

CASE STUDY: ROYAL EXCHANGE PLC AND ANOR V. EJIKE OSISIOMA SUIT NO. NICN/LA/12/2019– JURISDICTIONAL CHALLENGES IN EMPLOYEE LOAN RECOVERY AT THE NICN

Introduction

The National Industrial Court of Nigeria (NICN) has exclusive jurisdiction over employment-related matters, as provided under Section 254C of the 1999 Constitution (as amended). However, the question of whether the NICN has jurisdiction over claims related to employee loans and mortgages remains contentious. This article explores this jurisdictional conundrum using *Royal Exchange Plc & Anor v. Mr. Ejike Osisioma*, a case handled by our firm¹, as a case study, while addressing the broader jurisprudential issues and examining international labour standards on this matter.

Background of the Case

In *Royal Exchange Plc & Anor v. Ejike Osisioma*², the Claimants sought to recover a sum of N3,429,778.99 under a loan facility extended to the Defendant during his employment. The central issue before the NICN was whether the loan was incidental to the Defendant's employment and, consequently, whether the Court had jurisdiction to entertain the claim.

As far as the court was concerned, the loan agreement between the Defendant and the 2nd Claimant (a subsidiary of the 1st Claimant) contained terms more akin to a commercial transaction than an employment benefit. Although the Defendant was granted a concessionary interest rate due to his employment, the Court held that the loan's nature and terms did not render it an employment-related benefit but rather a distinct financial arrangement. Consequently, the NICN declined jurisdiction and struck out the claim.

Jurisprudential Issues

The case raises fundamental questions in respect of the NICN's jurisdiction and the classification of employee-related financial arrangements.

1. What Constitutes an Employment-Related Loan?

The NICN's jurisdiction is expansive under Section 254C, covering all matters "relating to or connected with" employment. However, courts have struggled with whether employee loans fall within this scope. Decisions in *Zenith Bank Plc v. Obaro Odeghe*³ and *Keystone Bank Ltd v. Odigboh*⁴ illustrate that where a loan is strictly commercial, it falls outside the NICN's purview. However, where the loan is explicitly tied to the

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² Suit No. NICN/LA/12/2019, which judgment was delivered on 17th July 2023

³ Suit No. NICN/LA/342/2014, delivered on 12th January 2016, Coram: Hon. Justice O. A. Obaseki- Osaghae

⁴ Suit no. NICN/LA/250/2016, which judgment was delivered on 12th October 2020

employment contract, the NICN may assume jurisdiction (See *Mrs. Vivien Folayemi Asana V First Bank of Nigeria Ltd*⁵).

2. The Problem of Inconsistent Judicial Interpretation

There is no uniform approach in determining the NICN's jurisdiction over employee loans. Some decisions, like *Registered Trustees of Self-Reliance Economic Advancement Programme v. Sadiat*⁶, take a restrictive view, asserting that the NICN has no jurisdiction over loan recovery matters. Others, like *Keystone Bank Ltd v. Odigboh*(Supra), attempt to distinguish between staff loans and personal loans, creating further uncertainty.

This inconsistency stems from differing judicial interpretations of the words "relating to," "connected with," and "incidental to" employment. Some courts have taken a broad approach, recognizing that employment relationships extend beyond salary payments and workplace disputes. Others have narrowly interpreted these provisions, effectively limiting the NICN's role to resolving traditional employer-employee conflicts.

3. The Role of Contractual Terms

A key takeaway from *Royal Exchange v. Osisioma* is the role of contractual documentation. The Court emphasized that if an employment contract or staff handbook explicitly makes loan facilities an integral part of employment benefits, the NICN may exercise jurisdiction. This underscores the importance of precise drafting in employment contracts.

To further complicate matters, some loans granted to employees are embedded with non-compete clauses or repayment conditions that impact post-employment obligations. This raises the question: Should the NICN adjudicate on disputes arising from such agreements when they are intrinsically tied to employment, or should they fall within the purview of commercial courts?

4. The Effect of Concessionary Interest Rates on Jurisdiction

One contentious issue is whether granting an employee a concessionary interest rate transforms a loan into an employment-related benefit.

The fact that an employee receives a preferential interest rate suggests that the loan is a benefit incidental to employment. This distinction could mean that repayment obligations, conditions of termination, and post-employment interest adjustments are within the NICN's jurisdiction. Courts adopting a broader interpretation argue that

⁵ Suit No. NICN/LA/184/2016, the judgment of which was delivered on 9th October 2018

⁶ [2017] LPELR-45686[CA] 29-36

such loans form part of an employee's overall compensation package and should be adjudicated in employment courts.

However, some NICN decisions have made the contention that a concessionary interest rate does not necessarily change the fundamental nature of a loan. The presence of preferential terms does not override the contractual nature of the transaction, which may still be governed by general commercial principles. Where a loan agreement lacks express conditions tying it to continued employment, it is arguable that it falls outside NICN jurisdiction. This perspective was upheld in *Keystone Bank Ltd v. Odigboh(Supra)*, where the Court ruled that concessionary staff loans were not automatically employment benefits unless explicitly linked to employment obligations.

Ultimately, this issue remains unsettled, with decisions fluctuating based on the specific facts of each case.

5. International Labour Standards on Employee Loans

The International Labour Organization (ILO) has issued guidelines on fair treatment of employees in financial transactions. While the ILO does not explicitly address employee loans, conventions such as the Protection of Wages Convention, 1949 (No. 95) and the Termination of Employment Convention, 1982 (No. 158) emphasize that deductions from wages, including loan repayments, must be fair, transparent, and not create undue hardship for employees. These principles could be relevant in determining whether employment-related loans should fall within the jurisdiction of labour courts like the NICN.

The ILO's broader objective is to ensure that employment arrangements, including financial obligations, do not place employees at a disproportionate disadvantage. If loan repayment terms are linked to employment conditions, then it follows that labour courts should be empowered to adjudicate disputes arising from such arrangements.

Implications for Employers and Employees

Employers should ensure that any financial benefits extended to employees are clearly classified in employment contracts and internal policies if they intend to have the NICN Adjudicate over any dispute that could arise therein. Employees, on the other hand, must be aware of the legal implications of such loans and whether they are tied to employment obligations. The application of international labour standards also suggests that transparency and fairness should be paramount in structuring these loans.

Conclusion

The NICN's jurisdiction over employee-related loans remains a grey area in Nigerian labour jurisprudence. *Royal Exchange Plc v. Ejike Osioma* exemplifies the challenges

faced by litigants in navigating this evolving legal landscape. Until there is a definitive appellate ruling or legislative clarification, employers and employees must tread carefully in structuring financial arrangements tied to employment.