
EQUITY & TRUST

INTRODUCTION

The Law of Trust was part of the received English law into Nigeria, which comprised of the Common Law, the doctrines of Equity and Statutes of General Application. Equity was developed by the Lord Chancellor in the Court of Chancery, the purpose of which was to mitigate the harshness of the common law. The development of the equitable principles by the Court of Chancery also influenced the growth of trust. Consequently, the received English law and case law has to a large extent shaped the development and practice of the law of trusts in Nigeria.

ORIGIN OF TRUST

The exact origin of trust cannot be ascertained and there are controversies surrounding the subject. What is certain however is that the Court of Chancery entertained trusts cases. One school of thought believed that trust was transplanted into England from Roman legal system. The Court of Chancery no doubt also influenced the law of trusts as administered in that court. Another school of thought however disproved that English law of trust has no connection with Roman law. Notwithstanding this controversy, the law of trusts as we now have it in England was greatly influenced and expanded by the Chancellors in the Chancery Courts which administered equity, in their enforcement of uses.

USES OF TRUST

Trusts are of various types and used for different purposes which are sometimes reflected in the name of the trust. Contrary to popular beliefs, trust is not for the exclusive preserve of rich people. People with limited means and wealthy people can create or establish a trust for their own benefit or for the benefit of others. For instance, trust inter vivos may be used for the purposes of asset planning and management, for the settlor's own benefit and may be used to dispose or distribute the settlor's asset after his/her death.

Trust may be used as a means of financial support and life insurance for a settlor who is incapacitated or having some disabilities or as a security during old age. A trust can also be used to support a spouse in the event of one of the spouse dying before the other, for the education endowment of settlor's children or other persons who may be underage at the time of the settlor's death. Trust may also be used to as a means of giving out gifts or transferring property to loved ones, family members or other objects. A trust can equally be used to benefit or improve a definite section of the society or such a section of the general public capable of being made

certain. Examples of these are charitable trusts established for the purpose of providing members of the public with education or those created for the propagation of religion.

Despite the variety of purposes that trusts can be put into, based on public policy, a trust that is illegal or created with the intention of evading creditors or legal liabilities, or to be used as an instrument of fraud or one contrary to public policy will not be recognized and would be set aside by the law court. The same principle was encapsulated by equity.