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KWARA STATE LIMITATION LAW

A Law to provide for limitations of actions in the State.

[KWS 27 of 1991, No. 4 of 2006.]

[Date of commencement: *1st October, 1987*]

1. Short title

This Law may be cited as the Kwara State Limitation Law.

2. Commencement

This Law shall be deemed to have come into operation on the 1st day of October, 1987.

3. Interpretation

In this Law, unless the context otherwise requires—

"**action**" includes any proceeding (other than a criminal proceeding) in a court established by law;

"**land**" includes any land held under a right of occupancy or any other tenure; "mortgage" includes an equitable mortgage;

"**other limitation enactment**" means any enactment (other than this Law) relating to the limitations of actions;

"personal injuries" includes any deceased and any impairment of a person's physical or mental condition;

"personal representative" means the executor, original or by representation, or the administrator of the estate of a deceased person;

"rent" means a rent payable under a lease or other contract of tenancy (whether in writing or not and whether express or implied) and includes a rent payable under any enactment;

"State" means Kwara State of Nigeria;

"sublease" means a legal interest created by a transfer in writing of a right of occupancy for a specific period of time; also the right so transferred or the document containing such transfer; and

"tenancy" means the holding or possession of land or buildings thereon for any term.

PART II

Period of Limitation in Respect of Land

4. Time limit for actions to recover land

No action shall be brought by any person to recover any land after the expiration of ten years from the date on which the right of action accrued to him or, if it first accrued to some person through whom he claims, to that person.

5. Accrual of right of action in case of present interests in land

(1) Where the person bringing an action to recover land, or some person through whom he claims, has been in possession thereof, and has while entitled thereto been dispossessed or discontinued his possession, the right of action shall be deemed to have accrued on the date of the dispossession or discontinuance.

(2) Where any person brings an action to recover land of a deceased person, whether under a will or on intestacy, and the deceased person was on the date of his death in possession of the land, and was the last person entitled to the land to be in possession thereof, the right of action shall be deemed to have accrued on the date of his death.

(3) Where any person brings an action to recover land, being an interest in possession assured otherwise than by will to him, or to some person through whom he claims, by a person who, at the date when the assurance took effect, was in possession of the land, and no person has been in possession of the land and by virtue of the assurance, the right of action shall be deemed to have accrued on the date when the assurance took effect.

6. Accrual of right of action in case of future interests

(1) Subject as hereafter in this Section provided, the right of action to recover any land shall, in a case where the interest claimed was an interest in reversion or remainder or any other future interest and no person has taken possession of the land by virtue of the interest claimed, be deemed to have accrued on the date on which the interest fell into possession by the determination of the preceding interest.

(2) If the person entitled to the preceding interest was not in possession of the land on the date of the determination thereof, no action shall be brought by the person entitled to the succeeding interest after the expiration of ten years from the date on which the right of action accrued to

the person entitled to the succeeding interest, or ten years from the date on which the right of action accrued to the person entitled to the succeeding interest, whichever period last expires.

(3) No person shall bring an action to recover any interest in land under an assurance taking effect after the right of action to recover the land has accrued to the person by whom the assurance was made or some person through whom he claimed or some person entitled to a preceding interest, unless the action is brought within the period during which the person by whom the assurance was made could have brought such an action.

(4) Where any person is entitled to any interest in land in possession and, while so entitled is also entitled to any future interest in that land, and his right to recover the interest in possession is barred under this Law, no action shall be brought by that person or by any person claiming through him, in respect of the future interest, unless in the meantime possession of the land has been recovered by a person entitled to an intermediate interest.

7. Provisions in case of land held in trust

(1) Subject to the provisions of subsection (1) of Section 30 of this Law, the provisions of this Law shall apply to equitable interest in land, including interests in the proceeds of the sale of land held upon trust for sale, in like manner as they apply to legal interest, and accordingly a right of action to recover the land shall, for the purposes of this Law but not otherwise, be deemed to accrue to a person entitled in possession to such an equitable interest in the like manner and circumstances and on the same date as it would accrue if his interest were a legal interest in the land.

