

Re-Examining the Role of *Locus Standi* in the Nigerian Legal Jurisprudence

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Abstract

The hornets' nest contains specie of powerful stinging insects that could release deadly stings to those who stir its nest. Impliedly, those who touch the nest seek for trouble. The principle of locus standi in the Nigerian Legal System has been applied in litigations in Nigeria. It has checkmated the influx of frivolous litigation by limiting litigation only to those whose interests are injured by an act of a person or persons. The removal of this limiting principle as a condition precedent to instituting legal actions in Nigeria could act as stirring the hornets' nest as the consequential influx of legal suits in the Nigerian Legal System would overwhelm the existing legal facilities presently on ground.

Keywords: right, court, justice, principle, justice, jurisdiction, litigant

1. Introduction

Locus standi is a right to be heard by a court of competent jurisdiction. This right arises where a party to a case shows that he has interest sufficient enough to link him with a court case and without showing such an interest, the court would not entertain his claims. It, therefore, acts as a sieve tube used to sift the chaffs from grains in legal matters. The chaffs referred to are frivolous petitions or litigations; while the grains refer to the litigations in which the litigant maintains a substantial interest to the extent that refusing to hear him would be defeating the cause of justice. It is therefore submitted that the principle is a crucial one in maintaining justice in federal system (Note 1).

The court assumes jurisdiction, on the authority of *Nkemdilim v. Madukolu* (Note 2), where, inter alia, due process is followed in bringing a matter to court. It is part of due process that litigants in a matter must show that they have interests on the subject matter which forms the essential part of the litigation. This acts as a limitation to frivolous litigation, abuse of court processes and a waste of the precious time of courts. It is to be noted that while the Constitution of the Federal Republic of Nigeria of 1979 (the 1979 Constitution) rules stipulated *locus standi* as a necessary condition to be met by a party in order to enable a court to assume jurisdiction on a matter; the 1999 Constitution rules dispense with the requirement of *locus standi* as a condition to be fulfilled before a legitimate jurisdiction is assumed over a matter by a court in Nigeria.

The constitutional axe on *locus standi* (Note 3) is reviewed in this article in order to bring to the fore the elements of justice that the effect would either boast or hamper. The jurisprudential character of this review is expository in nature. In other words, it exposes what the law is on the matter of *locus standi*, that is, it states the present position of law on the matter as it is. The other side of this argument is that having known what the position of law on the matter is, the next aspect of consideration hinges on censorial jurisprudence in which the relevance of the subject matter as presently contained in the law is weighed. It is the weighing of the relevance of 'no more locus standi' rule to the quick dispensation of justice in Nigeria that stands out as the censorial jurisprudence and this in turn encourages law review (Note 4) and law reform (Note 5). The import of the rule is that all corners are welcome to the adjudicatory machineries of the Nigerian Legal System irrespective of whether they can effectively establish their interest in the legal matters brought before a court or not. This rule introduces an open door policy to all the people who want to come to be heard by the court or who want to be parties to a case in court whether or not they can establish interest on the matter.

2. Narrowing the Road to Litigation by Virtue of *Locus Standi* Principle

Litigation is a process of setting disputes by involving lawyers who argue the issues in court at the end of which the court gives judgement which decides on all the issues raised in the matter. On the other hand, *locus standi* means the right to stand before a court of justice to present someone's case for the purposes of adjudication. The court is a place of serious business and has no room for frivolities. It is not a place for unserious persons who seek fun with litigational matters.

