

**IN THE MATTER OF AN ARBITRATION MOOT COMPETITION,
IN THE MATTER OF ARBITRATION UNDER THE ARBITRATION AND
CONCILIATION ACT, CAP 18, LAWS OF
THE FEDERATION OF NIGERIA 2004**

**HOLDEN AT THE REGIONAL CENTRE FOR INTERNATIONAL
COMMERCIAL ARBITRATION-LAGOS, NIGERIA.**

BETWEEN

SOYAPEL FINANCE LIMITEDCLAIMANT

AND

COMPUTRONICS LIMITEDRESPONDENT

INTRODUCTION

Soyapel Finance Limited, the Claimant herein is a micro-finance company licensed to do business all over Nigeria. The Respondent, Computronics Limited is a company engaged in the business of computer storage globally with a branch in Bida, Nigeria

The Claimant extended credit facilities to a customer- Oatwell Factories Limited (hereinafter referred to as Oatwell) and engaged the services of the Respondent to store the products of Oatwell on Claimant's behalf at Bida; to be released for sale or for any other purpose, only on the authorization of the Claimant.

A dispute later arose over the shortfall of 10,000 pieces of computers out of the total stock stored by the Respondent on behalf of the claimant which gave rise to this reference.

THE CONTRACT

The Claimant, Respondent and Oatwell entered into a tripartite storage agreement dated 6th June 2006.

Clause 5.0 of the agreement provides as follows:

“Any dispute arising out of or in connection with this agreement including any questions regarding its existence, validity, determination shall be referred to mediation and; where mediation fails shall finally be resolved by three Arbitrators appointed one by each party and the third by the Director-Regional Centre for International Commercial Arbitration, Lagos (RCICAL) in accordance with the Rules of RCICAL.

Clause 5.1 of the agreement also provides as follows:

“The Law applicable to this contract shall be Nigerian Law”

Both the Claimant and Respondent appointed Mr Princewill FineCountry and Mrs Judith Imo respectively as Arbitrators and the Director-Regional Centre for International Commercial Arbitration, Lagos having been satisfied that parties attempted to settle by mediation, but failed, appointed Professor George Ikpe as presiding Arbitrator on 18th February, 2008. Professor Ikpe accepted his appointment on 28th February 2008. The seat of the arbitration is Lagos, Nigeria.

PROCEDURE

Consent orders were given ordering written Points of claim, Defence and Counter-claim, and Defence to counter-claim. All documents to be relied on by the parties were to be annexed accordingly to their pleadings. These were followed by issues for determination and written addresses of counsel. Oral hearing to be ordered, if necessary.

Provision was made for a registrar for the reference and arbitrators' fees were agreed and incorporated in the consent orders.

CLAIM

The Claimant in its Points of Claim dated 13th April, 2008 stated that by a storage document dated 6th June, 2007 and a covering letter dated 7th June, 2007 issued to it by the Respondent, the Respondent confirmed that it had goods in storage on behalf of Claimant totaling 50,000 computers. These two documents were annexed to the claim as Exhibits B and C respectively.

The Claimant stated that during stock taking, however, carried out by staff of both Respondent and Oatwell on 6th August 2007, it was discovered that 10,000 computers were missing. The inventory was annexed as Exhibit D.

The Claimant's case is that since it did not authorize the release of the missing goods, the Respondent is liable for them.

It calculated its total loss at =N=800,000,000 at the rate of =N=80,000 per computer. It in addition claimed interest, damages and the cost of the reference.

THE DEFENCE

The Respondent in its Defence dated 6th June, 2008 contended that it did not store the 10,000 computers claimed by the Claimant. The Respondent asserted that even though the computers were produced by Oatwell Factories Limited, OMNUS Bank Limited, creditors to Oatwell appointed a Receiver/Manager over Oatwell Factories which prevented the Respondent from storing the said 10,000 computers. The Respondent stated that it communicated this development to the claimant through a letter dated 5-months earlier on 5th March 2007, Exhibit F.

The Respondent stated that the Tripartite Storage Agreement Exhibit A excludes it from liability for any computers that were in the process of manufacture, and were forcefully taken over by the Receiver/Manager appointed by OMNUS Bank Limited.

The Respondent denied that the 10,000 computers were worth =N=80,000 each, and added that it did not release any computers belonging to the Claimant to anybody without the Claimant's authorization, and that Claimant's case be dismissed in its entirety.

CLAIMANT'S REPLY TO RESPONDENT'S POINTS OF DEFENCE

The Claimant in its reply to the Respondent's Defence denied knowledge of the fact that the intervention of OMNUS Bank Ltd prevented the Respondent from collecting the 10,000 computers from the Oatwell Factories.

The Claimant further stated that since the storage document Exhibit B was forwarded on 6th June 2007 before OMNUS Bank appointed a Receiver/Manager, the Respondent's present position was an after thought.

DOCUMENTS

In addition to the statements of the case from both parties, the following documents were provided:

1. Tripartite Storage Agreement of 6th June, 2006 – Exhibit A.
2. Storage document dated 6th June, 2007– Exhibit B.
3. Covering letter to storage document from the Respondent to Claimant dated 7th June, 2007 – Exhibit C.
4. Inventory of stock dated 6th August, 2007 – Exhibit D.
5. Letter dated 8th August, 2007 from the Claimant to the Respondent requesting the Respondent account for the shortfall in computers – Exhibit E.
6. Letter from Respondent to Claimant dated 5th March, 2007 communicating the incident of a receiver to Oatwell Factories – Exhibit F.
7. Letter from Respondent to Oatwell dated 6th September, 2007 requesting for explanation of the missing computers – Exhibit G.