regulation, the appendage or title of the court pronouncement is immaterial. This implies that even if it is called a decree, decision, writ of execution, order, etc, provided it is intended to compel performance from either of the parties to that action, the *lex loci* court for the judgement enforcement should honor it as it would have honored its domestic judgement and accord it the necessary expediency of law.

In furtherance of this argument, a determination of cost and other related expenses by a court officer should also be treated with this level of reciprocity[7]. It should further be noted therefore that the judgement to be enforced under this condition should not be final judgment in the original country[8]. However, for situations of appeal, a foreign court is required to stay proceedings where there are pending appeals [9]. It should also be noted that certain circumstances may warrant the foreign court to require security from the judgment creditor in situations of pending appeal.

This imply that upon satisfaction of the security, the court may direct the enforcement of the judgement irrespective of the pending appeal in the country of original judgement [10]. The foregoing indicate the need for more regional multi-lateral treaties with respect to foreign judgment enforcement. This study finds that in the face of such instruments, restraints, pursuant to national constitutions cannot be the basis for lack

of compliance or reciprocity, especially where the principle of instrument ratification passes through the national parliaments to give legal backings to the instruments and accord jurisdiction to the domestic courts to enforce the said judgements[11].

Thus, when ratified, the instrument becomes part of the member state's national legislation and possess the force of law to compel performance. It should be stated that actions in national courts of member nations can be brought under these multi-lateral instruments for purposes of ease of enforcement, since the treaties and convention protocols are legal unification instruments of the subscribing states.

However, because of the spread of Western civilization over the entire, planet, the laws of modern nations at least in so far as they are concerned with global networking of interrelationships between individuals and contracting corporation and entities are achieving considerable measures of uniformity in the legal mechanisms which safeguard their individual and corporate interests. This is more appreciated when for instance parliamentary inter co-operations also imply adoption of foreign state laws with minor modifications [12].

The Morguard Case and the Real and Substantial Connection Argument

It is imperative to draw inference from the pronouncement of La Forest in the Morguard case [13] which addressed a crucial and fundamental purpose of this appraisal and that is the fact, that most problems arising from non-enforceability of foreign judgments are due to the nature of the legal framework of such jurisdictions, for instance a judgment obtained

in Iran against a Germany company, in a Sharia Islamic Law country may be difficult to enforce in Germany and vice versa.

Further, the issue of the operational laws becomes more complicated when individual states due to different forms of *supremacy preemptivism* limit the scope of their jurisdiction to civil matters. Such limitations are further streamlined to sovereignties that have entered into legal bilateral and multilateral relationships. However, in British Commonwealth, the jurisdiction of the court is also determined for each constituent part by its own law, but the principle of such determination do not differ widely from each other due to concurrent British legislations which were extended to and used to settle disputes between the people of such colonized nationalities. This practice tallies with La Forest's view that in modern times foreign judgement enforcement has a nexus with a "real and substantial connection" between the forum state and the would-be judgment enforcement state.

In addition to the foregoing, most countries or states agree that a case may be tried in their court, *if both parties have consented to their jurisdiction.* Some countries however refuse litigant who do not have *substantial connection* with them other than the parties consent. French courts for instance will not try suit between foreigners unless it arises out of controversy that has *real connection* with France. This rule also applies in New York, in the United States of America. Thus, the problem of jurisdiction receives different approach in Civil law (Continental European) countries as compared to Anglo-American tradition.

Further, it has been observed that in countries that follow the general principles of Common Law, a foreign judgment may not be difficult to

recognize and enforced; unless the country by which it was rendered lacked jurisdiction according to the notions prevailing in the country where recognition for enforcement is sought. This also applies to proceedings where the judgment that was obtained was tainted with fraud or grossly unfair [14].

Thirdly, the recognition and enforcement of the foreign judgment would seriously interfere with specific and general public policy. Finally, there is the issue of reciprocity; in this case, the foreign court after the determination of other parameters or forms of co-operation; effects the enforcement, although this mainly happens in the absence of bilateral treaties and understanding. Thus, the study finds that despite these interesting developments, non-recognition and non-adherence still pervade most foreign jurisdictions and even in some Common Law countries, adherence and compliance is still at the primordial stage.