In order to exclude characters who have no interest at state in a matter from meddling with it (Note 6), the road to litigation has been made narrow by virtue of the legal construction of the *locus standi* principle. This construction is a contentious act of protecting a legal system from being inundated and over whelmed by pieces of litigations, half or more than half of which are grossly superficial and artificial. This protection, therefore, operates like a sieve tube, the aid of which is employed to separate the substance of a thing from the chaff or unwanted contaminants (Note 7). Looking at the multiple effects of the design and the construction of this legal route, especially as it relates to the spatial aspect of the route, it could be easily discerned that the courts, the litigants, the lawyers and the states are affected in one way or the other by the narrow route or road to litigation as is canvassed by the principle of *locus standi*. The effect of this principle is glaring as it helps to reduce the workload of the courts to a manageable proportion by offloading from the cause lists, from the onset, the matters that have no litigational co-relation between the litigants and the subject matters of litigation, thus giving the courts ample time to concentrate on matters of relevance and importance brought before them. As for the litigants, the principle of *locus standi* (Note 8) puts the party intending to be a litigant in a matter on alert in order to ensure that he has a subsisting interest in a matter before endeavouring to bring it before the court; otherwise, his litigational exercises would amount to exercises in futility. On the side of lawyers, the principle arms them with the relevant tool for legal advice to clients seeking for a legal input on a matter or matters of concern to them. A person concerned over a matter that does not concern him and the role of lawyers in the light of *locus standi*, is to advice such persons on their lack of capacity to bring an action in court over such matter. In this way, lawyers help to save the courts from unnecessary overload of work and help themselves by avoiding embarking on a fruitless legal voyage that could be filled with the storms and winds of objections by opposing counsel and the legal thunder strikes emanating from an intelligent judge striking out the matter as being outside the court's jurisdiction. On the part of a state, as a unit of a federation, the application of the principle helps the state in the dispensation of justice which is the bedrock of harmonious relationship in a state (Note 9). The import of this pronouncement is reflected in the fact that when litigation is left in the hands of the actual parties whose interests are at stake, there would be no room for aggravating the dispute, but rather the parties involved can within the allowance of legal templates get the dispute resolved either by the courts or by themselves in an event where they want to settle the dispute out of court. The aggravation of a dispute by third parties whose interests are not at stake can be a destabilizing factor to a state's peace and security. Such destabilization may leave an unforgettable scar in the socio-political structure of a state.

The 1979 Constitution Rules apparently took cognizance of the above submissions before its sacrosanct validation of the principle of *locus standi* (Note 10). It is to the credit of the drafters of that Constitution that after the Justice Niki Tobi (JSC) Constitutional Committee Debate that it was revealed by the revered committee that the general wish of the majority of Nigerians who made their inputs on the type of a Constitution that Nigerians would like to fashion out to themselves was that the 1979 Constitution should serve as a legal paradigm on which the emerging constitution should be patterned after.

Taking a critical look of the advantages of the principle of *locus standi* (Note 11), it would be pertinent at this point to state that had the principle not been in vogue the disputes involving certain parties would be taken over by mercenaries just as is operational in military campaigns or warfare where foreigners are paid to fight a war on the side of a belligerent party to a conflict. It could be possible that such a thing happened in the Aguleri-Umuleri, Ife-Modakeke, Zango-Kataf and Ezza-Ezilo communal conflicts in Nigeria. This is just obtainable in a communal conflict or dispute which could be a basis for strengthening the case in favour of *locus standi* (Note 12) which acts as a stand against mercenary litigant to hijack a court case where the actual party wants him to do that by issuing him with the power of attorney to take over the case. In that instance, the case would be taken on behalf of the donor of the power of attorney by the mercenary.

There is still a limiting factor in the above scenario and it has to do with the discernable fact that a person hired as a mercenary litigant to pursue a legal matter on behalf of his boss would still not be pursuing his own case but the case of the person who has employed him. In other words the evidence to be adduced in court in order to prove his case would still be the evidence as acquired by his boss and the witnesses who can give direct evidence before the court. Hearsay evidence would not avail him the opportunity of winning the case.

Therefore, the argument that a person can circumvent the rule on *locus standi* through the issuance of the power of attorney to him does not hold water (Note 13). The reason for assuming this position is because the said power of attorney is exclusive in nature. It gives the donee the power to do a thing on behalf of the donor, thereby excluding the donor from doing that very act. It does not empower both the donee and the donor to do the same act at the same time. The absence of *locus standi* can make this possible. That is to say, where there is no power of attorney and no *locus standi* principle, the two people that would have stood as both the donor and the donee would still have access to court on their own merits each presenting his own case on the same subject matter. Such an absence allows all comers to be parties in a matter having the same subject matter irrespective of whether or not they have interests injured or affected negatively by acts prompting the legal suit.

