Guarantee Contracts in Nigeria

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Abstract

A contract of guarantee is a contract where somebody called the guarantor or surety promises or undertakes to settle or pay the financial indebtedness of the principal debtor to the creditor where the principal debtor is not able to pay the debt. It is a tripartite contractual relationship which seeks to ensure commercial efficacy amongst businessmen who survive on credit facilities. Most times when business men are in short of cash or money consideration to finance their commercial transactions they approach lenders, banks or creditors, both individuals and firms for loans and overdraft facilities. These funds are always scarce and most banks (creditors) are weary to easily grant credit facilities to some of these businessmen who mostly are not sincere in their repayment plans. Therefore banks do insist on guarantors to assure them that the borrowers would pay back the loan, overdraft as the case may be as at when due. These are secured by the parties signing a guarantee contract wherein the liability of the guarantor is securely assured as he stands the risk of being sued for damages in recovery of the loan where there is a breach from the guarantor. The guarantor on satisfaction of the debt is at liberty to proceed against the principal debtor and to recover what he has paid to the creditor and his remedies are founded in contractual remedies too. Guarantee contracts protect banks from the wiles of sharp businessmen who are prone to breach their contractual obligations with impunity. In this paper the legal niceties of guarantee contracts could be critically looked at especially the liability of the guarantor as well as his right vis a vis the rights of the creditor and the principal debtor.

INTRODUCTION

A contract is any agreement which the law will enforce. Generally contracts are based on common agreements which are commonly called *consensus ad idem* and the subject matter of the contract must be legal that is what is not unlawful. A guarantee contract is a legal agreement. A guarantee contract has been defined as a written undertaking made by one person to another to be responsible to that other if a third person fails to perform a certain duty e.g payment of debt.- **Chami V. United Bank For Africa Plc**[(1)]**.** Thus, where a borrower that is a third party fails to pay an outstanding debt, the guarantor or surety as he is sometimes called becomes liable for the said debt. It is a contract whereby the guarantor promises to settle the financial or pecuniary indebtedness of the principal debtor where the debtor fails to pay. The guarantor therefore becomes secondarily liable to the creditor.

Bryan A. Garner (2014) in Blacks Law Dictionary 9th Edition[(2)] defines guaranty as a collateral agreement for performance of another's undertaking, an agreement in which the guarantor agrees to satisfy the debt of another, the debtor, only when the debtor fails. It is a collateral to repay. The guarantor is secondarily liable. It is also an undertaking or promise that is collateral to a primary or principal obligation and that binds a guarantor to performance in event of non-performance by the principal obligor. The term is most common in finance and banking contracts while a warranty relate to things (not persons), is not collateral and need not be in writing, a guaranty is an undertaking that a person will pay or do some act, is collateral to the duty of the primary obligor and must be in writing. As was said in **Birkmyr V. Darnel,** [(3)] if two comes to a shop and one buys and the other, to gain him credit, promises the seller, *"if he does not pay you, I will".* This is a collateral undertaking. But if he says, "let him have the goods". "I will be

your pay master", or "I will see you paid", this is an undertaking as for himself, and he shalt be intended to be the buyer and the other to act but as his servant. In **African International Bank Ltd V. I.D.S. Ltd**[(4)] the Supreme Court held that a contract of guarantee exists where a guarantor or surety undertakes or promises to pay a debt on behalf of a principal debtor where the debtor defaults. Where a principal debtor and surety are both sued jointly in respect of the debt of the principal debtor they remain principal and surety to be liable solely or jointly with any other person, firm or company.

A guarantor is one who makes a guarantee; a person who becomes secondarily liable for another's debt or performance in contrast to a strict surety who is primarily liable for the principal debt, he is one who promises to answer for the debts, default or miscarriage of another. A guarantor is also a party to an instrument who by adding words to her signature makes either a guaranty or a guaranty of payment. He is usually also an accommodation party. Both in private and commercial transactions credits must often be, given to persons whose financial standing is unknown to or doubted by the creditor and the latter will make his credit dependent on receiving some assurance that he will be paid even if the debtor defaults. Such a third person is called a surety or guarantor. His obligation is collateral to that of the main debtor. It is a type of contract and it must be written down in a form in which the three parties namely creditor, guarantor and the principal debtor must know its term.

