



Impressions: Personal Liability of Directors under the Asset Management Corporation of Nigeria Act (AMCON Act) As Amended



e.eferakeya@lelawlegal.com

INTRODUCTION

The Asset Management Corporation of Nigeria (AMCON) was created in 2010 vide the *Asset Management Corporation of Nigeria Act No. 4 of 2010 (the AMCON Act)* to resuscitate the Nigerian financial system by recovering non-performing loans (NPLs) of Nigerian banks. The debts presently said to be about N4.4 trillion have thus far proven difficult to recover.¹ AMCON is under immense pressure to fulfil its objective, amidst the calls by the International Monetary Fund (IMF) for the Federal Government (FG) to wind down AMCON so as to avert “moral hazard and fiscal risks”.²

Funding for AMCON was initially provided by the Central Bank of Nigeria (CBN) through a sinking fund known as the Banking Sector Resolution

Cost Sinking Fund (the Fund) set up by CBN and the deposit money banks (DMBs) in 2011.³ CBN was to contribute ₦50 billion annually for ten (10) years starting from 2011,⁴ whilst the DMBs were to contribute as annual levy, 50 basis points (or such higher basis points as may be determined by the CBN) of their total assets at the end of the preceding financial year, commencing on 30th April 2014.⁵ The Fund is now vested in the Banking Sector Resolution Cost Fund.⁶

This has led several commentators to wrongly assume that AMCON was established to last for ten (10) years, presumably from 2011 when CBN started contributions to the Fund.⁷

Another commentator has (rightly in this writer’s view), argued that it would make for more optimal realisation of AMCON’s objectives for it to consider securitizing the NPLs.⁸

In order to strengthen the powers of AMCON in its crusade, President Muhammad Buhari assented to the *Asset Management Corporation of Nigeria (Amendment No.2) Act 2019 (AMCONAA 2019)*, itself an amendment of the *AMCON Act* which had also earlier been amended by the *Asset Management Corporation of Nigeria (Amendment) Act, 2015*



1. See Oladeinde Olawoyin, ‘Nigeria’s AMCON says 350 Debtors Owing N3.6 Trillion’, *Premium Times*, 11.01.2021:

<https://www.premiumtimesng.com/news/headlines/436098-nigerias-amcon-says-350-debtors-owing-n3-6-trillion.html> (accessed 15.03.2021).

2. Oluwaseun Oyeniyi, ‘IMF Recommend AMCON Shutdown’, *Ventures Africa*, 02.04.2013: <https://venturesafrica.com/imf-recommends-amcon-shutdown/> (accessed 15.03.2021).

3. See Central Bank of Nigeria, ‘Consolidated Banking Supervision Annual Reports (2009-2014)’, 12.14.2015: p, 16:

<https://www.cbn.gov.ng/Out/2015/BSR/Consolidated%20BSAR%202009%20-202014.pdf> (accessed 25.03.2021). See also *section 8 AMCONAA 2015* introducing *Part IX - Banking Sector Resolution Cost Sinking Fund comprising sections 60A – Z and 61*.

4. This was codified in *section 60B AMCON Act*, vide *section 8 AMCONAA 2015*.

5. See *section 60C AMCON Act* as amended by *section 8 AMCONAA 2015* especially *section 60A(1) AMCON Act* (as amended). The annual levy was payable on or before 30th April for the preceding calendar year: *section 60C(1)* and (2).

6. See *section 60D AMCON Act* as amended.

7. See for example, the comments ascribed to Senator Opeyemi Bamidele in footnote 44 herein.

8. See Tochukwu Chikwendu, ‘AMCON and Toxic Assets: Optimizing the Securitization Option’, *BDLaw (Business Day)*, 28.04.2016, p. 26; *ThisDay Lawyer*, 16.08.2016, p. 11; *LeLaw Thought Leadership*, 2016: https://lelawlegal.com/add111pdfs/AMCON_Securitisatiom.pdf (accessed 20.03.2021).