It is clear, therefore, that *locus standi* stands out as a bar to those whose interests are not injured over a particular act from instituting a legal action on the strength of a matter unconnected with their interests. The operation of the principle does not stop the Attorney-General of a state from taking up a legal action in a situation where doing so would protect the interests of a community of people affected by an act of a state in order to protect the palpable interests of the community (Note 14).

3. Removal of the Requirement of the Principle of *Locus Standi* and Social Justice

The removal of the *locus standi* requirement provides a free way for the public to bring matters to court even if the case does not directly injure their interest. By virtue of this present position on matters of litigation, everybody has the right to bring a matter with a substantial judicial weight before any court of competent jurisdiction irrespective of whether his interest has been injured or not. The beauty of this position is discernable from the viewpoint of realistic appraisal. When a man has his interest injured by certain acts of certain persons and he has no financial muscles to wrest justice from the long arm of the law as a result of his being an indigent fellow, a fellow citizen can bring the matter up for adjudication and maintains it up to an appeal point (Note 15).

Adjudication promotes fair hearing. It is in the process of adjudication that all the parties would be given an ample opportunity to relay to a court of competent jurisdiction their account of the matter which is the object of litigation and the court based on the evidence before it would determine all the issues raised in the presentation of parties to a case. Therefore, adjudication of the disputes involving a party whose interests have not been injured by the acts of the defendant in a suit provides the opportunity for the court to x-ray the ingredients of the matter before the court and handle it on its merit with an unnecessary recourse to finding out the *locus standi* of the parties or any of the parties to a case (Note 16).

It is therefore submitted on the basis of the foregoing paragraph that the removal of the principle of *locus standi* from the statute book has put paid to the impunity of oppressors who oppress the poor on the basis of the belief that nobody would legally come to his aid. A wealthy man who trespasses into the land of a poor man and claims with arrogance that the land in question belongs to him would probably draw the life of righteous men around who would vow to fight for justice on the matter on behalf of the poor man. The initial position of the law on *locus standi* would rule out these righteous men from taking any form of legal action because they do not have the right to bring the matter to court. However, on the strength of the new rule abrogating *locus standi* as a condition precedent to bringing litigations, following due process (Note 17), these righteous men can successfully bring a law suit on the matter with the aim of restraining the arrogant rich man.

Honestly speaking, the removal of the principle is not simply to balance the forces at work between arrogant rich people and poor indigent ones in matters which are of litigational interest. The removal serves a broader scope of interests. One of such interests is a facilitation of the developmental aspect of law. Cases that go to court by virtue of this principle, which is akin to an open door policy in relation to litigational matters, are to the judicial systems what bodily exercises are to the muscles and general body fitness. Again, the removal of the principle, helps to sanitize the adjudicative environment of the bottle-neck of nagging jurisdictional considerations. It is not out of place, on the basis of the earlier judicial position on *locus standi* principle, for a counsel to enter a conditional appearance on a matter on the basis that the court has no jurisdiction in the matter where the plaintiff is obviously seen as having no interest in it because the act of the defendant did not cause any direct injury to him. The seriousness of jurisdiction in legal matters is a well settled fact in legal jurisprudence (Note 18). A review on the position of the law on jurisdiction is done below.

4. The Position of the Law on Jurisdiction

Jurisdiction is the power conferred on courts by law to entertain certain cases. The neglect of jurisdiction questions by any court once raised in the course of legal proceedings by any of the parties to a case could be costly. The neglect could serve as the ground on which the setting aside of the decision of the court could be granted by a higher court of law, and this would make all the exercise of the court below to amount to exercise in

futility. Therefore, conforming with the conditions precedent to the exercise of court's jurisdiction (Note 19) is a wise thing to do by any judicial officer that is versatile with the law. The conditions precedents are as follows:

- i) The subject matter of the case must be within the jurisdiction of the court;
- ii) There is no feature in the case which prevents the court from exercising its jurisdiction; and
- iii) The case before the court must be initiated by due process of law upon the fulfilment of the earlier conditions precedent.

