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Limitation of Actions: Reconciling the Decisions in *N.R.M.A.F.C. v. Johnson* and *Idachaba v. University of Agriculture, Makurdi*, on the Applicability of the Public Officers Protection Act to Employment Contracts in Nigeria

1. Introduction

The law of limitation of action/limitation period plays a central role in litigation by prescribing the time within which claims must be instituted. It aims to ensure finality, prevent stale claims, and promote fairness in adjudication, as it prevents the right of action from inuring in perpetuity. In Nigeria, agreements are governed by general limitation statutes, which typically provide a six-year limitation period for actions founded on simple contracts.[2] However, there is an ongoing crisis concerning the applicability of limitation periods to contracts of employment, despite a number of scholarly works that have addressed this issue.[3]

Additionally, the already-settled position as to the inapplicability of the *Public Officers Protection Act (POPA)*[4] — which prescribes a three-month limitation period for suits against public officers for acts done in pursuance of public duty — to employment contracts, particularly where the employer is a statutory body or public institution,

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2 See, Section 8(a)(a) of the *Limitation Law of Lagos State*, Cap. L67, Laws of Lagos State, 2003.

3 See, Godwin Etim and Linda Osuagwu, "Contracts of Employment and Limitation Laws: Is The National Industrial Court Rewriting The Law?" accessed on <https://www.mondaq.com/nigeria/employee-benefits-compensation/1111952/contracts-of-employment-and-limitation-laws-is-the-national-industrial-court-rewriting-the-law 29th September 2025>; and Godwin Omoaka and Olanrewaju Awe, "The Limitation Law Quagmire: Is There a Perpetual Right to Institute an Action in Court Under a Contract of Employment?" accessed on <https://www.templars-law.com/app/uploads/2023/05/The-Limitation-Law-Quagmire-Revised-1.pdf>.

4 Cap 379, Laws of the Federation of Nigeria, 1990.

seems to have been challenged. Two recent decisions of the Supreme Court — *National Revenue Mobilisation Allocation and Fiscal Commission (N.R.M.A. & F.C.) & Ors. v. Ajibola Johnson*[5] and *Idachaba v. University of Agriculture, Makurdi*[6] — appear, at a cursory glance, to adopt divergent positions on the question.

This article analyses these cases and attempts to reconcile their holdings whilst restating the general position of the law on limitation in employment contracts.

2. Does The Popa Apply to Employment Contracts?

Section 2(a) of the POPA provides:

> *Where any action, prosecution, or other proceeding is commenced against any person for any act done in pursuance or execution of any law, public duty or authority, such action must be commenced within three months from the act, neglect or default complained of…*

This provision was enacted to protect public officers from interminable litigation for acts done in the *bona fide* discharge of their official duties. The question that arises is whether this provision also bars employment claims against public officers/institutions after three months.

2.1 N.R.M.A. & F.C. & Ors. v. Ajiboye Johnson & Ors[7]

The respondents were staff of the N.R.M.A. & F.C. (the Commission) and were disengaged (withdrawn) from service by the Commission following a government directive suspending appointments made in May 1999. This act of withdrawal of their appointments was not contemplated under their contract, which provided only for termination by notice or the payment of salary in lieu of notice. The respondents sued for salaries and benefits. The appellants argued that the suit was statute-barred under POPA, having been filed more than three months after the cause of action – withdrawal of their employment – arose.

The Supreme Court held unequivocally that POPA does not apply to contracts of service. Citing the case of *FGN v. Zebra Energy Ltd*,[8] the Court reasoned that POPA was designed to protect public officers from liability for acts done in the discharge of their **public/official** or **statutory duties**, not to shield them from ordinary **commercial or contractual obligations**. Thus, a breach of contract (of service) is not considered an act done in pursuance of public duty, but rather a private/commercial obligation. The rationale for this rule was explained by the Supreme Court as follows:

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5 (2019) 2 NWLR (Pt. 1656) 247 SC.
6 (2021) 5 NWLR (Pt. 1769) 410 SC.
7 *Supra*.
8 (2002) 18 NWLR (Pt. 798) 162 SC.

> *Ordinarily, the purpose of the public officers protection law is to protect officers in civil liability for any wrongdoing that occasions damages to any citizen, if the action is not instituted within three months, after the act, default or neglect complained of… The law is designed to protect only the officer, who acts in good faith and does not apply to acts done in abuse of office and without semblance of legal justification. There is no doubt, a careful reading of the respondents' claim will show clearly that it is on contract of service. It is now settled law that section 2 of the Public Officers Protection Act does not apply to cases of contract*.[9]

As can be gleaned from the above excerpt, the Court also found that the appellant's act of "withdrawing" appointments had no contractual or statutory basis. Since the contract expressly provided only for termination by notice or salary in lieu, the withdrawal was an act done without legal justification. Acts done in bad faith or outside lawful authority, as the Court affirmed, fall outside the shield of POPA.[10]

2.2 Idachaba v. University of Agriculture, Makurdi

This case appears to blur the position laid down by the Supreme Court in the *Ajibola Johnson Case* above. However, both cases are distinguishable.

In this case, the appellants were academic staff members of the University of Agriculture, Makurdi (a statutory body). Following allegations of misconduct, they were placed on suspension by the University, pursuant to sections 15 & 16 of the *University of Agriculture Decree*, which vested disciplinary/removal powers in the Governing Council. The appellants challenged their suspension at the Federal High Court, seeking a declaratory relief that the suspension was unlawful. The University raised a preliminary objection, arguing that the suit was statute-barred under section 2(a) POPA, since it was commenced more than three months after the suspension.