The Statute of Frauds 1677, which is a Statute of General Application, Section 4 thereof stipulates that *"no actions shall be brought whereby to charge the defendant upon any special promise to answer for the debt, default or miscarriage of another person unless the agreement upon which such action is brought, or some memorandum or note thereof, is in writing and signed by the party to be charge therewith or some person lawfully authorized by him".* A very obvious illustration of this type of situation is the contract of guarantee in which a person promises to repay a debt to a lender of money, if the borrower fails to pay. This is very common with bank loans and overdrafts. In **Guild & Co V. Conrad,** [(5)] **the** defendant introduced to the plaintiffs, who were London merchants, a firm in Demerara. The plaintiffs agreed to grant the firm a bill of credit, but on being asked to increase the credit, they insisted on the defendant's written guarantee, and this, the defendants gave. Yet another increase was granted only on the defendant's oral promise! :if you accept these bills I, will guarantee them". The firm defaulted, and the plaintiff sued the defendant. There was no difficulty in holding the defendant liable on his written promise.

The memorandum or note in writing as required for guarantees by the Statute of Frauds 1677 need not specify the consideration but consideration must of course be given by the creditor. If the guarantee is by deed as in case of banks no consideration is required. The validity of the guarantee of another person's debt must, needs depend on the principal debt being enforceable. In **Coutts & Co V. Browne Lecky,** [(6)] defendants had guaranteed an overdraft allowed by the plaintiff bankers to a minor. Since the loan agreement was void under the Infant Relief Acts 1874, the guarantee too was unenforceable.

The Nature of a Contact of Guarantee

Decisions of the law courts make it clear that for a promise to come within the Statute of Frauds 1677, four pre-requisites must be satisfied. They are the ***prerequisites*** of every guarantee contracts.

(a) *There must be three parties contemplated by the contract – a creditor, a principal debtor and the promisor, who undertakes to discharge the principal debtors liability if the latter fails to do so himself.*

(b) *The principal debtor must have the primary liability towards the creditor, the promisor being liable only in the event of his default. If there be no primary debt or if an apparent obligation be in fact void the promisor's undertaking to discharge it cannot be a guarantee.*

(c) *The liability of the principal debtor must continue to exist, notwithstanding the promisor's undertaking if the effect of the promisor's assumption of liability is to determine the original obligation, there is no guarantee but merely a substitute of debtor.*

(d) *The promisor must make his promise to the creditor direct and not to some third party. It was thus held in* ***Eastwood V. Kenyon,*** [(7)] that if the promise was made not to the creditor, but to the debtor himself the statute does not apply.

A bank guarantee serves the same purpose as cash. Oguntade JCA held thus in **Star Paints Industries Ltd V. Ogunlela,** [(8)] the argument of the learned counsel for the 3rd defendant/respondent was of course plausible. He argued that the plaintiffs/appellants stood to lose nothing by the payment of the N17 million to the 3rd defendant/respondent since there was to be provided a bank guarantee for the sum of N17 million. The argument is alluring. But the question I ask is: if a bank guarantee for N17 million is the same as the cash of N17 million why is it necessary to substitute one for the other.

The Court has also held in **Salawal Motor House Ltd V. Lawal and Anor,** [(9)] that it is the law that a guarantor of a loan is technically a debtor because where the principal debtor fails to repay, the guarantor will be called upon to pay the loan so guaranteed. Immediately a guarantor signs the guarantee form, he automatically makes himself liable for the default of the debtor in case of default. The facts of the case are as follows: the 1st appellant took a loan from Union Bank of Nigeria and mortgaged a building at No 159 Ibrahim Taiwo Road llorin. The 2nd appellant signed as a guarantor for him to secure the loan. After about ten years, he could not repay the loan. The bank wrote several letters to him as the guarantor to pay. They could not, the bank then ordered 1st respondent a licensed auctioneer to sell the building or that the guarantor should pay in accordance with the guarantee he had with the bank. The court held that a guarantor should repay a loan guaranteed by him where the debtor cannot pay. In **Ikomi V. Bank of West Africa,** [(10)] the appellant brought an action against the respondent bank in the High Court of Western Region, seeking a declaration that a guarantee he had signed in respect of advances made by the bank to a third party was void, and consequential reliefs. The appellant was asked by one Kolo to act as guarantor in respect of his account with respondent bank. The appellant claimed that his understanding with Kolo was that he would act as a guarantor for a new loan of £5000. Kolo's account was already overdrawn by above £5000 but he did not disclose this fact to the appellant.