The above conditions have been endorsed by judicial authorities relating to certain cases decided in Nigeria (Note 20).

On the aspect of the subject matter (Note 21) being within the jurisdiction of the court, reference is made to territorial jurisdiction and to the powers conferred on a court of law by an enabling Act of the National Assembly. The important consideration of territorial jurisdiction of before a matter is brought to court helps to save the time of litigants and courts where the subject matter which constitutes the main object of a case is outside the territorial jurisdiction of Nigeria. It is only the International Court of Justice (ICJ) that can assume jurisdiction over a matter but a limitation still exists in the sense that the court can only assume jurisdiction where all the parties to the case agree to the jurisdiction of the court. In a situation where any of the parties refuses to surrender to the court's jurisdiction, the matter will not be heard by the court, if it does otherwise, the court would be acting without jurisdiction. This position is also similar to the jurisdiction of the International Criminal Court (ICC) on matters of universal jurisdiction. The court can exercise jurisdiction over any person irrespective of nationality. The limitation to its power of jurisdiction is exercisable only over nationals of state parties to the convention setting up the court which is the Rome Statute of 2002. However, such nationals are not altogether free from prosecution by the court because referral of a case involving them by the Security Council to the ICC gives the court a valid jurisdiction over such nationals.

On the issue of lack of jurisdiction (Note 22) based on a feature in a case which prevents the court from exercising its jurisdiction one of the probable preventive features could have been on lack of *locus standi*. This negative feature is taken away by the removal of the *locus standi* rule so that litigants can go to court on the basis of any issue of interest in order to have it resolved by the court. It is submitted that any other element that is capable of making a court not to have jurisdiction over a matter must be backed by law. This is what helps to make the courts, courts of law because anything done by it or associated with it must be in accordance with the law.

On the matter of due process (Note 23), it is the position of law that all litigants must follow the process of initiating a suit, follow the provisions of law – both substantive and procedural to arrive at the pursuit of justice over a matter. Breaching a legal rule in the way and manner a party should follow in bringing up his case for adjudication is tantamount to jumping the gun, which is in itself a form of illegality. Due process, therefore, means that the process provided for by the law for initiating a legal action must be meticulously complied with. Doing otherwise is like coming to equity with dirty unwashed hands.

5. Is the Removal of the *Locus Standi* an Act of Stirring the Hornets' Nest?

Hornets are known to be very dangerous insects to human beings when their nests are stirred with a rod or any other introduction to the nest of extraneous objects. The introduction of the removal of *locus standi* (Note 24) by the 1999 Constitution rules which departs remarkably from the 1979 Constitution rules stands out as an extraneous object introduced into the nest of justice, especially, civil justice. Criminal justice can be maintained without the consideration of the element of *locus standi*. The concern of courts in criminal matters is mainly on jurisdiction of courts to entertain criminal matters.

Perhaps, the authorities that reviewed the role of *locus standi* in the dispensation of justice found it irrelevant in the facilitation of quality justice and consequently did not approve of it in the 1999 Constitution rules. The question begging for an answer is, 'can the removal of the rule of *locus standi* destabilize the dispensation of justice in Nigeria? Destabilization of a state of things depends on the cohesive nature of a system. If the Nigerian legal system is basically founded on the rule or principle of *locus standi* to the extent that it constitutes the very fabrics on which the system is made up of, no doubt, its removal would lead to the destabilization of the system; if not, the structure of the system remains unaltered despite the removal.

The Nigerian legal system is basically composed of legislations, statutes of general application, customs, judicial precedents and equity. These sources of Nigerian law are resorted to by courts in resolving any issue or issues brought before them on the basis of fair hearing (Note 25). Both criminal and civil proceedings are hinged on this principle of fair hearing. Therefore, what matters most is that parties coming before the courts are to be heard and this audience is given in order to allow parties to prove their cases before the courts. It is a common

principle of law that anyone who alleges must prove. Any allegation which is constituted into an object of civil suit or into a charge in criminal procedures is not swallowed hook, line and sinker by courts. Such an allegation is subjected to the fire of cross-examination in order to establish the veracity or falsity of the allegation.