(AMCONAA 2015). Unless otherwise stated, references shall be to the **AMCON Act** as amended by the **AMCONAAs 2015 and 2019**.

Some of the noteworthy amendments effected by **AMCONAA 2019** are **sections 48(2)(b)** and **50B(4) AMCON Act**, which introduced personal liability of directors and shareholders. The new **section 50B(4)** enlarged the definition of “debtors” to include directors and shareholders.⁹ These provisions in effect negate the principle of corporate personality, as they entail lifting the corporate veil for a purely commercial purpose which is governed by a contract.

This article discusses the legality of imputing personal liability on directors and shareholders for debts of companies with corporate personalities and the need to create a balance for the protection of rights of directors in a bid by

AMCON to fulfil its objectives.

AMCON: A Historical Background

A sound financial system is a necessary precondition for the rapid growth and development of every nation’s economy, comprising private and public sector participants, players and stakeholders.¹⁰ Instabilities in the system would disrupt financial intermediation, undermine the effectiveness of monetary policy, exacerbate economic downturns, trigger capital flight and exchange rates pressures amongst others.¹¹

At a time, the Nigerian banking sector (NBS) reportedly accounted for about 90% (of the assets) of the Nigerian financial economy and about 65% of the market capitalization of the Nigerian Stock Exchange (NSE).¹² It is therefore imperative that the NBS should be well regulated and supervised for the stability of the economy. However, despite the best efforts

of the various regulatory and supervisory agencies such as the CBN,¹³ the Nigeria Deposit Insurance Corporation (NDIC), Securities and Exchange Commission (SEC), etc., there have been series of banks crises and instability in Nigeria.

The global financial meltdown in 2008 and its attendant consequences affected the NBS. It was reported that Nigeria was the only African country to experience a banking crisis due to internal problems in the aftermath of the financial crisis of 2008.¹⁴ Some reports attributed the crisis to corporate mismanagement of banks and weak ethical standards amongst the top management of banks.¹⁵ Also touted was macroeconomic instability produced by large and sudden cash inflows (government funds which mirror oil prices), resulting in rapid credit growth and loans.¹⁶

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9. Section 50B(4)(c) AMCON Act provides that: “For the purposes of Sections 51, 52 and 53 of this Act, the term ‘debtor’ or ‘debtor company’ shall, as may be applicable, include: all directors and shareholders of the borrower.” (Emphasis supplied).

10. “The financial system of a country includes its banks, Central Bank, securities markets, pension and mutual funds, insurers, market infrastructures as well as its regulatory and supervisory authorities” See IMF, ‘Financial System Soundness’, IMF Factsheets, 23.02.2021: <https://www.imf.org/en/About/Factsheets/Financial-System-Soundness> (accessed 22.02.2021).

11. Ibid.

12. Charles Soludo, ‘Banking in Nigeria at a Time of Global Financial Crisis’, (Presentation at the Special Interactive Session on the Banking System, Lagos, Nigeria), 30.03.2019, p.4: <https://www.cbn.gov.ng/out/publications/pressrelease/gov/2009/globalcrisis.pdf> (accessed 22.02.2021).

13. On 6th July 2004, the then Governor of CBN Professor Charles Soludo pursuant to section 9 Banks and Other Financial Institutions Act Cap. B3, Laws of the Federation of Nigeria (LFN), 2004 (BOFIA) increased the minimum paid-up capital for Nigerian Banks from ₦2 Billion to ₦25 Billion. Banks were advised to recapitalize through new issues, mergers and acquisitions before 31st December, 2005 failing which they would be liquidated. See Charles Soludo, ‘Consolidating the Nigerian Banking Industry to Meet the Development Challenges of the 21st Century’, <https://www.bis.org/press/040727g.pdf> (accessed 22.02.2021).