Following discussion with the bank manager at which Kolo's indebtedness and his being guaranteed were discussed in general terms, the appellant completed a form of guarantee and a memorandum for the deposit of certain title deeds. It was found as a fact by the trial court that the documents were explained to the appellant and that he read them before signing. The guarantee was in respect of the sum of £6000. It was also found as a fact that the bank manager had informed the appellant that Kolo's account was already overdrawn by about £5000 before the appellant signed the document. Two days after signing them, he wrote to the bank manager asking for the return of his deeds but the request was refused. He sued; the court held inter alia that where a debtor has failed to pay overdraft or loan; the guarantor stands in the position to pay.

Forbearance can be adequate consideration in a contract of guarantee. For instance in **Barclays Bank of Nigeria Ltd V Mrs. Okotie & Ors,** [(11)] the plaintiffs sued the defendants as guarantors for the sum of £52,909, jointly and severally on a guarantee dated the 7th day of July, 1965; the defendants were directors of Midwest Cement Company Ltd. which had incurred the debt. The plaintiffs averred in their statement of claim that the consideration for the guarantee was plaintiffs forbearing to press the principal debtor for immediate payment of their debt and of making banking facilities available to the principal debtor. There was however, no evidence that the plaintiff gave time or credit or banking facilities to the Midwest Cement Co. in consequence of the guarantee. The court held that the forbearance was adequate as consideration for such a contract of guarantee.

Still on forbearance as consideration for such a contract of guarantee, the case of **Banque Genevoise de Commerce Et de Credit .V. Cal. Mar. Di Isola Spetsai Ltd** [(12)] is instructive. The

plaintiffs claimed the sum of £380,000 being a loan, interest, and bank charges, which they alleged, were secured by a mortgage on the "***spetsai patriot***" made on 22nd July, 1958, and duly registered under the Laws of Liberia. In their defence the defendants admitted the making of the mortgage deed and that the principal sum secured thereby had not been paid but they alleged that the mortgage had been rescinded or revoked by an agreement in writing on 26/10/1961 made between the plaintiffs and the Spetsai Island Shipping Co. Ltd. They claimed that the written agreement was notation of the mortgage deed. The agreement was enforced in part. The plaintiffs contended that they were entitled to enforce the mortgage as security either for the FULL sum or for the reduced sum of £50,000. The court held that the payment of a lesser sum than the amount due is no consideration for a forbearance to sue for the larger sum and that it does not apply to a comprehensive settlement involving a variety of claims on both sides. At all point in time and during the duration of the contract of guarantee, the bank is supposed to serve as a check on the guarantor to prompt the borrower to effect settlement of the loan because failure on the part of the borrower to repay the loan, he the guarantor would be contractually liable to the repayment of the debt. See **Chami V. UBA Plc** ***supra***

The Central Bank of Nigeria sometimes guarantees loans or advances taken by other credit agencies such as commercial banks. In **Pan Bisbilder Ltd. V. First Bank Ltd** [(13)] the appellant as plaintiff engaged in poultry farming. The respondent defendant sued in the High Court of Bendel State (as it then was) for breach of contract claiming a total of ₦429, 869.00 as such special and general damages. The alleged breach of contract arose from the failure of the alleged respondent to honour its loan agreement of ₦116, 500.00 entered into with the appellant under the Agricultural Guarantee Credit Scheme Fund Acts 1977, which loan is was to be guaranteed by the Central Bank, the loan was to be advanced in two installment of ₦60, 000.00, and of ₦56, 500.00 respectively. The first installment was fully disbursed while the second was only partially disbursed. The respondent withheld ₦30, 000.00 out of the N56,000.00 to off-set a previous overdraft granted to the appellant. This was in contraventions of Section 130 of the AGCSFA of 1977. The appellant denied any arrangement between the parties to so off-set the previous overdraft of ₦30, 000.00 from the second installment of the loan. Section 131 (1), 2 and (3) of the 1977 Act state thus:

(1) No loan granted pursuant to this Act shall be applied to any purpose other than that for which the loans was granted.

(2) Any person who applied any loan granted pursuant to this Act in contravention of subsection 1 of this section shall be guilty of an offence and shall be liable on conviction to a fine of an amount of the loan in respect of which the offence was committed or to imprisonment for not less than five years.

