

Legal Alert – January 2013 – Limitation Law

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Introduction

There is usually a Limitation Law, in many countries, which requires that a law suit must be commenced within a specific period of time from when the injury or omission, causing the damage or loss, arose or occurred. In Nigeria, the general legislation, which is a State one, is the Limitation Law.

The primary essence of having a Limitation Law is to ensure that all claims are diligently and promptly presented while the evidence in support of the claim, or the defence to a claim, is/are still available and the witness(es) memory is/are still fresh. A further essence for the Limitation Law is to guarantee finality in litigation.

The effect of not commencing a law suit or judicial proceeding within the period limited for bringing the law suit is that such a law suit or claim will be extinguished after the time limited for commencing the law suit has elapsed. Thus, the claim or injury, with the resulting damage or loss becomes, in the words of the Supreme Court, “.... otiose with the effluxion of time”

Ignorance of the statutorily provided period for bringing a legal action, while having knowledge of the injury or loss, will not be a defence to a claim that is already statute-barred.

Claims and Limitation Periods

There are various limitation period for different subject matter claims. Actions based on simple contracts, recovery of debts and arrears of interest, tortious malfeasance which includes damages for negligence or breach of a duty of care, account stated, etc, must be commenced within a period of six (6) years of the occurrence of the injury, loss or damage.

Actions based on any legal instrument under seal especially where such legal instrument relates to an interest or charge

on land, or the arrears of an annuity charged on an immovable property, or the enforcement of an arbitration award where the Arbitration Agreement is under seal, or the judgment of a competent Court of Law, etc, must be commenced (or where a judgment or award is to be enforced) within a period of twelve (12) years from the period when the cause of action arose or the judgment or award was entered.

The limitation period for other kinds of legal actions are:-

- a) Twenty (20) years for a State Authority to bring a legal action to recover land.
- b) Twelve (12) years to make any claim arising from a deceased person's personal estate.
- c) Two (2) years to recover any damages against concurrent wrongdoers under any civil liability enactment.
- d) Three (3) years to file a claim for damages arising from a slander, nuisance, breach of duty of care, etc.
- e) Three (3) Months for actions against Public Officers.

Exemptions to Limitation Law

As there is usually an exception to most general rules, there are also exceptions to the limitation periods for commencing a law suit to protect a legal right or to obtain a legal relief or redress.

The most common exemption to the limitation period requirement is that it will only commence in cases of fraud, mistake or disabilities like infancy and unsoundness of the mind, from when the Claimant became aware of the injury or of the existence to the legal right or relief; or where a disability, from when the disability ceases to exist.

Also, the Limitation Law does not apply to legal actions regulated by Customary Law.

Conclusion

It is essential that in order for a Claimant not to permanently forfeit the right to seek a legal relief or remedy to an injury or

loss, because he or she did not bring a legal action for judicial intervention within the statutorily required period of time, timely collation of evidence and the filing of a law suit before a competent Court with jurisdiction to hear the matter, is strongly recommended.

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