(2) Where any land is held by any trustee upon trust, including a trust for sale, and the period prescribed by this Law for the bringing of an action to recover the land by the trustee has expired, the interest of the trustee

shall not be extinguished if and so long as the right of action to recover the land or any person entitled to a beneficial interest in the land or in the proceeds of sale either has not accrued or has not been barred by this Law, but if and when every such right has been so barred, the interest of the trustee shall be extinguished.

(3) Where any land is held upon trust, including a trust for sale, an action to recover the land may be brought by the trustee on behalf of any person entitled to a beneficial interest in possession in the land or in proceeds of sale whose right of action has not been barred by this Law, notwithstanding that the right of action of the trustee would apart from this provision, have been barred by this Law.

(4) Where any land held upon trust for sale is in the possession of a person entitled to a beneficial interest in the land or in the proceeds of sale, not being a person solely and absolutely entitled thereto, no right of action to recover the land shall be deemed for the purposes of this Law to accrue during such possession to any person in whom the land is vested as trustee, or to any person entitled to a beneficial interest in the land or in the proceeds of sale.

8. Accrual of right of action in case of forfeiture or breach of condition

A right of action to recover land by virtue of a forfeiture or breach of condition shall be deemed to have accrued on the date on which the forfeiture was incurred or the condition broken.

Provided that, if such a right has accrued to a person entitled to an interest reversion or remainder and the land was not recovered by virtue thereof, the right of action to recover the land shall not be deemed to have accrued to that person until his interest fell into possession, as if no such forfeiture or breach of condition had occurred.

9. Accrual of right of action in case of certain tenancies

(1) A tenancy at will shall, for the purpose of this Law, be deemed to be determined at the expiration of a period of one year from the commencement thereof, unless it has previously been determined, and accordingly the right of action of the person entitled to the land subject to the tenancy shall be deemed to have accrued on the date of such determination.

(2) A tenancy from year to year or other period without a sublease in writing shall, for the purpose of this Law, be deemed to be determined at the expiration of the first year or other period, and accordingly the right of action of the person entitled to the land subject to the tenancy shall be deemed to have accrued at the date of such determination.

Provided that, where any rent has subsequently been received in respect of the tenancy, the right of action shall be deemed to have accrued on the date of the last receipt of rent.

(3) Where any person is in possession of land by virtue of a lease in writing by which a rent of not less than two naira per annum is reserved, and the rent is received by some person wrongfully claiming to be entitled to the land in reversion immediately expectant on the determination of the sublease and no rent is subsequently received by the person rightfully so entitled the right of action of the last named person to recover the land shall be deemed to have accrued at the date when the rent was first received by the person wrongfully claiming as aforesaid and not at the date of the determination of the lease.

10. Right of action not to accrue or continue unless there is adverse possession

(1) No right of action to recover land shall be deemed to accrue unless the land is in the possession of some person in whose favour the period of limitation can run (hereafter in this Section referred to as "adverse possession") and where under the foregoing provision of this Law any such

right of action is deemed to accrue on a certain date and no person is in adverse possession on that date, the right of action shall be deemed to accrue unless and until adverse possession is taken of the land.

(2) Where a right of action to recover land has accrued and thereafter, before the right is barred, the land cease to be in adverse possession, the right of action shall no longer be deemed to accrue unless and until the land is again taken into adverse possession.

(3) For the purpose of this section, receipt of rent under a sublease by a person wrongfully claiming in accordance with subsection (3) of Section 9 of this Law, the land in reversion shall be deemed to be adverse possession of the land.

11. Limitation of redemption actions

When a mortgagee of land has been in possession of any of the mortgaged land for a period of ten years after the expiration of the time fixed for redemption, no action to redeem the land of which the mortgagee has been so in possession shall be brought to recover it by the mortgagor or any person claiming through him.