The removal (Note 26) of the *locus standi* from the 1999 Constitution rules does not suggest the destabilization of the Nigerian legal system which if it were to be the position would indeed be like stirring the hornets nest because it would definitely lead to confusion and anarchy and would negatively affect the peace, order and good government of Nigeria. what the removal portends is greater access to court on a cause by people who may not have their interests injured but are interested on a case on the basis of seeing that justice (Note 27) is done on a matter that ought to be settled by the courts but those directly affected by the matter are handicapped by financial leanness or by any other factor that negatively impacts on their ability to resort to litigation.

6. Conclusion

It is submitted that the current position of the law whereby *locus standi* is dispensed with is a bold and remarkable step aimed at both quantitative and qualitative justice (Note 28). It enhances the delivery of justice to a greater majority of people and helps to qualitatively develop the Nigerian Legal System in order to attain the height of maturity than it has presently attained. However, in order to reciprocate the removal of *locus standi*, the courts whose duty of administering justice has been facilitated by virtue of the removal should be more proactive in the dispensation of justice by ensuring that cases do not prolong too long after they have been instituted before their determination by courts. Delay defeats justice. It is the recommendation of this article that since the *locus standi* rule has been removed, there should be a time frame given within which every matter brought before the court must be determined by courts whether exercising an original or appellate jurisdiction. This would enhance quick and smooth dispensation of justice.

References

- Sandacock, J. (2005). When Should the Federal Maritime Law Preempt New York's Labour Law? *Benedict's Maritime Bulletin*, 3(3).
- Lex Primus. *Locus Standi in Nigeria: an impediment to Justice*. Retrieved from <http://www.lexprimus.com/publications/LocusstandiinNigeria.Pdf>
- Obilade, A. O. (1996). *The Nigerian Legal System*. Ibadan: Spectrum Law Publishing.
- Aduba, J. N. *Judicial Interpretation, of the Principle of Locus Standi in Matters Relating to Local Government in Nigeria*. Retrieved from [http://www.dspace.unijos.edu.ng/bitstream/10485/181/1/16 Judicial Interpreta](http://www.dspace.unijos.edu.ng/bitstream/10485/181/1/16%20Judicial%20Interpreta)

Notes

Note 1. According to Obilade, under the Nigerian (Constitution) Order in Council of 1954, Nigeria had a truly federal constitution with effect from October 1954. See A. O. Obilade, *The Nigerian Legal System*, Spectrum Law Publishing, Ibadan, 1996, p.33

Note 2. (1962) All NLR, 587

Note 3. The term "*locus standi*" can be defined as the existence of a right of an individual or group of individuals to bring an action before a court of law for adjudication. See Lex Primus, "*Locus Standi in Nigeria: an impediment to Justice*" available @www.lexprimus.com/publications/LocusstandiinNigeria.pdf last accessed on 03/08/12.

Note 4. Law review affords the powers that be in a state or federation the opportunity of looking at a particular law or a body of law with the aim of appraising the provisions in order to ascertain their relevance and determine whether to allow the law or laws in the present form or amend, alter or repeal the provisions.

Note 5. Law reform is a product of law review. It is an act whereby certain provisions of certain laws are amended partly or wholly in order to bring the provisions to accommodate certain changes in the society or in order repeal the provisions partly or wholly.

Note 6. Such meddling could apparently be based on pecuniary advantage, that is, getting people to initiate a legal action as legal contractions who initiate proceedings on behalf of others as if they are really interested in the matter but their interest is rather in making money out of a matter that, in the first place, does not concern them and furthermore, commercialize litigations.