14. Ecobank, ‘Nigeria’s Banking Sector: Balance Sheet Cleansing Nears End’, Middle Africa Insight Series/Banking 24.05.2013, p. 1: <https://www.ecobank.com/upload/20130524110046533214C7qfXBE4BF.pdf> (accessed 22.02.2021).

15. See ‘Nigeria’s 2009 Financial - Understanding the Systemic and Unsystemic Risk’, Proshare Intelligent Investing, 15.05.2014:

<https://www.proshareng.com/news/Money20Market/Nigeria%E2%80%99s-2009-Financial-Crisis-%E2%80%93-Understanding-the-Systemic-and-Unsystemic-Risks-/23193> (accessed 22.02.2021)

16. Ibid.



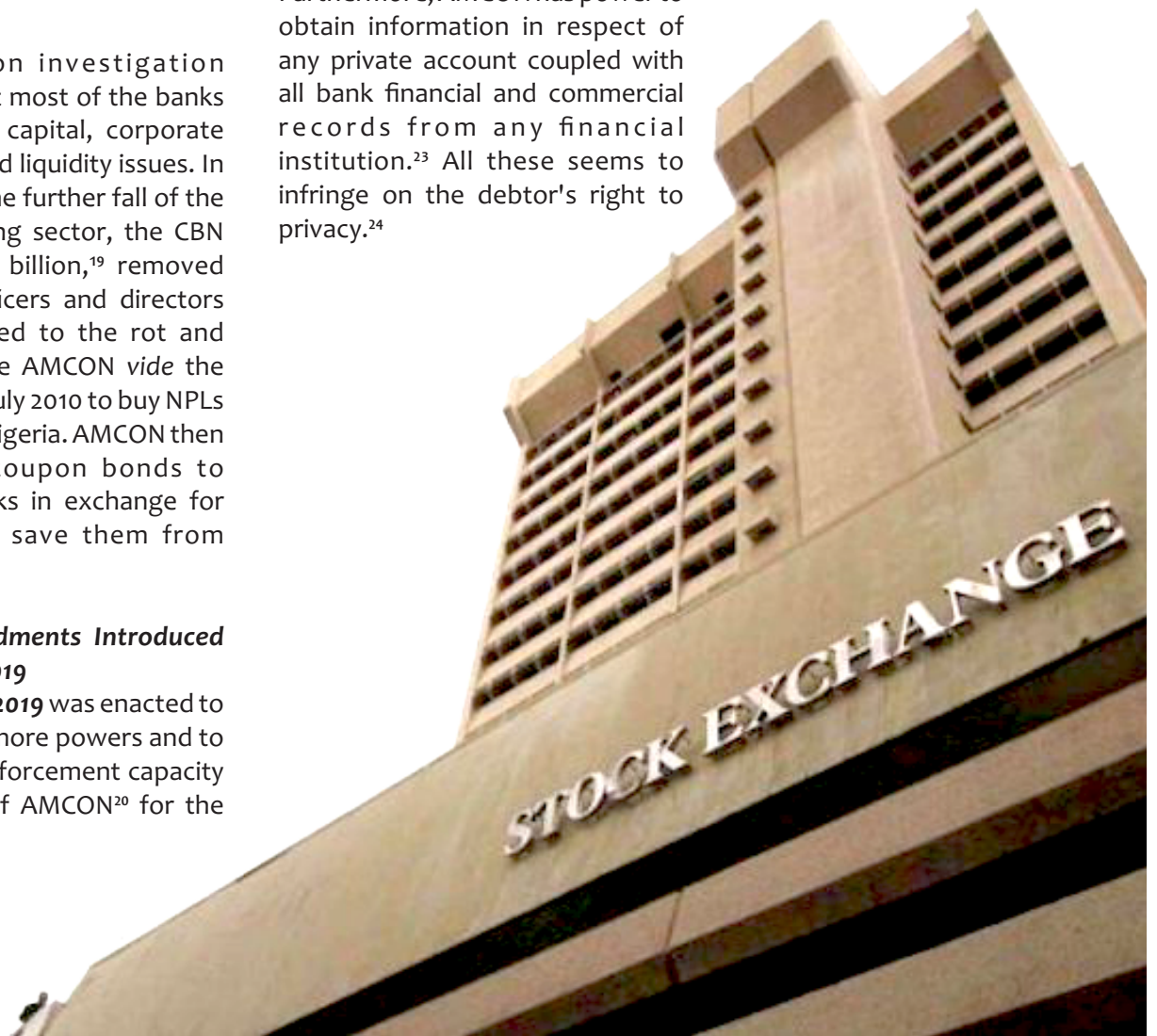
Others attributed it to the CBN's pursuit of an unrestricted monetary stance that resulted in the rise of banking sector assets with the credit originations coming from margin traders and oil importers who took unhedged positions.¹⁷ Consequently, the NBS was unable to withstand the global financial crisis shock and most of the credit exposures became toxic.¹⁸