12. Limitation applying as between joint owners

When any one or more of several persons entitled to any land or rent as joint tenants in common shall have been in possession or receipt of the entirety or more than his or their undivided share or shares of such land or of the profits thereof or of such rent for his or their own benefit or for the benefit of any person or persons other than the person or persons entitled to the other share or shares of the same land or rent, such possession or receipt shall not be deemed to have been the possession or receipt of or by such last-mentioned person or persons or any of them.

13. Administration to date back to death

For the purposes of the provisions of section 11 of this Law relating to actions to redeem land, an administrator of the estate of a deceased person shall be deemed to claim as if there had been no interval of time between the death of the deceased person and the grant of the letters of administration.

14. Transfer of interest in land after expiration of period

At the expiration of the period prescribed by this Law for any person to bring an action to redeem land, the interest of that person in land shall vest in, and subject to the requisite consent under the Land Use Act, shall be transferred to the mortgagee.

[No. 6 of 1978.]

15. The limit for actions to recover money secured by mortgage or a charge or to recover proceeds of the sale of land

(1) No action shall be brought to recover—

(a) any principal sum of money secured by a mortgage or other charge on property; and

(b) proceeds of the sale of,

after the expiration of ten years from the date on which the right to receive the money accrued.

(2) No foreclosure action in respect of mortgaged property shall be brought after the expiration of ten years from the date on which the right to foreclose accrued.

Provided that, if the mortgagee was in possession of the mortgaged property after that date, the right to foreclose on the property which was in his possession shall not be treated as having accrued for the purposes of this subsection until the date on which his possession discontinued.

(3) The right to receive any principal sum of money secured by a mortgage or other charge and the right to foreclose on the property subject to the mortgage or charge shall not be deemed to accrue so long as that property comprises any future interest or any life insurance policy which has not matured or been determined.

(4) Subject to subsection (5) and (6) of this section, no action to recover—

- (a) money payable in respect of proceeds of the sale of land;
- (b) arrears of interest payable in respect of any sum of money secured by a mortgage or other charge; and
- (c) damages in respect of such arrears,

shall be brought after the expiration of ten years the date on which such money becomes payable or interest becomes due.

(5) Where—

- (a) a prior mortgagee or other incumbrancer has been in possession of the property charged; and
- (b) an action is brought within one year of the discontinuance of that possession by a subsequent incumbrancer,

the subsequent incumbrancer may recover by that action all the arrears of interest which fell due during the period of possession by the prior incumbrancer or damages in respect to those arrears notwithstanding that the period exceeds ten years.

(6) Where—

- (a) the property subject to the mortgage or charge comprises any future interest or life insurance policy; and
- (b) it is a term of the mortgage or charge that arrears of interest shall be treated as part of the principal sum of money secured by the mortgage or charge,

the interest shall not be treated as becoming due before the right to recover the principal sum of money has accrued or is treated as having accrued.

(7)

[No. 4 of 2006.]

PART II

Period of Limitation in respect of Judgments, Trust Property and the Estate of Deceased Persons

16. Time limit for actions founded on judgment

(1) Action shall not be brought upon any judgment or on the interest on any judgment debt after the expiration of fifteen years from the date on which the judgment becomes enforceable or the interest becomes due, as the

case may be.

[No. 4 of 2006.]

(2) For the purpose of subsection (1) of this section the term "judgment" shall apply to any final judgment for payment of a specific or specified sum of money whether at law or in equity and shall include a judgment on a charge on land.

17. Time limit for actions in respect of trust property

- (1) An action by a beneficiary under a trust, being an action—
- (a) in respect of any fraud or fraudulent breach of trust to which the trustee was a party or privy; and
 - (b) to recover from the trustee trust property or the proceeds thereof in the possession of the trustee, or previously received by the trustee and converted to his use,

shall not be brought after the expiration of ten years from the date on which the right of action accrued.

Provided that the right of action shall not be deemed to have accrued to any beneficiary entitled to a future interest in the trust property until the interest fell into possession.

(2) No beneficiary as against whom there would be a good defence under this Law shall derive any greater or other benefit from judgment or order obtained by any other beneficiary than he could have obtained if he had brought the action and this Law had not been pleaded in defence.

