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Case Alert

TEMPLARS Secures Judgment for Senior Lenders in USD 1.2 Billion Neconde Energy Security Dispute

1. TEMPLARS secured a judgment in favour of a group of Senior Lenders in a USD 1.2 billion dispute over the assets of Neconde Energy Limited (Neconde). The dispute concerned three questions: whether a later security could validly be created when the borrower had promised the Senior Lenders not to do so (a "negative pledge"); which of the competing securities ranks first; and whether a lower-ranking lender could enforce its security ahead of the Senior Lenders.
2. The dispute arose when a second set of lenders appointed a Receiver/Manager to take control of Neconde's assets, including its interest in the OML 42 Joint Venture and the rights arising from it. The second set of lenders claimed to be enforcing a security granted to them under a deed of charge. However, all of Neconde's assets had already been given as higher-ranking security to the Senior Lenders. The Senior Lenders' agreement also contained a negative pledge, which barred Neconde from granting any further security over the same assets without the Senior Lenders' prior consent. That consent was never obtained.
3. TEMPLARS, acting for the Senior Lenders, applied to the Federal High Court of Nigeria for orders declaring that the creation and enforcement of the second security over Neconde's assets were invalid. The grounds were that they breached the negative pledge and the contractual and legal rules on which security ranks first. The Senior Lenders also asked the Court to set aside the appointment of the Receiver/Manager as invalid.
4. The second set of lenders and the Receiver/Manager argued that Neconde's debt to them had fallen due, so they were entitled to enforce their deed of charge. They also argued that the Senior Lenders could not challenge the enforcement because they were not parties to that deed of charge. TEMPLARS successfully countered these arguments, showing, among other things, that the Senior Lenders' claim was about protecting their first-ranking rights, which the enforcement of the second deed of charge would undermine.

5. In a judgment delivered on Wednesday, 30 September 2026, Honourable Justice Osiagor of the Federal High Court, Lagos Judicial Division, set aside the enforcement of the deed of charge under which the Receiver/Manager was appointed. In summary, the Court held that:
 - i. the Senior Lenders' first-ranking security over Neconde's assets takes priority over any security created later over the same assets;
 - ii. the second set of lenders' enforcement was invalid, because a lower-ranking lender cannot enforce its security until the Senior Lenders' security has been fully realised (that is, until the Senior Lenders have been repaid from the assets); and
 - iii. the appointment of the Receiver/Manager, and everything done under that appointment, is invalid, because it rested on an invalid enforcement of a lower-ranking security while the senior security remained unrealised.
6. The decision is significant for lenders and borrowers in secured financing transactions. It confirms that negative pledge clauses are enforceable, and it clarifies the consequences of creating and enforcing a later security in breach of such a clause. In practical terms, lenders who take security in breach of an existing negative pledge risk having that security, and any steps taken to enforce it, set aside.
7. The TEMPLARS team was led by Dispute Resolution Partner, Olufemi Oyewole, SAN, FCI Arb, with Managing Counsel, Chidiebere Ejiofor; Senior Associates, Collins Ogbu, Nosakhare Iyamu and Oluyemi Adebo; and Associates, Olanrewaju Awe and Uzoamaka Ikpeazu. Transaction advisory support was provided by Partner, Zelda Akindele, with Senior Associate, Victor Sameria, and Associate, Victoria Gordon.

If you require any further clarification, do not hesitate to contact us.