Note 7. The information of the principle of *locus standi* in the first place shows that it has a useful role to play in the administration of justice. Nothing is basically wrong in the principle except that a principle at times needs to

be expended or narrowed in order to meet a particular legal need. In *Adediran v. Interland Transport Ltd* (1991) 9 NWLR (pt 214) 155, the Supreme Court maintained that private citizens can bring an action in public nuisance. In *Badejo v. Ministry of Education & Others* (1990) 4 NWLR (pt 143, p.254), p.254, the Supreme Court maintained that a person affected by an act which has a general public effect can complain of a violation of his rights even in a situation where he is a lone voice crying in the wilderness for justice.

Note 8. Obaseki, JSC in *Thomas v. Olufosoye* (1986) 1 NWLR (pt.18) 669, said that the term *locus standi* was extensively discussed in the case of *Senator Adesanya v. The President of the Federal Republic & Another* (1981) 1 All NLR,32 and that it could not stand independently from the provisions of section 616(b) of the Constitution of the Federal Republic of Nigeria 1999. However, in *Fawehinmi v. Akilu* (1987) 4 NWLR (pt.67) 7 697, the Supreme Court departed from the above stated cases and introduced the neighbourhood test in determining locus in criminal cases and decided a citizen has a right to lay a criminal charge against anyone committing an offence or who he reasonably suspects to have committed an offence.

Note 9. In the English case of *R. v. Felixstone* (1987) QB 583, the court held that a journalist had the locus to demand to know the names of magistrates on a particular matter despite the security reasons adduced as reason for not revealing such names. In *R. V. Secretary of State for Foreign and Commonwealth Affairs ex parte Rees – Mogg* (1994) QB.552, the respondent challenged the ratification of a treaty because of his interest in constitutional issues revolving around the treaty.

Note 10. In *Adesanya v. The President of the Federal Republic & Another (supra)*, Fatai Williams, (CJN) stated that to deny any member of the society who is aware or believes or is led to believe that there has been an infraction of any of the provisions of our Constitution, or that any law passed by any of our Legislative Houses, whether federal or state, is unconstitutional, access to a court of law to air his grievance on the flimsy excuse of lack of sufficient interest is to provide a ready recipe for organized disenchantment with the judicial process.

Note 11. Justice Mohammed Bello, JSC (as he then was) defined *locus standi* as the right of a party to appear and be heard in a question before any court or tribunal. See *Adesanya's case (supra)* 358. Individuals can bring a cause of action on a matter bordering on public interest, although the Attorney-General is the competent person to institute proceedings for the enforcement of public rights. See J. N. Aduba, “*Judicial Interpretation, of the Principle of Locus Standi in Matters Relating to Local Government in Nigeria*”. available @[dspace.unijos.edu.ng/bitstream/10485/181/1/16 Judicial Interpreta](http://dspace.unijos.edu.ng/bitstream/10485/181/1/16_Judicial_Interpreta). Last accessed on 06/08/12.

Note 12. There is no doubt that personal injuries confer locus on a litigant to sue his employer. See the cases of *Compare Aguilar v. Henry Maritime Service*, 12 A.D. 3d 542, 785 N.Y.S. and 95 (2nd Dep’t 2004) and *Salamone v. Wincaf Properties, Inc.*, 9 A.D. 3d 127, 777 N.Y.S. 2nd 37(1st Dep’t 2004). These cases dealt with elevation-related cases from where litigants fell and sustained injuries. Locus is on this aspect essential in instituting an action in court. See J. Sandacock, “When Should the Federal Maritime Law Preempt New York’s Labour Law? *Benedict’s Maritime Bulletin*, Vol.3, No.3, 2005, p.276.

Note 13. This assertion is to be appreciated the more in the light of the fact a single legal action is to be taken in a particular cause of action. A person can do it himself if he has the financial means to pursue the case; otherwise, another person who is armed with the authority of the party whose interest has been injured can take up the legal matter on his behalf.

Note 14. This is not unconnected with the notorious Anton Pillar order which the court gives in order to protect the interest of a community at the instance of the request from an Attorney-General praying the court to do so.