PART III

Limitation Period in Respect of Contract, Tort and other Actions

18. The limit for actions founded on contract, tort, etc.

No action founded on contract, tort or any other action not specifically provided for in Parts I and II of this Law shall be brought after the expiration of six years from the date on which the cause of action accrued.

[No. 4 of 2006.]

19. Special provision for action in respect of personal injuries

(1) This Section applies, notwithstanding anything contained in any other enactment to the contrary, to actions for damages for negligence, nuisance or breach of duty (whether the duty exists by virtue of a contract or of provision made by or under an enactment or independently of any contract or any such provision) where the damages claimed by the person or negligence, nuisance or breach of duty consist of or include damages in respect of personal injuries to the plaintiff or any other person.

(2) Except where subsection (3) of this section applies, the period of limitation applicable under section 19 in respect of actions to which this section applies shall be reckoned from—

(a) the date on which the cause of action accrued; and

(b) the date of knowledge (if later) of the person injured.

(3) If the person injured dies before the expiration of the period mentioned in subsection (2) of this section, the period applicable as respects the cause of action surviving for the benefit of his estate shall be five years from—

(a) the date of death; and

(b) the date of the personal representative's knowledge, whichever is the later.

(4) For the purpose of this section "**personal representative**" includes any person who is or has been a personal representative of the deceased, including an executor who has not proved the will (whether or not he has renounced probate) but not anyone appointed only as a special personal representative in relation to settled land, and regard shall be had to knowledge acquired by such person while a personal representative.

(5) If there is more than one personal representative and their dates of knowledge are different, subsection (3) (b) shall be read as referring to the earlier of those dates.

20. Special provisions for action in respect of fatal accident

(1) No action claiming damages in respect of a fatal accident shall be brought after the expiration of five years from—

(a) the date of death; and

(b) the date of knowledge of the person for whose benefit the action is brought, whichever is later.

(2) Where there is more than one person for whose benefit an action is brought under subsection (1) of this section, paragraph (b) of that subsection shall be applied separately to each one of them.

(3) Where an action would be outside the limit given by subsection (1) of this section as regards one or more but not all the dependants for whose

benefit it is brought, the Court shall direct that any person as regards whom the action would be outside that limit shall be excluded from those for whom the action is brought.

(4) The Court shall not give such directions if it is shown that if the action was brought exclusively for the benefit of the person in question it would not be defeated by a defence of limitation whether in consequence of any provision dealing with extension of the time limit in cases of disability under Part IV of this Law or agreement between the parties not to raise the defence or otherwise.

21. Definition of date of knowledge for the purpose of Sections 20 and 21

(1) In sections 20 and 21 of this Law any reference to a person's date of knowledge is a reference to the date on which he first had knowledge of the following facts—

- (a) that the injury in question was significant;
- (b) that injury was attributable in whole or in part to the act or omission which is alleged to constitute negligence, nuisance or breach of duty;
- (c) the identity of the defendant; and
- (d) if it is alleged that the act or omission was that of a person other than the defendant the identity of that person and the additional facts supporting the bringing of an action against the defendant,

and knowledge that the act or omission did or did not as a matter of law, involve negligence, nuisance or breach of duty is irrelevant.

(2) For the purpose of this section an injury is significant if the person whose date of knowledge is in question would reasonably have considered it sufficiently serious to justify his instituting proceedings for damages against the defendant who did not dispute liability and was able to satisfy a judgment.

(3) For the purposes of this section a person's knowledge includes knowledge which he might reasonably be expected to acquire—

(a) from facts observable or ascertainable by him; and

(b) from facts ascertainable by him with the help of medical or other appropriate expert advice which it is reasonable for him to seek,

but a person shall not be fixed under this subsection with knowledge of a fact ascertainable only with the help of expert advice so long as he had taken all reasonable steps to obtain (and, where appropriate to act upon) that advice, but did not obtain it.