The CBN upon investigation discovered that most of the banks in Nigeria had capital, corporate governance, and liquidity issues. In a bid to stem the further fall of the Nigerian Banking sector, the CBN injected ₦4.62 billion,¹⁹ removed some bank officers and directors who contributed to the rot and then set up the AMCON *vide* the **AMCON Act** in July 2010 to buy NPLs from banks in Nigeria. AMCON then issued zero coupon bonds to distressed banks in exchange for their NPLs to save them from instability.

Notable Amendments Introduced by AMCONAA 2019

The **AMCONAA 2019** was enacted to grant AMCON more powers and to increase the enforcement capacity of the Board of AMCON²⁰ for the

recovery of NPLs. **Section 2 AMCONAA 2019** amended **section 6 AMCON Act**, empowering AMCON to place under surveillance, the debtor's bank account or any other account comparable to a bank account.²¹ AMCON is also granted access to a debtor's computer system component, electronic or mechanical device with a view to establishing the location of funds belonging to the debtor.²² Furthermore, AMCON has power to obtain information in respect of any private account coupled with all bank financial and commercial records from any financial institution.²³ All these seems to infringe on the debtor's right to privacy.²⁴



17. Ecobank (*supra*).

18. *Ibid*.

19. Andrew Obaro, et al, 'Government Bailout of Financially Distressed Banks in Nigeria: A Justifiable Strategy?', *International Journal of Business and Social Science*, Vol 4, No. 8 (Special Issue, July 2013), p. 174: http://ijbssnet.com/journals/Vol_4_No_8_Special_Issue_July_2013/16.pdf (accessed 15.03.2021)

20. See Explanatory Note to **AMCON Act 2019**.

21. **Section 2(a)(i) AMCONAA 2019 (section 6(a)(i) AMCON Act)**.

22. **Section 2(a)(ii) AMCONAA 2019 (section 6(a)(ii) AMCON Act)**.

23. **Section 2(a)(iii) AMCONAA 2019 (section 6(a)(iii) AMCON Act)**.

24. The right to privacy is a fundamental human right provided for in the **1999 Constitution of the Federal Republic of Nigeria** as amended. **Section 37** guarantees the protection of the individual's right to privacy and the courts has upheld this in *Ibrahim v. Nigeria Army* (2015) LPELR-24596 (CA); *Okafor & Ors. v. Ntoka & Ors.* (2017) LPELR-42794 (CA); *Orpin v. Shawon & Ors.* (2019) LPELR-47691 (CA).

The clearance of AMCON is now required by FG Ministries, Departments and Agencies (MDAs) prior to paying or engaging the services of a debtor.²⁵ AMCON is also empowered to publish a list of debtors in the national newspapers, notwithstanding any contractual obligation as to confidentiality.²⁶

AMCON upon the acquisition of an NPL, acquires a legal title to all assets and property by which the NPL is secured, takes priority over all other secured creditors notwithstanding that the security in such NPL is equitable and the pendency of any action in Court.²⁷

AMCONAA 2019: A Violation of the Privacy of Directors?