The Supreme Court upheld the concurrent findings of the lower courts and decided that the action was statute-barred as it was commenced outside the three-month window, thereby applying the POPA to what seemed to be an employment dispute.

2.3 Reconciling the Two Decisions

At first glance, *Ajibola Johnson* and *Idachaba* appear contradictory. The former excludes employment contracts from POPA, while the latter applies POPA to an

[9] Per Ariwoola J.S.C, pages 269 -271.
[10] This constitutes another exception to the applicability of the POPA, others being continuance of damage and recovery of land. See, *FGN v. Zebra Energy Ltd, supra.*

employment dispute. The reconciliation lies in the judicial characterization of the cause of action:

a. Pure Contractual Claims: Where the claim is simply for wrongful termination, unpaid salaries, gratuities, or other contractual entitlements, it is founded on breach of contract of service, and thus, the POPA does not apply. This was the case in *Ajibola Johnson*.

b. Performance of Public/Statutory Duties: Where the acts complained of are disciplinary measures (e.g., suspension, interdiction, removal) taken by a public officer/statutory body in the discharge of public/statutory duties, the Court may treat them as acts "done in pursuance of public duty." In such circumstances, POPA may apply. This was the situation in *Idachaba's* case and may be said to be an exception to the decision in *Ajibola Johnson*.

In essence, the distinction is between breach of a private contractual obligation and acts performed in the exercise of statutory authority. Both decisions, therefore, do not conflict; they coexist and do not overrule each other. Unlike *Ajibola Johnson*, the Court in *Idachaba* characterised the acts complained of (disciplinary measures) as steps taken by a statutory body in the exercise of its **public duty under the enabling statute**. The claim was not treated as a "pure contract of service" case but as a challenge to statutory powers exercised in pursuance of public duty.

Hence, litigants must properly characterize their claims, as the nature of their claims will be the ultimate determinant of the applicability or otherwise of the POPA.

3. Contracts of Employment and The Limitation Law

The POPA aside, does the general limitation law apply to employment contracts?

The National Industrial Court of Nigeria (NICN) has, following the decision of the apex court in *N.R.M.A. & F.C. & Ors. v. Ajiboye Johnson & Ors*,[11] consistently held, albeit erroneously, that contracts of employment are not subject to the application of limitation law.[12] The NICN appears to have missed the salient facts in *Ajiboye Johnson* and the underlying rationale for the Supreme Court's decision in that case, as explained above. As a result, the Court has conflated the applicability of the limitation period under the POPA with the applicability of the general limitation period to employment contracts.

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11 *Supra*.

12 See, Suit No. NICN/LA/553/2018 – *Mr Godson Ikechukwu Nkume v. First Bank of Nigeria Plc* and Suit No. NICN/LA/402/2018 – *Lilian Nnenna Akumah v. First Bank of Nigeria*, Plc, delivered on 10/10 2019.

The NICN, in one of its very recent decisions, yet again restated its erroneous position on the question posed above. This was in *Ndidiamaka Felicia Umeh v. United Bank for Africa*,[13] where the court delivered a ruling on the question on 29th April 2024, reaffirming its position.[14] Considering that the earliest of these decisions dates back to 2019, and the volume of legal treatises that these decisions have generated, it would appear that the court is stuck with this questionable position until the same is reversed by the Court of Appeal. Unfortunately, it appears these decisions are yet to be reviewed by the Court of Appeal.

The decision of the Supreme Court in *Ajiboye Johnson* is quite simple – the 3-month limitation period under the POPA does not apply to contractual breaches because, whilst the purpose of the POPA is to shield public officers from liabilities arising in the course of their official duties, breach of contract is not an act done in pursuance of such duties. This decision does not in any way preclude the application of the general provisions of the limitation laws to claims founded on contractual breaches, and it will be an absurdity to interpret the decision in a manner contrary to this analysis. In fact, in the cases where the NICN has misapplied this decision, none of the parties was a public officer. This clearly negates the rule that a decision is an authority only for the case that it decides, and subsequent cases must be treated on their own peculiar facts and circumstances. In *Gyubok v. Fedpoly, Bauchi*,[15] the Supreme Court restated this principle thus:

> *Legal principles established in decided authorities are not to be applied across board and in all matters without regard to the facts and issues submitted for adjudication in a particular case. A judgment should always be read in the light of the facts on which it was decided. The rules of stare decisis do not allow courts to apply the ratio of a case across board and with little regard to the facts of the case before them.*[16]

Therefore, where a public officer is not a party to a particular case founded on a breach of contract of service or he is, but the POPA does not apply in the circumstances of the case, no justification can be found in *Ajiboye Johnson* for excluding the applicability of the general limitation law. In other words, in such circumstances, the appropriate limitation period should apply.[17]

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13 Suit No NICN/LA/270/2022.

14 See, <https://www.nicnadr.gov.ng/judgement/judgement.php?id=8915> accessed on 30th September 2025.

15 (2024) 16 NWLR (Pt. 1965) 515.

16 Page 542, paras. B-E.

17 According to most limitation laws in Nigeria, six years from the date the cause of action accrued for actions, such as employment disputes, founded on a simple contract.

4. Conclusion

In conclusion, the law remains that the 3-month limitation period prescribed under the POPA does not apply to employment disputes, nor to any other dispute that does not arise from a public officer's performance of a public or statutory duty; it is limited to claims arising from the discharge of official duties. Concerned parties are urged to engage experienced practitioners who must carefully examine how the cause of action is framed in order to avoid any pitfalls. It is hoped that the position regarding the application of the general limitation law will soon be revisited and laid to a proper rest.

For further information on this article and the area of law,
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