22. Limitation of action in case of successive conversions and extinction of title

(1) Where—

(a) any cause of action in respect of the conversion or wrongful detention of a chattel has accrued to any person; and

(b) before he recovers possession of the chattel, a further conversion or wrongful detention takes place,

no action shall be brought in respect of the further conversion or wrongful

detention after the expiration of five years from the accrual of the cause of action in respect of the original conversion or wrongful detention.

(2) Where—

- (a) any cause of action in respect of the conversion or wrongful detention of a chattel has accrued to any person;
- (b) the period fixed for bringing that action or for bringing any action in respect of such a further conversion or unlawful detention as is mentioned in subsection (1) of this section has expired; and
- (c) the person to whom the right of action accrued has not during that period recovered possession of the chattel,

the title of that person to the ownership of the chattel shall be extinguished.

PART IV

Extension or Exclusion of Ordinary Time Limits

23. Application of this Part to Parts I–III

Parts I–III of this Law shall have effect subject to the provisions of this Part.

24. Interpretation of Part IV

In this Part of this Law—

- (a) "**debt**" includes any liquidated pecuniary claims;

"statute-barred debt" means a debt in respect of which the period fixed by this Law for the bringing of an action to recover it has expired;

"successor" means—

(i) in relation to a mortgagee, his personal representatives and any other persons on whom the rights under the mortgage devolve, whether on death or bankruptcy or the disposition of the property or the determination of a limited interest in settled property or otherwise;

(ii) in relation to a person liable in respect of a debt, his personal representatives and any other persons on whom the liability in respect of the debt devolves, whether on death or bankruptcy or the disposition of the property or the determination of limited interest in settled property or otherwise;

(b) reference to **"a right of action"** shall include references to—

(i) a course of action;

(ii) a right to receive money secured by a mortgage or charge on any property or to recover proceeds of the sale of land;

(iii) a right to receive a share or interest in the estate of a deceased person;

(c) references to the "date of the accrual of a right of action" shall—

- (i) in the case of an action for an account be construed as references to the date on which the matter arose in respect of which an account is claimed;
- (ii) in the case of an action on a judgment be construed as references to the date on which the judgement became enforceable;
- (iii) in the case of an action to recover arrears of rent be construed as references to the date on which the arrears became due;

(d) references to "a debt" shall—

- (i) in the case of rent, be construed as references to an assignment of the rent;
- (ii) in the case of interest be construed as references to an instalment of the interest.

(e) references to a mortgagee who is by virtue of the mortgage in possession of any mortgage land shall include references to a mortgagee who has obtained possession of the mortgaged land by virtue of an order of the court.

Disability

25. Person under a disability

(1) For the purpose of this Law, a person shall be under a disability while he is an infant or of unsound mind.

(2) For the purposes of subsection (1) of this section but without prejudice to the generality thereof, a person shall be conclusively assumed to be of unsound mind while he is detained in pursuance of any enactment authorising the detention of persons of unsound mind or criminal lunatics.

26. Extension of limitation period in case of disability

(1) Subject to the following provisions of this section, if on the date when any right of action accrued for which a period of limitation is prescribed by this Law, the person to whom it accrued was under a disability, the action may be brought at any time before the expiration of five years from the date when he ceases to be under a disability or dies (whichever event first occurs), notwithstanding that the period of limitation has expired.

(2) This Section shall not affect any case where the right of action first accrued to some person (not under a disability) through whom the person under a disability claims.

(3) When a right of action which has accrued to a person under a disability accrues on the death of that person while still under a disability, to another person under a disability, no further extension of time shall be allowed by reason of the disability of the second person.

(4) This section shall not apply to any action to recover a penalty or forfeiture, or sum by way of penalty or forfeiture, by virtue of any enactment, except where the action is brought by an aggrieved party.

Confinement and Absence Abroad

27. Person under confinement

For the purposes of this Law a person shall be deemed to be under confinement while he is in detention, or serving a prison sentence or where by reason of an outbreak of hostilities he is unable to commence legal proceedings.

28. Extension of limitation period in case of confinement

If, on the date when any right of action for which a period of limitation is prescribed by this Law accrues, any person in whose favour it accrues is under confinement, the action may be brought at any time before the expiration of a period of five years after the date when the person ceases to be under confinement.