The right to privacy is inalienable and one that is the hallmark of a free State - “the right to privacy is essential to the sustenance of a modern democratic society and it is also an imperative for individual welfare and well-being”.²⁸ This right has been codified in **Article 12 Universal Declaration of Human Rights of the United Nations’ General Assembly 1948** and **Article 17 International Covenant on Civil and Political Rights 1966. Section 37 of the 1999 Constitution of the Federal Republic of Nigeria as (amended) (the 1999 Constitution)** also provides that “The privacy of citizens, their homes, correspondence, telephone conversations and telegraphic communications is hereby guaranteed and protected”.

As previously noted, **section 2(a)(ii)** gives AMCON unfettered rights to debtors’ computers, electronic and mechanical devices with a view to locating the funds belonging to the debtors. This seems to be a direct breach of their right to the privacy of their correspondence,



conversations and communications.

Although **section 37 1999 Constitution** is not an absolute right, there are instances where the right can be breached. **Section 45 1999 Constitution** stipulates those instances, stating that: “nothing in section 37, 38, 39, 40 and 41 of the Constitution shall invalidate any law that is reasonably justifiable in a democratic society- in the interest of defence, public safety, public order, public morality or public health or for the purpose of protecting the rights and freedom of other persons.” The pertinent question then is “does **AMCONAA 2019** fall under the exceptions provided by

section 45 1999 Constitution?”

The most probable exception that would shield or justify **AMCONAA 2019** ‘anti-privacy provisions’ is the interest of public morality and public order. It could be argued that the global financial crisis of 2008 would have crippled the economy, led to chaos and ultimately a breakdown of public order and law, if the situation had been left unaddressed. Similarly, public morality would be hanging in the balance if individuals and corporate bodies are allowed to be indebted with huge sums of money without any accountability as to repayment.

Conversely, one cannot help but wonder as to the legality of the aforementioned **section 2(a)(ii) AMCONAA 2019**, in view of settled case law in a plethora of cases.²⁹ Worthy of reference here is the dictum of the Court of Appeal (CA) in **Tolani v. Kwara State Judicial Service Commission**:³⁰ “consequently, the Courts guard these fundamental human rights very jealously. Therefore law or Act that is perpetrated against the provisions of the fundamental human rights of any individual which is against the spirit of the Constitution would not be allowed to stand. The spirit of the Constitution must stand firm at all times and to ensure that this is done, the superior courts have constantly held in a plethora of cases that the human rights of the individual should on no account be subsumed or swept under the carpet in favour of other laws no matter how well pivoted that law may be.”

25. See **section 2(b) AMCONAA 2019**, which inserted a new **section 6(6)** to the **AMCON Act**.

26. **Section 17 AMCONAA 2019**, which inserted new **sections 50A-50B** to the **AMCON Act**.

27. **Section 8 AMCONAA 2019 (section 34 AMCON Act as amended)**.

28. *Per Justice Cobb in Pavesich v. New England Life Insurance Company* [1905] 50 S.E. 68.

29. *Nasiru Bello & Ors v. A-G. Oyo State* [1986] 5 NWLR (Pt. 45), 828; *A-G Cross River State & 2 Ors v. Okon* [2007] All FWLR Report (Pt. 395), 370; *Timothy v. Oforka* [2008] 9 NWLR (Pt. 1091), 204; *WAEC v. Akinkunmi* [2008] 9 NWLR (Pt. 1091), 151; *Nafiu Rabiu v. State* [1981] 2 NCLR 293; *Mohammed v. Olawunmi* [1990] 4 NWLR (Pt. 133), 458.

30. (2009) LPELR-8375 (CA), at 54F-A.