(3) Where an offence under the section committed by a body corporate is proved to have been committed with the consent, connivance of, or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate (or any person purporting to act in any such capacity) he as well as the body corporate shall be deemed to be guilty of the offence and may be proceeded against and punished accordingly.

The trial Judge Oniokpaku J, rejected the appellant's denial and found that as evident from the pleading of both parties, there was an agreement to divert part of the loan to settle the overdraft. The trial court however went on to hold that the defendant exerted undue influence on the plaintiff hence the collateral agreement and this created an exception to the resultant illegality, which made the loan agreement to be vitiated. At the Supreme Court, Achike JSC held that the contravention of the said 1977 Act rendered the contract between the parties void and illegal. Therefore it goes without saying that the promises or consideration exchanged by the parties to divert part of the loan contract guaranteed by the Central Bank to off-set the appellants debt and the reason by the parties in making the agreement to divert some of the funds to liquidate the overdraft was to promote an act expressly prohibited by statute. Also Ayoola JSC, held thus *"it appears to me that the subterfuge by which the respondent, with the complicity of the appellant*

had attempted to substitute a Central Bank guaranteed debt for a prior one which was without such a security, has failed in view of the clear statement of the law by the court below that the Central Bank would be discharged from its obligation as a guarantor".

Liability of the Guarantor/Surety

In the absence of special terms in the guarantee the creditor can sue the surety as soon as the principal debtor defaults; he need not first sue the principal debtor. If sued, the surety is not estopped from raising defences, which were not raised on the hearing of an earlier action against the debtor, nor is the surety bound by any admissions made by the principal debtor in the first action. The extent of the liability of the guarantor in point of time will depend on the terms of the contract. It may extend to a single transaction, or cover transaction spread over considerable space of time. The latter are called continuing guarantees. These are of particular importance when a balance owing on a current account with a bank or a tradesman is guaranteed. Such an account presupposes a chain of withdrawals and payments, and unless a guarantee is continuing it lapses as soon as payments into the account have wiped out the account owing at the time when the debt was guaranteed. Thus A owes his bank ₦100 on current account and B guarantee is A's debt to the bank up to ₦100. Subsequently, A pays in ₦100 and draws ₦50. If B's guarantee was a simple guarantee, B is discharged because A paid his debt owing at the time of guarantee. The ₦50 owing now is a new debt. If however, the guarantee was continuing B is liable for ₦50. Banks normally insist on continuing guarantees. It depends on the language of the document and which type of guarantee is intended. Where a person personally guarantees the liability of a third party by entering into a contract of guarantee or suretyship ,a distinct and separate contract from the principal debtor's is thereby created between the guarantor and the creditor.-***Chami V. U.B.A Supra***. In ***Mason V. Pritchard,*** [(14)] the words of the guarantee were "*for any good he hath or may supply W.P. with to the amount of £100*". This was held a continuing guarantee. In **Melville V. Hayden,** [(15)] a distinction was drawn on the grounds that in the later case, the words "for any good" did not appear'. In **Heffied V. Meadows,** [(16)] a guarantee in the following form was held to be continuing guarantee on the ground that it appeared that the parties contemplated a continuing supply of stock*: I, A will be answerable for £50 sterling that B, butcher may buy of H".* If a surety becomes bankrupt, the creditor can prove against his estate in the bankruptcy for the amount of his guarantee. This is true because when the principal debtor fails to pay his debt, the liability of the guarantor under the guarantee crystallizes. The right of the creditor is therefore not conditional as he is entitled to proceed against the guarantor without or independent of the incident of the default of the principal debtor **-F.I.B.C Plc V. Pegassus Trade Office**-*supra*

Rights of The Guarantor/Surety

Once the surety has paid the creditor he can recover from the principal debtor what he has paid, plus interest where the bank has brought a suit against the guarantor and he pays. He is at liberty to bring another or separate action against the principal debtor for the loan which he the guarantor has paid to the bank. He automatically stands in the creditor's shoes having satisfied the debt. Thus if the creditor had earlier obtained judgment against the principal debtor, the surety is entitled to levy execution on it. He is entitled to any security, which the creditor had obtained in addition to the guarantee. Where the guarantee, is entered into by several sureties, any one of the latter, on paying the amount fixed by the guarantee can obtain contribution from his co-sureties. See the case of **Dering V. Lord Winchilsea.**[(17)] If various sureties are bound in varying amounts, they must contribute proportionally to the amounts guaranteed and not equally. Where there are several sureties, only those counted are those who are able to pay because where a surety is bankrupt there is no need to quote or count him. Thus, if there are three co-sureties and one of them dies or becomes insolvent, and one of the others pays the whole amount due under the guarantee, he can recover from the third co-surety one half of the amount. That was the decision of the court in **Lowe V. Dixon.** [(18)] In return for his liability to pay his share upon a guarantee, a co-surety can call upon any of his fellow sureties to give up or give credit for any securities which

