**LAGOS STATE MAGISTRATE SMALL CLAIMS COURT: A SPEEDY MEANS FOR THE RESOLUTION OF DEBT RECOVERY DISPUTES.**

One of the major clogs in our legal system that will continually discourage individuals from seeking judicial reliefs for wrongs meted out to them has been the delay in the dispensation of justice. However, the Lagos State Judiciary has taken a positive step in other to abrogate this clog, such step being the establishment of the Magistrate Small Claims Court.

The Small Claims Court was established with the objective of providing an informal, inexpensive and speedy resolution of simple debt recovery disputes in the Magistrates Court as individuals who seek to recover debts bordering on commercial disputes can do so without been burdened with complexity and technicality associated with regular litigation, in essence private individuals can choose to represent themselves due to the simplification of the small claims court procedure regulating the proceeding thereby reducing the cost of employing the services of a legal practitioner. However, it is advisable to engage the services of a legal practitioner so as to ensure the proper collation of requisite evidence and submissions before the court to avoid being disadvantaged in any way. The claims in this Court are regarded as “small claims” and the court called “small claims” because the claim is limited to the sum N5, 000, 000 (Five million naira) only.

Consequent upon the creation of the court, the then Chief Judge of Lagos State, Honorable Justice Opeyemi Oke pursuant to the powers conferred upon her by Section 274 of the 1999 constitution (as amended) and Section 90 (1) (2) (a) of the Magistrate Court Laws of Lagos state 2009 issued the Magistrate Court (Practice Directions on Small Claims) 2018 as a regulatory framework guiding the administration of proceedings for the Small Claims Court.

This article will discuss the relevant provisions of the Small Claims Court practice direction and juxtapose the Lagos State Magistrate Small Claims court with the small Claims Court obtainable in some other legal jurisdiction in the world.

**Commencement of action:**

An action may be commenced under the Small Claims where, the claimant or one of the claimant resides or carries on business in Lagos state, the defendant or one of the defendant resides or carries on business in Lagos state , the cause of action arose wholly or partly in Lagos state ,the claims must be for a liquidated monetary demand in a sum not exceeding N5, 000,000 (Five Million Naira) (excluding interest and cost) , lastly a letter of demand as in form SCA 1 has been served on the defendant (Article 1). The action is properly commenced by filling the complaint form as in Form SCA 2 (Article). Once a claim is qualified for the small claims court, it is marked as “qualified for Small Claims” and the litigant has to pay the prescribed fees which is less expensive than the regular court prescribed fees and upon such payment the Assistant Chief Registrar shall within 24 (twenty four) hours forward the case file to the Administrative Magistrate who will assign it to a small claims magistrate (Article 3 and 4).

**Service of Summons:**

Summons shall be served by the sheriff within 7 days of the filing at the Small Claims Court and upon service the sheriff will file an affidavit of service in Form SCA 6 within 7 days of service, but upon failure to serve the defendant with the summons within 7 days, he shall file an affidavit of non-service as in Form SCA 4. The claimant can also apply for an order of substituted service of the summons on the defendant by filling and filing Form SCA 7.

**Filing of Defence/Admission/Counterclaim:**

Upon service of the summons, the defendant shall file his defence/admission or counterclaim within 7 days completing Form SCA 5 as failure to do within the stipulated time will be regarded as admission of such claim (Article 6). In the instance of a counterclaim, a defendant can counterclaim for an amount not exceeding N10, 000, 000 (ten million naira) only (excluding interest and cost) (which is the general jurisdiction of the magistrate court) by filing Form SCA 5, however where it exceeds ten million naira, the court will only entertain such matter if any judgment in the defendant’s favour will be limited to the general jurisdiction of the magistrate court; meaning there will be an abandonment of the excess (Article 7), for instance if A claims against B the sum of N5, 000,000 (five million naira) and B counterclaims for the sum of N12, 000, 000 (twelve million naira) excluding interest and cost, the matter ceases to be under the jurisdiction of the magistrate court, however if B agrees to waive the excess of N2, 000,000 (two million naira) then the magistrate will have the power to entertain such matter again.