Whilst the legality of provisions of **AMCONAA 2019** enabling AMCON to breach the right to privacy of debtors is, (to the best of this writer's knowledge), yet to be pronounced upon by the Court, it is respectfully submit that it is not applicable to Directors of corporate entities. The new **section 50B(4) AMCON Act (vide section 17 AMCONAA 2019)** that broadened the definition of borrowers to include directors clearly stated that it was "for the purposes of sections 51, 52 and 53". **Sections 51, 52 and 53 AMCON Act** provide for bankruptcy proceedings and winding up proceedings to be instituted against debtors, and the institution of a special court for AMCON cases respectively.

Thus, **AMCONAA 2019** is clear and ought to be interpreted as such. This is line with the approach of the Supreme Court (SC) in **Dankwambo v. Abubakar**³¹ when it held that the "the golden rule of interpretation of statutes is that where the words used in a statute are clear and unambiguous, they must be given

their natural and ordinary meaning, unless to do so would lead to absurdity or inconsistency with the rest of the statute".

Thus any attempt by AMCON to access the computer or electronic devices of directors is ultra vires, void, should be resisted by them and the Courts have a duty to uphold the argument.

Is AMCONAA 2019 Retrospective?

According to **Black's Law Dictionary**,³² a retrospective law is a "legislative act that looks backward or contemplates the past, affecting acts or facts that existed before the act came into effect." A law is retrospective where it is intended to have effect on past events or occurrence or one that that is to take effect in point of time before it was passed.³³ This is articulated in the Latin maxim - *lex prospicit non respicit* (law looks forward not back).

Thus, the courts are usually reluctant to interpret a law retrospectively where it would

affect vested rights of individuals: **Afolabi v. Governor of Oyo State**.³⁴ There, Oputa, JSC held that "retrospective laws are prima facie of questionable policy and contrary to the general principle that legislation by which human conduct of mankind is to be regulated ought, when introduced, to deal with future acts, and ought not change the character of past transactions carried on upon the faith of the then existing law."

However, there are instances where a statute would operate retrospectively. These include where it was expressly stated in the wordings of the statute or arises by necessary and distinct implications. This was upheld in **Ojokolobo v. Alamu**³⁵ where the SC per Bello, JSC opined that "it is a cardinal principle of law that a statute operates prospectively and cannot apply retrospectively unless it is made to do so by clear and express terms or it affects purely procedural matters and does not affect the rights of the Parties." (Emphasis supplied).



31. [2016] 2 NWLR (Pt. 1495) 157, at 180E-G.

32. Bryan A. Garner, 'Black's Law Dictionary', (9th ed. (2009), Thomson Reuters, p. 1432.

33. *Gusau v. APC & 3 Ors.* (2019) LPELR-46897 (SC), per Augie JSC at 12F-E.

34. [1985] 2 NWLR (Pt. 9), 74.

35. [1986] 3 NWLR (Pt. 61), 377; *Ojukwu v. Obasanjo & Ors* (2004) LPELR-2400 (SC).



The CA was faced with a similar situation in **AMCON v. Israel Aerospace Industries Limited & Anor**³⁶ when it was called upon to pronounce on whether AMCON was liable for the obligations of the obligor, having acquired its rights and obligations. The CA held that the relevant Act was the **AMCON Act** that was in force at the acquisition of the loan and in the absence of express provision in the Act; the amendments to the **AMCON Act** vide **AMCONAA 2015** only took effect on its commencement date (26th May 2015). Given the absence of an express provision that the amendment is to operate retrospectively, it is forcefully submitted that the **AMCONAA 2019** amendment applies only to loans that were acquired by AMCON after commencement of the **AMCONAA 2019**.³⁷

This argument is strengthened by the fact that **section 8 AMCONAA 2019** which substituted a new **section 34** for the **AMCON Act**, provided under **section 8(3)** (that is, **34(3) AMCON Act**) that “the provisions of this section are applicable to all eligible bank assets including but not restricted to the assets

acquired by the Corporation before May 2015.” The conspicuous omission of a similar provision in other subsections is indicative of the intention of the Legislature.