such surety may have obtained. The object or reason for this is to divide the loss which has been sustained equitably amongst the co-sureties.

Determination Of Guarantee Contract Or Release Of A Surety

Every contract must come to an end one way or the other. Any party to a contract of guarantee is released from his obligation under the general law of contract. It could be by **agreement** with the creditor, by **performance** or by the **creditor's breach** of contract. In addition there are a number of ways by which a guarantor may be released which are peculiar to banking law. Thus the guarantor is discharged if the creditor and debtor make an agreement that prejudices the surety, for example, **If the creditor allows the debtor substantially more time than necessary,** the surety is discharged because this extends the period of his contingent liability. The case of **Bolton V. Salmon,**[(19)] where the bank through some of the directors who were friends to the debtor added more 6 months to the period of the guarantee, the court held that the guarantor was discharged as the new time was not in his favour is instructive. It goes without saying that where the credit releases the debtor from his debt, the surety is discharged. This is tantamount to performance as was held in **Commercial Bank of Tasmania V. Jones**. [(20)] The surety is also discharged if the **creditor takes no action against him**. So that the creditor's right becomes extinguished or Statute barred. Under the limitation laws, an action for contracts is five years or six years depending on the state. The court had a unanimous decision in **Bradford Old Bank V. Sutchliffe,** [(21)] when it held that time against the creditor and in favour of the suety begins to run the moment the creditor demands payment from the surety. **Alteration** of the agreement between the creditor and the other co-sureties also discharges a co-surety. In **Ellesmere Brewery Co. V. Cooper,** [(22)] four persons agreed with the creditor to guarantee a debt jointly and severally, the liability of two sureties was to be limited to £25 each and of the other two to £50 each. A surety bond was sent to the co-sureties in turn for signature. When the fourth surety signed one of those whose liability was to be £50, he added the words £25 only" and the creditor did not object to this. But when the debtor defaulted and the creditor sued the sureties it was held that the three other sureties were discharged by the creditor's agreement with the fourth surety that the latter's maximum liability should be reduced.-**Pan Bisbilder Ltd. V. First Bank Ltd,** ***supra***. By the provisions of Section 18 of the Partnership Act 1890 [(23)] which is a Statute of General Application, when a guarantee is given for a firm, it ceases to be binding after a change has been made in the constitution of the firm, unless it is made quite clear that the guarantee is to continue in spite of the change.

Death can also bring a surety's liability to an end. Where the surety dies, his estate is liable for debts incurred by the principal debtor before his death. Difficulties arise where the guaranteed loan, was agreed to be drawn by installments or where the guarantee was a continuing one. In either case the deceased surety's estate remains liable for debts incurred by the principal debtor until the lender receives notice of the surety's death. Most guarantee forms used by banks go even further by providing that the estate remains liable for drawings made within three months of the personal representative's written notice of termination. This is line with the Partnership Law Rivers State 1999. Note that persons giving a type of guarantee should leave evidence in a place that would be readily found by personal representatives, so as to free the state as soon as possible. **Mental disorder** [(24)] of the surety presents another difficulty. Basically this has the same effects as the surety's death, where a protection is made in respect of a mental patient who has guaranteed a debt e.g. under Section 101 of the English Mental Health Act 1959, the receiver appointed by the court is the person to give the requisite notice.