29. Absence abroad

(1) Where a person is outside Nigeria when a cause of action accrues in his favour, the relevant period of limitation prescribed under this Law shall not begin to run until he returns to Nigeria.

(2) The provisions of subsection (1) of this section shall not apply in the case of a person whose stay outside Nigeria is due to a flight from justice or self-imposed exile.

30. Fresh accrual of action on acknowledgement or part payment

(1) Subsections (2) and (3) apply where any right of action (including a foreclosure action) to recover any right of a mortgage of property to bring a foreclosure action in respect of the property has accrued.

(2) If the person in possession of the property in question

acknowledges the interest of the person to whom the right of action has accrued, the right shall be treated as having accrued on and not before the date of the acknowledgement.

(3) In the case of a foreclosure or other action by a mortgagee, if the person in possession of the property in question or the person liable for the mortgage debt makes any payment in respect of the debt (whether of principal or interest) the right shall be treated as having accrued on and not before the date of the payment.

(4) Where a mortgagee is by virtue of the mortgage in possession of any mortgaged land and either—

(a) receives any sum in respect of the principal or interest of the mortgage debt; and

(b) acknowledges the interest of the mortgagor, or his equity of redemption,

an action to redeem the land in his possession may be brought at any time before the expiration of ten years from the date of the payment or acknowledgement.

(5) Subject to subsection (6), where any right of action has accrued to recover—

(a) any debt or other liquidated pecuniary claim; and

(b) any claim to the estate of a deceased person or to any share or interest in any such estate,

and the person liable or accountable for the claim acknowledges the claim or

makes any payment in respect of it the right shall be treated as having accrued on and not before the date of the acknowledgement or payment.

(6) A payment of a part of the rent or interest due at any time shall not extend the period for claiming the remainder then due, but any payment of interest shall be treated as a payment in respect of the principal debt.

(7) Subject to subsection (6) a current period of limitation may be repeatedly extended under this section by further acknowledgements or payment, but a right of action once barred by this Law shall not be revived by any subsequent acknowledgement or payment.

31. Formal provision as to acknowledgements and part payments

(1) To be effective for the purposes of section 31 of this Law, an acknowledgement must be in writing and signed by the person making it.

(2) For the purposes of section 31, any acknowledgement or payment—

(*a*) may be made by the agent of the person by whom it is required to be made under that section; and

(*b*) shall be made to the person, or to an agent of the person, whose interest or claim is being acknowledged or, as the case may be, in respect of whose claim the payment is being made.

32. Effect of acknowledgement or part payment on person other than the maker or recipient

(1) An acknowledgement of an interest in any mortgaged property by

any person in possession of it shall bind all other persons in possession during the ensuing period of limitation.

(2) A payment in respect of a mortgage debt by the mortgagor or by any other person liable for the debt, by any person in possession of the mortgaged property, shall so far as any right of the mortgagee to foreclose or otherwise to recover the property is concerned, bind all other persons in possession of the mortgaged property during the ensuing period of limitation.

(3) Where two or more mortgagees are by virtue of the mortgage in possession of the mortgaged land, an acknowledgement of the mortgagor's title or of his equity of redemption by one of the mortgagees shall only bind him and his successors and shall not bind any other mortgagee or his successors.

(4) Where in a case within subsection (3) the mortgagee by whom the acknowledgement is given is entitled to a part of the mortgaged land and not to any ascertained part of the mortgage debt, the mortgagor shall be entitled to redeem that part of the land and on payment with interest of the part of the mortgage debt which bears the same proportion to the whole of the debt as the value of the part of the land bears to the whole of the mortgaged land.

(5) Where there are two or more mortgagors, and the title or equity of redemption of one of the mortgagors is acknowledged as mentioned above in this section, the acknowledgement shall be treated as having been made to all the mortgagors.

(6) An acknowledgement of any debt or the liquidated pecuniary claim shall bind the acknowledger and his successor but not any other person.

(7) A payment made in respect of any debt or other liquidated pecuniary claim shall bind all persons liable in respect of the debt or claim.