A case in point is Nigeria where the Countries Supreme Court in the case of *Marine and General Assurance v. Overseas Union & 7 Ors* [15] per Mohammed JSC held that that the 1958 Reciprocal Enforcement of Judgments Ordinance has not be abrogated by virtue of the Foreign Judgments (Reciprocal Enforcement) Act of 1990[16] and as such, the 1958 Ordinance has relevance in certain contractual conditions as in the mentioned case. It was an extant law which continued to apply in certain circumstances. In the said case, the Court thus observed as follows:

> *"In the present case, the foreign judgment which is the subject of dispute between the parties is a judgment of the Queen's Bench Division Commercial Court of the High Court of Justice, England in the United Kingdom. The law applicable to the proceedings for the registration of that foreign judgment in Nigeria therefore is the*

Reciprocal enforcement of judgments Act 1958 and the Foreign Judgment (Reciprocal Enforcement) Act 1990".

However, this provision is only applicable to the United kingdom and Commonwealth nations as required by legislation, that Judgments of the UK and the commonwealth must be registered in Nigeria within 12 months (or any longer period as may be allowed by the court on a motion for extension of time, which a Federal High Court in Nigeria is obliged to do even beyond the proviso of six years [17]. The Macaulay case has been consistently followed by all Courts. It was applied in *Marine and General Assurance v. Overseas Union & 7 Ors* (supra), where the court held that the 1958 Ordinance was not impliedly repealed by the 1990 Act and as such it was an extant law which continued to apply in certain circumstances. In this case, the Supreme Court held that:

> *"In the present case, the foreign judgment which is the subject of dispute between the parties is a judgment of the Queen's Bench Division Commercial Court of the High Court of justice, England in the United Kingdom. The law applicable to the proceedings for the registration of that foreign judgment in Nigeria therefore is the Reciprocal enforcement of judgments Act 1958 and the Foreign Judgment (Reciprocal Enforcement) Act 1990".*

It is important to note that the position of the Nigeria Court of Appeal in the case of *Conoil Plc v. Vitol S.A.*[18] agrees with this point. Consequently, section 10 of the Foreign Judgments (Reciprocal Enforcement) Act 1990 has limited application to a time limit, which is "*before the commencement of an Order under section 3*".

It is important to note that the Minister for Justice is required to make an Order extending Part 1 of the Act to a foreign country. Meaning that until that Order is made, section 10(a) of the Act is inapplicable and this

position was reinstated by Mohammed JSC in the case of *Marine & General Assurance v. Overseas Union & 7 Ors* using the following words:

> *"Part 1 of the Foreign Judgment (Reciprocal Enforcement) Act 1990, comprises section 3,4,5,6,7,8,9 and 10. From the provisions of part 1 of the Act remains* ***dormant or inactive until life is breathed into them by an order promulgated by the Minister*** *who by Section 1 of the Act, is the Minister of the Federation charged with the responsibility for justice. It is quite clear on the face of the provisions of this Act that no such order was made by the Minister of Justice in exercise of his powers under section 3(1) of the Act to bring into life the provisions of Part 1 of the Act".*

Recognition and Enforcement of Non UK and Commonwealth Judgements in Nigeria

In view of the forgoing, suffice it to state that judgments obtained from other countries outside the UK and Commonwealth are not registerable under the 1958 Ordinance. Does this mean that judgement creditors based on contractual breaches involving Nigerian entities in foreign lands outside the UK and Commonwealth countries should be denied of justice in Nigeria? The answer to this poser could be found in two Court of Appeal judgments of *Teleglobe America Inc. v. 21st Century Tech Ltd* [19] and *21st Century Tech Ltd v. Teleglobe America Inc.* [20].

The crucial issue for consideration here is the attitude of Nigerian Courts to foreign judgements. A case in point is the case of *21st Century Tech Ltd v Teleglobe America Inc* (supra) where a foreign judgement validly obtained from Fairfax County, Virginia in the United States of America was refused registration by a Federal High Court in Nigeria based on the decision of the Nigerian Supreme Court in the case of *Macaulay v R.Z.B Austria (2003)* [21] that the Minister of Justice has not made an Order

toextend the application of Part 1 of the Foreign Judgments (Reciprocal Enforcement) Act , 1990 to the United States.

Although, the Court of Appeal overruled the decision of the trial court in the *21st Century Tech Ltd* case, the argument is still not settled as to the position of the Court on the one hand and the provision of section 10(a) of the Foreign Judgments (Reciprocal Enforcement) Act based on the fact that the *ratio decidendi* of the court in the twin cases of *Macaulay v. R.Z.B Austria (2003)* and *Marine and General Assurance v. Overseas Union & 7 Ors (2006)* were only applicable to decisions emanating from the United Kingdom.