Difference between Suretyship and indemnity

The distinction between suretyship and indemnity is of practical importance. In the first place, the form of contract depends on it. No writing is required for an indemnity; since it establishes a primary obligation by the promise an oral undertaking is sufficient as in most

contracts. A guarantee on the other hand establishes a contingent liability of the surety, and the law requires a safeguard. Accordingly a surety's promise is enforceable only if written evidence can be furnished – see Section 4 of the Statute Frauds 1677 which provides that an undertaking to answer for the debt, default, or miscarriage of another must be evidenced in writing. There is no need to make a written contract as for example in the case of a legal assignment, it is enough that a written memorandum comes into existence before the creditor sues the surety – **Guild & Co. V. Conrad,** [25] **(Supra).** Another difference is this. The validity of the guarantee of another person's debt must or needs to depend on the principal debt being enforceable. An indemnity on the other hand being an independent promise by one person to another is valid even if the contract in respect of which the indemnity was given is void. In **Yeoman Credit Ltd V. Latter**, [26] a minor bought a car on hire purchase. The finance house required an adult to sign a "hire purchase indemnity and undertaking" under which he in effect promised to indemnify the finance house if profit was made. This profit was expected from the transaction; the adult did not in terms, guarantee the payment by the buyer of the instruments. It was held that this promise stood although the sale was void under the Infants Relief Act.

***Types of Guarantee*:**

There are various types of guarantee in commercial transactions which businessmen apply depending on the contract. Some are explained thus: an **absolute guaranty** is an unconditional undertaking by a guarantor that the debtor will pay debt or perform the obligation. It is an unconditional promise of payment or performance of principal contract on default of principal debtor or obligor. A **collateral guaranty** is a contract by which the guarantor undertakes in case the principal debtor fails to do what he has promised or undertaken to do, pay damages for such failure; as distinguished from an engagement of surety ship in this respect that a surety undertakes to do the very thing which the principal has promised to do, in case that latter defaults, while a **conditional guaranty** arises where one depends upon some extraneous event, beyond the mere default of the principal and generally upon notice of the principal's default, and reasonable diligence in exhausting proper remedies against the principal. Conditional guaranty is not immediately enforceable against the guarantor upon default of the principal debtor but one in which the creditor must take some action for the liability to arise. A **continuing guaranty** is a guaranty which is not limited to a particular transaction but which is intended to cover future transactions until revoked. It relates to one relating to a future liability of the principal, under successive transactions, which either continue the principal's liability or from time to time renew it after it has been satisfied. **Special guaranty is a** guaranty which is available only to particular person to whom it is offered or addressed, as distinguished from general guaranty, which will operate in favour of any person who may accept it.

Guarantee Clause

This is a provision in a contract, deed, mortgage by which one person promises to pay the obligation of another. A contract of guarantee should be under seal or it must be supported by valuable consideration else it would be void. In the case of **Bank of West Africa Ltd. V. Fagboyegun**[27], the claim was bought by the plaintiff bank against the defendant and one Ijalade jointly and severally for £381.5s3d, being the balance allegedly due in respect of sums granted to Ijalade as overdraft. The defendant had in 1958 executed a document by which he guaranteed the amount already granted to Ijalade as overdraft and other advances that the bank might make to him thereafter. Evidence was led to show that apart from interests and bank charges no further amounts has been debited to the account of Ijalade since the date of the guarantee. It was held by the court that as the contract of guarantee executed by the defendant was not under seal it must be supported by valuable consideration and that mere existence of a debt was not sufficient consideration to support a guarantee and that unless there was some further consideration for promise of the guarantor, his promise was valid. The court further held that the defendant was not liable under the contract of guarantee as no further sum were advanced to Ijalade after the execution of the contract and that the action therefore failed.

Conclusion and Recommendation

Funds are needed for commercial development purposes but they are scarce hence the need to seek for refuge in the bank who will in turn demand collaterals for the loan. Thus businessmen in a bid to get credit facility will need a guarantor for the loan or overdraft hence the need for guarantee contracts. Guarantee contracts ensure that business efficacy is actualized in commercial circles as it brings the banker, the customer, the law and the guarantor into a union, which they ordinarily never envisaged. The normal remedies for breach of contract applies to a contract of guarantee such as damages, injunction, enforcement of the writ of *fieri-facias*, garnishee proceedings, sequestration and so on mostly against the guarantor and the principal debtor because they are the parties most likely to default in the repayment of the loan. Guarantee contracts protect banks from the hands of sly, treacherous and mischievous businessmen and they must be strictly secured and obtained from customers. The law must seek justice for all parties to a contract. Overall, guarantee contracts ensures business efficacy as they tend to act as performance bonds for contracts and they have come to stay as a check on businessmen who are wont to breach financial agreements with impunity.

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