



Navigating Debt Recovery in Nigeria: Strategies and Challenges

a presentation by Ehizogie
Esezobor



INTRODUCTION

- Debt recovery is an essential aspect of business operations that ensures the stability of financial transactions and maintains the integrity of commercial relationships. In Nigeria's dynamic and rapidly evolving economy, effective debt recovery strategies are crucial for businesses to mitigate risks and safeguard their interests. This article delves into the intricacies of debt recovery in Nigeria, exploring strategies, legal frameworks, challenges, and the role of professionals in this critical process.



LEGAL FRAMEWORK:

Nigeria's legal system provides a framework for debt recovery through various legal avenues, under common law, statutory law, and customary law. Under Common Law, Nigeria inherited the English common law system, and many contract law principles from English law have been adopted and applied in Nigerian contract cases.

- The primary statutes governing debt recovery in Nigeria include the Sale of Goods Act, Bills of Exchange Act, Carriage of Goods by Sea Act, Hire Purchase Act, Limitation Laws of different states in the Federation, Sheriff, and Civil Process Act, and the High Court/Magistrate Court Rules of the different states.
- For international contracts, the UN Convention on Contracts for the International Sale of Goods (CISG) may apply if both parties are from countries that are signatories to the convention.
- Customary Law: In certain cases, especially in rural areas and communities with strong customary practices, customary law may influence contract matters. Customary law varies across regions and may apply in cases involving local customs and traditions.
- These laws outline procedures and limitations for instituting debt recovery actions, including filing suits, obtaining judgments, and enforcing orders.

STRATEGIES FOR DEBT RECOVERY:

Successful debt recovery in Nigeria requires a strategic approach that balances legal recourse with negotiation and mediation. Here are some key strategies:

- **Preventive Measures:** Mitigate the risk of debt defaults by conducting thorough due diligence before entering into business relationships. Implement effective credit management policies and clearly define terms and conditions in contracts.
- **Demand Letters:** Begin the debt recovery process by sending a formal demand letter to the debtor (enclosing Agreement between Contracting parties, statement of account, email correspondences (if any), invoices, and other relevant documents) outlining the debt's details, payment expectations, and a specified response time in line with the extant provision of the law governing debt recovery.
- **Negotiation and Settlement:** Engage in negotiations or explore amicable settlement options to avoid protracted legal battles and maintain business relationships.

- Legal Action: If negotiations fail, legal action can be pursued through the appropriate courts. This involves filing a claim, presenting evidence, and seeking a judgment.
- Enforcement: Once a judgment is obtained, enforcement mechanisms such as garnishee orders, writs of execution, and possession orders can be used to recover the debt.

CHALLENGES:

- While debt recovery procedures exist, navigating the Nigerian legal system presents challenges:
 - Procedural Delays: Lengthy court procedures and case backlogs can lead to delays in obtaining judgments and enforcing recovery.
 - Multiple Jurisdictions: Nigeria's federal structure can result in variations in the interpretation and enforcement of laws across states.
 - Inadequate Information: Limited access to accurate financial information can hinder efforts to assess a debtor's ability to repay.
 - Cultural and Linguistic Factors: Cultural nuances and linguistic diversity may impact negotiations and communication with debtors.



The Role of Professionals:

In terms of regulations applicable to debt recovery in Nigeria, it is pertinent to note the following statutes and regulations which are not by any means exhaustive:

- **Companies and Allied Matters Act (CAMA):** CAMA contains provisions related to the recovery of debts owed to companies. It outlines procedures for initiating legal action, obtaining judgments, and enforcing judgments to recover debts.
- **The Sheriffs and Civil Process Act:** This Act provides the legal framework for enforcing judgments, including the seizure and sale of assets to satisfy debts owed by judgment debtors.
- **The Nigerian Civil Procedure Rules:** These rules, established by various states' High Courts, provide procedural guidelines for instituting debt recovery actions in court. They specify the process for filing claims, presenting evidence, and obtaining judgments.

- Customary and Sharia Law: In some cases, especially in rural and traditional communities, customary and Sharia law may influence debt recovery practices, particularly for informal debts.
- Credit Reporting Act: This Act provides for the regulation of credit reporting agencies and credit information sharing. It aims to promote responsible lending and borrowing practices.
- Central Bank of Nigeria Guidelines: The Central Bank of Nigeria issues guidelines and regulations related to debt recovery and non-performing loans for banks and financial institutions.
- Consumer Protection Regulations: Various regulations and guidelines have been introduced to protect consumers from unfair debt recovery practices and ensure that debt recovery activities are conducted in a lawful and ethical manner.

As a result of these Statutes and Regulations, it is always best to engage the services of legal professionals.

Experienced legal professionals, particularly those with expertise in debt recovery, play a crucial role in navigating these challenges. Lawyers offer a unique advantage in local and cross-border debt recovery cases due to their comprehensive understanding of legal systems.

Debt recovery in Nigeria demands a strategic approach that combines legal knowledge, negotiation skills, and an understanding of local laws and dynamics. Businesses and legal practitioners must collaborate to develop tailored strategies that align with the complexities of the Nigerian business and legal environment, ensuring successful debt recovery while maintaining business relationships.

conclusion



Thank You

- Ehizogie Esezobor is a dual-qualified Solicitor in Nigeria and England and Wales. Ehi (as he is popularly called) is the Senior Partner of the Law Firm of E&P Legal with offices in Lagos and the Federal Capital Territory, Nigeria. Ehi is also a Partner in a law firm in the United Kingdom with offices in Northampton.
- **Contact details:**
- **E&P Legal (Esezobor & Partners)**
- Plot 5b, Ibadan Street, Osborne Foreshore Estate, Ikoyi, Lagos, Nigeria.
- Tel(WhatsApp): +234 802 3517 582/+44 7404 693 201
- Email: ehizogie@eandplegal.com
- Website: www.eandplegal.com