(8) An acknowledgement by one of several personal representatives of any claim to the estate of a deceased person or to any share or interest in any such estate, or a payment by one of several personal representatives in respect of any such claim, shall bind the estate of the deceased person.

*(10) In this section "successor", in relation to any mortgagee or person liable in respect of any debt or claim, means his personal representatives and any other person on whom the rights under the mortgage or, as the case may be, the liability in respect of the debt or claim devolves whether on death or bankruptcy or the transfer of property or the determination of a limited right or interest in settled property or otherwise.

* The original numbering of the sections has been retained.

Fraud, Concealment and Mistake

33. Postponement of limitation period in case of fraud, concealment or mistake

(1) Subject to subsection (4), where in the case of any action for which a period of limitation is prescribed by this Law, either—

- (a) the action is based upon the fraud of the defendant; or
- (b) any fact relevant to the plaintiff's right of action has been deliberately concealed from him by the defendant; and
- (c) the action is for relief from the consequences of a mistake,

the period of limitation shall not begin to run until the plaintiff has discovered the fraud, concealment or mistake as the case may be or could with reasonable diligence have discovered it.

(2) References in subsection (1) to the defendant include references to the defendant's agent and to any person through whom the defendant claims and his agent.

(3) For the purposes of subsection (1) deliberate commission of a breach of duty in circumstances in which it is unlikely to be discovered for some time amounts to deliberate concealment of the facts involved in that breach of duty.

(4) Nothing in this section shall enable any action—

(a) to recover, or recover the value of any property; or

(b) to enforce any charge against or set aside any transaction affecting any property,

to be brought against the purchaser of the property or any person claiming through him in any case where the property has been purchased for valuable consideration by an innocent third party since the fraud or concealment or (as the case may be) the transaction in which the mistake was made took place.

(5) A purchaser is an innocent third party for the purposes of this section—

(a) in the case of fraud or concealment of any fact relevant to the plaintiff's right of action, if he was not a party to the fraud or (as the case may be) to the concealment of that fact

and did not at the time of the purchase know or have reason to believe that the fraud or concealment had taken place; and

(b) in the case of mistake, if he did not at the time of the purchase know or have reason to believe that the mistake had been made.

PART V

Application of this Law to Arbitrations

34. Interpretation of Part V

In this Part of this Law—

"**arbitration**" means an arbitration to which the Arbitration and Conciliation Act applies;

[Cap. 9 (1994).]

[No. 4 of 2006]

"**award**" means an award to which the Arbitration and Conciliation Act applies;

[No. 4 of 2006.]

"**Court**" includes the High Court;

"**Submission**" means a written agreement to submit, or present future differences to arbitration, whether an arbitrator is named therein or not.

35. Commencement of arbitration

(1) For the purpose of this Law an arbitration shall be deemed to have commenced when one party to the submission serves on the other party a written notice requiring him to appoint or concur in appointing an arbitrator, or where the submission provides that the reference be to a person named or designated therein, requiring him or them to submit the dispute to the person named or designated.

(2) A notice under subsection (1) of this section may be served—

- (a) by delivering it to the person on whom it is to be served;
- (b) by delivering it at the place in Nigeria at which the person ordinarily resides or carries on business;
- (c) by sending it by registered post in an envelope addressed to that person at the place in Nigeria at which he ordinarily resides or carries on business; and
- (d) in any other manner ordered by the court or provided for in the submission.

(3) For the purposes of this section a company registered under the Law for the time being in force relating to registered companies shall be deemed to carry on business at its registered office in Nigeria and every other body incorporated and every un-incorporated body shall be deemed to carry on business at its principal office or place of business in Nigeria.

36. Application of Law to arbitrations

This Law shall apply to arbitration as it applies to actions in the Court.

37. Power of Court to extend time

Where the Court orders that an award be set aside or orders, after the commencement of an arbitration, that the arbitration shall cease to have effect with respect to the dispute referred, the Court may further order that the period between the commencement of the arbitration and the date of the order of the Court shall be excluded in computing the time fixed by this Law or any other limitation enactment for the commencement of proceedings (including arbitration) with respect to the dispute referred.