Directors as ‘Borrowers’ under the AMCON Act

It is a well-established principle of law that a company has a separate personality from its directors and shareholders and they cannot be liable for the debts of the company. This was enunciated in the hallowed case of **Salomon v. Salomon**³⁸ and is commonly known as the corporate veil. In **Union Bank (Nigeria) Ltd v. Penny-Mart Ltd**³⁹ the SC held that a company upon registration retains its status of a legal entity distinct from its members. This has also been codified in the **Companies and Allied Matters Act (CAMA) 2020 (CAMA)**.⁴⁰

Undoubtedly, there are exceptions where the corporate veil is lifted; and some are actually stipulated in **CAMA**.⁴¹ Nevertheless, under **AMCONAA 2019**, there is a departure from this age old and codified principle of law. Directors are for the purposes of **sections 51, 52**

and **53** regarded as debtors and invariably primarily responsible for the debts of the company.

This writer contends that AMCON’s joining of directors and attachment of their assets in recovery suits filed by AMCON and their Asset Management Partners (AMPs) under **section 49 AMCON Act** (as amended by **AMCONAA 2019**) is *ultra vires*. Consequently, interim orders made by the Court in such suits are void, as they are not sanctioned by **AMCONAA 2019**.⁴² As earlier stated, the inclusion of Directors as borrowers under the **AMCONAA 2019** is strictly limited to the purposes of **sections 51, 52** and **53** of same.

Furthermore, directors of public entities are now liable to be subjected to bankruptcy proceedings and their financial information released to AMCON for purposes of repayment of NPLs, for which they were not parties. This would have been less objectionable if the directors personally guaranteed the NPLs.⁴³ Making directors liable for the indebtedness of companies undermines the principle of legal personality of companies and rubbishes the settled principle of, and established case laws on, the privity of contracts.

36. (2019) LPELR-47324 (CA), p. 37.

37. **Onyema v. Oputa** [1987] 3 NWLR (Pt. 60) 259; **Atuyeye v. Ashamu** [1987] 1 NWLR (Pt. 49) 267. In **Osadebay v. A-G Bendel** (1991) LPELR-2781 (SC) at 40A-B **Karibi-Whyte, JSC** held that “it is an elementary but fundamental rule of interpretation of statutes, that although there is a presumption against retrospectivity and in favour of prospectivity, where the words of the statute are clear and unambiguous in respect of retrospective effect must be given to them.” See also, **Afolabi Elebiju’s** commentary in ‘**NDDC v Nigeria LNG: Echoes and Lessons**’, *Taxspectives*, *ThisDay Lawyer*, 20.03.2012, p.7; **LeLaw Thought Leadership**, p.1: “**Nwodo, J.** held that the NLNG Act exempts NLNG from paying the Levy. **Although NDDC Act was later in time, it cannot repeal the NLNG Act by implication. Since both legislations are special Acts, any repeal must be done expressly.** Being a Federal Government agency, NDDC is bound by the provisions of the NLNG Act, which exempts NLNG from Nigerian taxes not generally applicable to all companies operating in Nigeria.” Emphasis supplied. The trial decision was upheld by the Court of Appeal in (2011) 4TLRN 1.

38. [1897] AC 22.

39. [1992] 5 NWLR (Pt 240), 228 at 237.

40. Section 42 was previously section 37 **Companies and Allied Matters Act Cap. C20, LFN 2004**.

41. Sections 118, 271(3), 316 and 672(1); **Oyebanji v. State** [2015] 14 NWLR (Pt. 1429), 270; **ET&EC Nigeria Ltd v. Nevio Intl Ltd** [2004] 3 NWLR (Pt. 860), 327.

42. **Adeogun v. Speaker of the House of Representatives** (2014) LPELR-22706 (CA); **Adefulu & Ors. v. Okulaja & Ors.** (1996) LPELR-24853 (SC).