Having discussed the recognition and enforcement of foreign judgements in Nigeria it is important to posit that the solution to the recognition and enforcement of judgements from Commonwealth countries under the operative statutes in Nigeria lie in the common law principle of *action in debt,* where the said foreign judgment and all documents incidental to the transaction are made admissible in evidence before the domestic court. Although, this suggestion may have its challenges especially when viewed that, the judgment is a final judgment from the issuing country and a trial court cannot sit on appeal over such final judgment on grounds of reciprocity.

Harmonization and Unification of Foreign Judgement Recognition and Enforcement Instruments

Notwithstanding the foregoing arguments, there has been international efforts at unification of legal procedures for recognition of foreign judgements. The essence of this is to avoid injustice since non-recognition smacks of jurisdictional *supremacy pre-emptivism* or a product of *pseudo*

conscientious contumacy on the part of non-foreign judgment enforcing courts. But it should be noted that in the face of these challenges, certain international instruments on the subject matter has been ratified by the legislative arms of many countries.

Thus, international conventions such as; The Hague Convention on Recognition of and Enforcement of Foreign judgments, the Brussels Convention and others not mentioned, are already in place. However, failure of these nations to comply with these internationally binding instruments is a debate for another day especially where a domestic legislation could be relied upon by the courts to deny the judgment creditor the benefit of his hard fought judgment. Further, the conclusion here may be that no court should adjudicate on a matter it does not have territorial jurisdiction to enforce. As has been pointed out, such attempt would not only be an effort in futility but a waste of judicial time and resource – a public damage to a *substantive sovereignty* [22].

Further, there are views of the fact, that the Convention on Jurisdiction and Foreign Judgment in Civil and Commercial Matters has the ambitious aim of seeking to *unify and streamline the rule for cross-border litigation* between parties in civil and commercial issues[23], and such views are important especially when considered along the lines of the averments that the principle behind the Convention is to increase the effective enforcement of decisions of courts around the world, where parties are operating out of different jurisdictions[24].

Thus, the difficulty of enforcement of a foreign decision in the view of some notable writers is a fundamentally undesirable reason for the growing tendencies of cybercrimes which results from normal contractual

negotiations [25]. Sequel to the foregoing, Article 25 of the Hague Convention 2001 was intended to be achieved by requiring the signatory countries to agree to enforce judgment handed down by the courts of other signatory countries.

Conceptually, this theory appears simple; but difficulties lie in the willingness of recognition on the part of the courts of the contracting states. It is important to note that, the convention ended without the signing of the enabling documents. However, the foregoing notwithstanding, the Journal, Oznetlaw (2005)[26] averred that the true test of jurisdiction of a court is either the presence or domicile of the litigant parties or their submission to a particular jurisdiction. In this line of thought, Article 2 and Chapter 11 of the Convention insist that, enforceability should be the function of jurisdiction.

To be effective, McBurnie and Jagar (supra), averred that signatory countries must adhere to the convention regardless of the decision of the court in question. The error with the position of theses scholars is that, it takes the pronouncements of the enforcing court to make a foreign judgment a valid document for enforcement.

Thus, any conflicting scenario between government authorities and the judiciary of sovereign states as regards enforcements of foreign judgments would result a public policy problem. In addition, it should be stated that any unqualified submission to international jurisdiction is unlikely at its best, as it poses a fundamental challenge to the integrity of a country's legislative and jurisdictional powers. In response to this problem, The Hague Convention Article 28(1)(f) provides that the principle of *absolute*

submission should be avoided where the judgment is manifestly incompatible with public policy.

Conclusion

In the view of this investigation, this proviso partially forms the basis upon which foreign judgments fail or may not succeed in some jurisdiction. It is a *defeatist approach* which also violates the public policy of the states issuing the judgment. Further, both Buffini and McBurnie and Jagar have jointly agreed that, there have been substantial and potential effects of ratification of the convention to the extent that such ratification are only effective by the instrument of bilateralism of individual contracting states who are also signatories to the conventions. Sequel to the foregoing, the "*Doctrine of Comity*" which was defined and adopted by La Forest J (1990) [27] , where he stated thus,

> *…the difference and respect due by other states to the actions of a state legitimately taken within its territory…the recognition which one nation allows within its territory to the legislative, executive and judicial acts of another nation having due regard to both international duty and convenience, and to the rights* of *its own citizens or of the persons who are under the protection of its laws…*

Even though Morguard is a product of the Canadian jurisdiction, several other adjudications within Canada and outside has applied this doctrine. In furtherance of this starling view, La Forest J, in the said judgment altered the old common law rules for the recognition and enforcement of inter-provincial judgments. These rules, which are based on territorial sovereignty, independence and national attainment, were held to be outmoded and invalidated by the present dynamics of cross-border business transactions and current developments of inter-exchange of nationalities and their resources.

