


Court of Appeal Declares Trial a Nullity, Hands Rothmans a Clean Slate.

Rothmans of Pall Mall v. Kasmal
International Services Ltd.



Rothmans of Pall Mall v. Kasmal International Services Ltd.

The judgment of the Court of Appeal in *Rothmans of Pall Mall v. Kasmal International Services Ltd.* marks a clear and significant victory. The Court recognised that the proceedings in the Federal High Court were fundamentally flawed because the case was conducted without proper service of hearing notices. Although the lower court had entered a default judgment and proceeded as though all parties were present and aware of the hearing dates, the Court of Appeal confirmed that this was not the case. The record showed that key hearings, including the motion to relist and the substantive arguments leading to judgment, took place without any evidence that Rothmans had been notified.

This failure was not treated as a minor irregularity. The Court of Appeal held that the absence of service of hearing notices amounted to a breach of the right to fair hearing guaranteed under Section 36 of the Constitution. The court made it clear that knowledge of a pending suit is not a substitute for formal notice of the actual hearing dates. Without such notice, any decision reached by the trial court is invalid. The appellate court also rejected the Federal High Court's reliance on documents that did not contain any hearing dates, which it had used to justify the proceedings. The Court concluded that the trial court acted without jurisdiction when it proceeded to determine the matter in the absence of proper service.

The ruling is favourable because it wipes out the default judgment entirely.

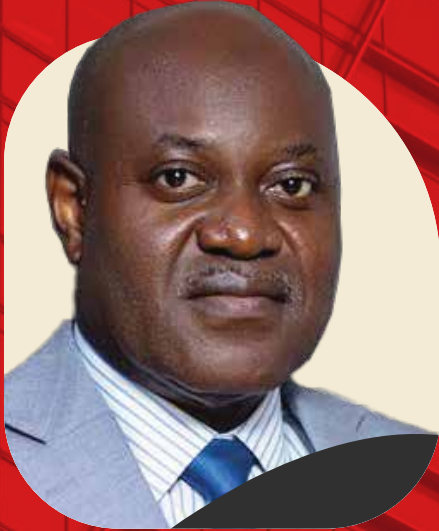


Everything the lower court did was declared a nullity. The Court of Appeal allowed the appeal, set aside the judgment, and ordered the case to be remitted to the Chief Judge for assignment to another judge for a fresh hearing. This effectively removes all adverse findings previously made and restores the matter to a clean slate, ensuring that the case can now be heard on its merits instead of being decided through a flawed process.

The outcome not only protects the constitutional right to fair hearing but also places the party in a far stronger legal position going forward. With the defective judgment struck out and the proceedings voided, there is now a full opportunity to present the case properly before a new judge, free from the procedural errors that tainted the earlier decision.

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