43. Directors who personally guarantee the loans of their companies are personally liable for the debts when the company defaults in payment- **Cham v. UBA** [2010] 6 NWLR (Pt. 1191) 474; **ADIC v. NLNG Ltd** [2000] 4 NWLR (Pt. 653), 494.



Indisputably, **CAMA** is the primary legislation that deals with the rights, powers, duties, and management of companies. It has made elaborate provisions, espoused by authoritative case law, on the liability of directors arising from indebtedness of companies on whose boards they serve. Nowhere in its provisions does **CAMA** evince an intention that **AMCONAA 2019** purports to have. Similarly, the **Nigerian Code of Corporate Governance 2018 (NCCG)** made pursuant to the **Financial Reporting Council of Nigeria Act 2011 (FRCN Act)** did not evince such intention. It could be argued that the **AMCONAA 2019** amendments are overreaching provisions which amounts to usurpation of the purview or jurisdiction of **CAMA** and **FRCN Act**.

Furthermore, it may also be argued that **CAMA's** provisions being later in time ought to take precedence over **AMCONAA 2019**. However,

these arguments may fall short, considering the principle of law that a specific legislation (**AMCON Act**) supersedes or prevails over a general legislation in case of conflict.⁴⁴

Sanctity of contracts should be respected and contracts should not be rewritten or completely disregarded in a bid to recover NPLs. AMCON having acquired the rights and obligations of banks in relation to these loans and desirous of realising the NPLs ought not to go beyond the terms of the contract. This would dampen commercial initiative in Nigeria and this needs to be amended.

Conclusion

This article examined the personal liability of Directors under **AMCONAA 2019**. AMCON is under immense pressure to recover a substantial part of the NPLs for which it was established. The new amendments introduced by

AMCONAA 2019 is geared towards providing more powers for AMCON to do that.

However, some of these powers may be abused by AMCON and her AMP Partners in practice, due to wrong interpretation of the provisions of the **AMCON Act**. Thus there is the need for the debtors to challenge and query the abuse of some of the powers of AMCON in order to forestall the abuse.

The onus is on the courts as the last hope of the common man to interpret **AMCONAA 2019** in such a way as to create a fair and just balance between giving effect to same and protecting the rights of debtors. All said and done, there is also the need to amend the **AMCON Act 2019** to reflect this in order not to discourage commercial enterprise in Nigeria in view of the current **AMCON Amendment Bill 2021** before the Senate.⁴⁵

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LeLaw Barristers & Solicitors, Plot 9A Olatunji Moore Street, Off TF Kuboye Road, Lekki Phase I, Lagos, NIGERIA.

44. *A-G Lagos State v. A-G Federation & Ors* (2014) LPELR-22701 (SC); *The Governor of Kaduna State v. Kagoma* (1982) LPELR-3176 (SC); *Nobis- Elendu v. INEC & Ors.* (2015) LPELR-25127 (SC) at 40A-D where Muhammad, JSC held that “the applicable principle in the present circumstance where a specific provision of the statute is subsequent to a general provision, the specific provision prevails in the event of any conflict between the two.” Although **CAMA** is specific to director’s duties and obligations, **AMCON** is more specific in this instance – to NPLs. Consequently, **CAMA** would be considered general and **AMCON Act** specific.

45. See Dyepekazah Shibayan, ‘Senate Considers Bill to Strengthen AMCON Against Bad Loans’, *The Cable*, 23. 03.2021: <https://www.thecable.ng/senate-considers-bill-to-strengthen-amcon-against-bad-loans> (accessed 24.03.2021). According to the news report, the **Bill** has, after passing second reading, been referred to the Senate’s Committee on Banking for further work; with the Committee being given four (4) weeks to report back to the Senate. One of the key objectives of the **Bill** is to extend the lifespan of AMCON. Whilst leading debate during the second reading of the **Bill**, Senator Opeyemi Bamidele (Ekiti Central) reportedly said: “Under the current Act, the continued smooth operation of AMCON is threatened by the tenor put on a key funding provision for AMCON.”