



STEPS TO A SUCCESSFUL DEBT RECOVERY IN NIGERIA

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For a successful debt recovery in Nigeria one must follow the steps or procedure provided by relevant laws in Nigeria. As far as man and his endeavours are concerned, debtors as well as creditors will always exist and this makes it pertinent that laws applicable to debt recovery should be understood.

What is debt?

Debt is a specific sum of money due by agreement or otherwise. For a money claim to qualify as debt, the money must be a certain, specific, fixed or liquidated sum which has a due date and the due date has passed without the debtor paying for it. This process of making individuals or companies debtors to pay the sum owed to the creditors is regarded as debt recovery. The person who owes is the debtor while the person owed is the creditor.

The Court of Appeal in NIGERIA POSTAL SERVICES V INSIGHT ENGINEERING COMPANY LIMITED (2006) 8 NWLR (Pt. 983) p. 438 stated that an action of debt lies where a person claims the recovery of a liquidated or certain sum of money affirmed to be due to him. It is generally founded on some contract alleged to have taken place between the parties, or on some matter of fact from which the law would imply a contract between them.

Steps for Debt Recovery in Nigeria

There are Legal steps in recovering debt from a firm or an individual in Nigeria. In Nigeria, there is a time limit on when a debt can be recovered. The statute of limitations for debt recovery arising from a simple contract is six (6) years from the date the contract was entered into and when the cause of action arose according to the statutes of limitation. As a result, it is desirable to file a debt recovery action as soon as possible.

Step 1: Engage the debtor to settle the debt with a focus to maintain the relationship between creditor and debtor. This is similar to the native method used in the local or native days to recover debt. It can be done by the creditor himself or through his lawyer.

Step 2: If Step 1 above fails get the service of a lawyer, and provide necessary documents such as delivery notes, invoices, written agreements, letters, emails, etc.

Step 3: The lawyer will peruse and evaluate the documents ascertaining whether your claim qualifies as debt and the corresponding action plan.

Step 4: If the attorney determines that the claim is a debt, he or she will send the debtor a Letter of Demand outlining the amount due, including any interest that has accrued, and giving them a deadline to pay before legal action is instituted against them.

Step 5: The "Undefended List Procedure," "Summary Judgment Procedure," or other fast-track court procedures allowed by various statutes authorizing debt recovery may be used by a creditor's attorney to institute a lawsuit against a stubborn debtor. The amount

of the debt determines which court should handle the legal proceeding. In Nigeria, it could be started in the Small Claims Court, Magistrate Court, State High Court, or Federal High Court.

Conclusion

In Nigeria, debt recovery entails making legal demands before considering the possibility of taking legal action. If an agreement between parties has a mediation or arbitration clause, the other party must first attempt to recover debt from the debtor-party through mediation and/or arbitration before resorting to filing a lawsuit in court. It's also worth remembering that the Limitations Act and the Limitation Laws of various Nigerian states impose a 6-year limitation on debt collection in Nigeria. If a creditor fails to collect a debt owed within six years, the court may dismiss the case unless there is a break in the chain of causation, such as the corporation admitting or paying some of the obligation during the six-year limitation period.

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