**Judgment, Enforcement of judgment and Appeals:**

The magistrate is obliged to encourage and promote amicable settlement of the dispute among the litigants by allowing the parties to explore the option of Alternative Dispute Resolution (ADR) for a period not exceeding 7(seven) days (Article 9). If the parties are able to resolve their dispute within the stipulated period, they shall file their terms of settlement which will be entered as consent judgment, but if the parties fail to settle within the period of 7 (seven) days, the magistrate shall give directive for the hearing of the claim or counterclaim and judgment is to be delivered within 14 (fourteen) days of the completion of the hearing. One of the distinguishing features of the small claims court is the fact that the entire period of proceedings from filing till judgment shall be concluded within 60 (sixty) days, however failure to deliver judgment within 60 (sixty) days shall not invalidate judgment (Article 12). The defendant or defendants as the case may be, shall comply and pay the judgment sum within 14 (fourteen) days of delivery of judgment, upon failure to do so within the stipulated time, such judgment shall be enforced as any order of the Magistrate court for the payment of money (Article 13). As obtainable in regular court, the practice direction on small claims court also provides for appeals for dissatisfied litigants. Such litigants are to fill the appeal form as in Form SCA 8 within 14 days of delivery of judgment stating reason for appeal.

**Juxtaposing the Lagos state Small Claims Court with Other Jurisdiction.**

The Small Claims Court just as it has been received in Nigeria has also been received in some other parts of the world; there are certain similarities and differences with their procedure. In England, the concept of small claims court first started in the 12th Century then it was referred to as court of "pie-powders". By the 17th Century, it fully acclaimed the name "Small Claims Court". The claims where for the financial sum of £10, 000 (ten thousand pounds) which is the naira equivalent of N4, 822, 346.10 k. The small claim’s court contrary to what is obtainable in Lagos also included cases involving disputes between landlord and tenants and personal injurious not exceeding the sum of £1,000 (one thousand pounds) naira equivalent of N482,234.61 kobo.

In Brazil, small claims court was established in 1995, the jurisdiction of small claim court in terms of financial value is the major difference between the Brazil and the Lagos small claim court, the sum is BRL 35,000 naira equivalent of N2, 440,332.39 k.

In Kenya, the introduction of the small claims court was much more recent, as it was established in 2016, the claim for the financial value is limited to KES 200,000 naira equivalent of N729,289.94 k. The actions that can be brought under the court in Kenya includes contracts for sale and supply of goods or services; contracts for money had and received; liability in tort in respect of loss or damage to any property, for the delivery or recovery of movable property; compensation for personal injuries; and set-off and counterclaim under any contract and it may further exercise any other civil jurisdiction as conferred on it by written law.

It is evident that these jurisdictions have adopted the small claims court in other to combat the delay of cases thereby causing congestion of courts and some of these jurisdictions have widened the actions that can be brought under these courts which is something that the Lagos state judiciary should also put in consideration in their fight to ensuring speedy and inexpensive dispensation of justice.

In conclusion, the establishment of the small claims court is the first of its kind in Nigeria and highlighting the effectiveness of the small claims court, Justice Opeyemi Oke on the 14th of May 2019 during the inauguration of the translation of the Court's Practice Directions Handbook and Policy Guidelines to Yoruba, Igbo, Hausa, Egun and Pidgin English languages that the court has delivered 530 judgments out of the 650 cases filed by litigants within the last 10 (ten) months of its sitting in seven magisterial districts with more than 60 (sixty) percent of judgment being delivered within the time frame provided by the regulatory framework. This is indeed a positive step in the right direction for the Lagos judiciary, however there is need for the expansion of claims that can be brought under the small claims court as obtainable in other jurisdictions of the world and also the need for the adoption of the small claims court in other states in Nigeria to enable a better legal system in Nigeria.

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