Recommendations

The study having considered the position of learned writers, judgments of Apex Courts, statutory provisions of international instruments recommends as follows: that although early common law rules were amended by rules intended to "facilitate the flow of wealth, skills and people across boundaries", the views of La Forest J, in the Canadian case of Morguard established that the determination of the proper exercise of jurisdiction by a court depended on two principles namely;

1. the need for order and fairness and
2. the *existence of a real and substantial connection*.

The study observes that this laid down principles are crucial in cross-border judicial determinations. Further, the study recommends that modern idea of order and fairness require that a court must have reasonable grounds for assuming jurisdiction where the parties to the litigation are connected to multiple jurisdictions. According to the averments of Sam[28] would be an effort in futility for a court to adjudicate in a matter for which it does not have jurisdiction to enforce.

It is further recommended that although it may seem that the views of Sam (2005)[28] conflicts with that of La Forest's "real and substantial connection". This study avers that, no conflict exist as both are complementary of each other and both views are admonitory to the intent that domestic courts should properly scrutinize cross-boundary matters before hearing them. Accordingly, such practices would not only relieve the courts from the waste of judicial time, but would reduce the cost of justice both on the government that funds the courts and the litigants that seek for justice (at cost effective and timely order). [29]

Further, it is recommended that no court should be interested to hear and decide a matter it knows will not be enforced. Hence the principle of "real and substantial connection" should operate to the extent that Attorneys are in the position to advice their clients to proceed to foreign locations or courts where they may seek the enforcement of their judgment to institute their suits.

NOTES AND REFERENCES

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[2] Office of the Chief Counsel for International Commerce, US Dept. of Commerce, 2005 Recognition and Enforcement of foreign judgement

[3] E. E. Jumbo, *Judicial Supremacy Preemptivism and Administrative Bureaucracies: the Machiavellian Proclivity of Inter-Sovereign Judicial Adjudication*, being unpublished Doctoral dissertation submitted to School of Law, Southland University, Pasadena, California, USA, 2006, p. 68-70

[4] P. Stone, EU Private International Law: Harmonization of Laws, *Edward Elgar Pub*., UK, 2006, p.206

[5] P. Stone, (supra)

[6] *ibid*, 207

[7] *ibid*, 207

[8] *Van Dalfsen v. Van Loon (1991) ECR I-4743 (case c-183/90)*

[9] Art, 37.

[10] Art. 37

[11] A. Amuda-Kannike, Incidental Effects of the Law of Ratification in International Diplomatic Relations and Trade, *The World Journal on Juristic Polity*, vol. 02, No1, March, 2016, p.1-10

[12] Jumbo, p.48

[13] *Morguard Investment Ltd. v. De Savoye, 1990 Can l II 29 (S.C.C), [1990]3 S.C.R. 1077)*

[14] Jumbo, p. 50

[15] (2006) 4 NWLR (Pt. 971) 641

[16] It should be noted that in Nigeria, two instruments control the recognition and enforcement of foreign judgements; both having distinct applicable conditions as the case of *Marine and General Assurance V. Overseas Union & 7 Ors* have indicated. They are respectively,

1. Reciprocal Enforcement of Judgments Ordinance, Cap 175 Laws of the Federation of Nigeria and Lagos, 1958 (1958 Ordinance).
2. Foreign Judgments (Reciprocal Enforcement) Act, Cap 152, LFN 1990.

[17] Section 4 of the 1990 Act.

[18] [2012] 2 NWLR (Pt. 1283) 50 CA

[19] (2008) 17 NWLR Pt 1115 page 108
[20] (2013) 3 NWLR page 99.
[21] NWLR (Pt.852) 282
[22] Jumbo, p.64
[23] D. Mc Burine and S. Jager, E-commerce and Enforcement of Foreign Judgement – A Solution or a Nightmare, *Society for Computers and Law Journal* New South Wales, Dec. 2001, issue 46 p.1.
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[25] *op.cit.* p.1
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[27] Morguard Investment Ltd. v. De Savoye (1990)
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[29] *ibid*, 18