38. Application of Part V to arbitration under other enactments

This part of this Law shall apply to an arbitration under an enactment as well as to an arbitration pursuant to a submission and section 36 of this Law shall have effect, in relation to an arbitration under an enactment as if, for the references to a submission, there were substituted references to such of the provisions of the enactment or of any order, scheme, rules, regulations or by-Laws made thereunder as relate to the arbitration.

39. Saving for other enactments

This Law shall not apply to any arbitration—

- (a) for which a period of limitation is fixed by any other enactment; and
- (b) to which the State is a party and for which if the State were a private individual, a period of limitations would be fixed by any other enactment.

40. Arbitrations pending

Nothing in this Law shall affect an arbitration commenced before the

commencement of this Law or the title to any property which is the subject of such arbitration.

PART VI

Miscellaneous

41. Special limit for claiming contribution

(1) Where under any enactment any person becomes entitled to a right to recover contribution in respect of any damage from any other person, no action to recover contribution by virtue of that right shall be brought after the expiration of five years from the date on which that right accrued.

(2) For the purposes of this section the date on which a right to recover contribution in respect of any damage accrues to any person referred to in this section as "the relevant date" shall be ascertained as provided in subsections (3) and (4) of this section.

(3) If the person in question is held liable in respect of that damage—

(a) by a judgement given in any civil proceedings; and

(b) by an award made on an arbitration,

the relevant date shall be the date on which the judgement is given, or the date of the award (as the case may be):

Provided that for the purposes of this subsection no account shall be taken of any judgment or award given or made on appeal in so far as it varies the amount of damages awarded against the person in question.

(4) If, in any case not within subsection (3) of this section, the person

in question makes or agrees to make any payment to one or more persons in compensation for that damage (whether he admits any liability in respect of the damage or not), the relevant date shall be the earliest date on which the amount to be paid by him is agreed between him (or his representative) and the person (or each of the persons, as the case may be) to whom the payment is made.

42. Time limit for actions against the State and public authorities and officers

Notwithstanding anything contained in any other enactment or rule of law to the contrary all actions to which this Law applies howsoever arising against the State or against any State public authority or officer thereof or any person acting in the stead of such public authority or officer thereof, for anything done or intended or omitted to be done in pursuance or execution of any such act, duty or authority or in respect of any neglect or default in the execution of any such act, duty or authority shall be commenced within the same period of time after the cause of action arose as if such action were brought by or against a private individual.

43. Application

(1) This Law shall not apply to—

- (a) any proceedings for the recovery of any sum due in respect of a tax which is payable to the State Board of Inland Revenue;
- (b) any proceedings for the recovery of any fine or penalty incurred in connection with any such tax;
- (c) any proceedings by or on behalf of the State Governor for the recovery of possession of land vested in him by virtue of

the provisions of the Land Use Act;

[No. 6 of 1978.]

- (d) any proceedings for the recovery of any rent due under any grant made under the provisions of Land Use Act;

[No. 6 of 1978.]

- (e) any matter which is subject to the jurisdiction of a customary court or Area Court relating to marriage, family status, guardian of children, inheritance or disposition of property on death; and

- (f) any proceedings in respect of assessments and profits *à prendre*.

(2) Nothing in this Law shall affect any equitable jurisdiction to refuse relief on the ground of acquiescence or any other equitable defence.

(3) For the purposes of this Law, any claim by way of set-off or counter claim shall be deemed to be a separate action and to have been commenced on the date on which the set-off or counter-claim is made.

44. Enactments ceasing to apply

Any enactments relating to the limitation of action which were in force in the State immediately before the commencement of this Law shall cease to apply.

45. Savings

[No. 4 of 2006.]

Nothing in this Law shall affect any action commenced before the commencement of this Law.

CHAPTER K30

KWARA STATE LIMITATION LAW

SUBSIDIARY LEGISLATION

No Subsidiary Legislation