Note 15. In *Mrs Margarcy Okadigbo v. Prince John Okechukwu Emeka and 2 Others* (2012) @ easylawonline.wordpress.com/category/locus-standi/ last accessed on 24/08/12, the Supreme Court, per – C. M. Chukwuma-Eneh (J.S.C.) said, “it is settled law that a party ought to be consistent in the case he pursues and not as it were, spring surprises on the opposite party from one stage to another. This is so as an appeal is regarded as a continuation of the original action rather than as an inception of a new suit. And so in appeals parties are normally confined to their case as pleaded in the court of first instance.

Note 16. In *Pacers Multi-Dynamics Ltd v. The M.V. Dancing Sister* (2012) @ easylawonline.wordpress.com/category/locus-standi/ last accessed on 24/08/12, per Rhodes-Vivour (JSC) stated that, “when goods are damaged during the voyage at sea, it is de jure consignee has property in the good.”

Note 17. In *Alhaji Saka Opobiya v. Layiwola Muniru* (2011) @ easylawonline.wordpress.com/category/locus-standi/ last accessed on 24/08/12, per Olunfunlola Oyelola Adekeye (JSC) said “Locus Standi is a legal capacity to institute an action in a court of law. Where a party is held to lack the locus standi to maintain an action, the finding goes to the issue of jurisdiction – as it denies the

court the jurisdiction to determine the actions. Jurisdiction in other words, a radical question of competence – a court can only be competent where the case comes by due process of law and upon fulfilment of any condition precedent to the exercise of Jurisdiction.”

Note 18. Jurisdiction confers a court with the authority to act in any case brought before it without which the court’s finding on a matter brought before it would hold no water or carry a legal weight. Jurisdictional issues are best tackled at the onset in the legal proceeding process. To raise an issue of jurisdiction after the parties to a case have entered appearance in a legal matter is not a tidy step.

Note 19. No court that is worth its salt will sweep the issue of jurisdiction under the carpet once it is raised by any of the parties to a suit. Such an issue is weighty enough to be treated with levity and must be resolved before continuing with the legal proceeding.

Note 20. *Madukolu v. Nkemdilim* (1962) 1 All NLR, 587; *Ogunsanya v. Dada* (1990) 6 NWLR (pt 140), 587; *Eze v. Okechukwu* (1998) 5 NWLR (pt 548), 36. It is a settled fact that deviating from conditions precedent would make void an action by a party or the decision of a court on a matter. See *Eugene Ofor v. Chief S. C. Osagie II* (1998) 1 SCNJ, 124.

Note 21. Subject matters relate to cause of action. For a cause of action to arise it must have accrued in an action founded in breach of contract; there must be breach by the party in default thereby kick starting the cause of action. See *Attorney General Bayelsa State v. Attorney General Rivers State* (2006) NSLQLR, Vol.28, 21.

Note 22. The Nigerian Supreme Court has consistently held that in the determination of *locus standi*, the plaintiff’s statement of claim should be the only process that should receive the attention of the court. See *Alhaja Silifat Ajiowura v. Taofik Disu & 13 Others* (2006) NSCQLR, Vol.28, 95; See also *Adesokun v. Prince Adegorolu* (1977) 3 NWLR (pt.493) 261 where the Supreme Court held that in order to determine whether a plaintiff has *locus standi* or not, it is the statement of claim that one looks at.

Note 23. It is a settled law that jurisdiction is a creation of statute or that jurisdiction is always donated by the Constitution or statute and never inferred or implied. For instance S.246(1)(b) of the Constitution of the Federal Republic of Nigeria provides that the only election tribunal in respect of whose decisions jurisdiction has been conferred on the Court of Appeal to determine are the National Assembly Election Tribunals and the Governorship and Legislative Houses Election Tribunals. See *Ehuwa v. INEC* (2006) 28 NSCQR,285,286.

Note 24. The *locus standi* principle is apparently a principle designed to narrow the sieve of litigation so that the courts do not get overwhelmed by the plethora of cases coming their way. If this view is sustained, then it sends the signal that the courts are shying away from their constitutional responsibility

Note 25. Fair hearing contemplated by the 1999 Constitution is fair hearing of parties to a legal matter. This interpretation of section 36 of the Constitution of the Federal Republic of Nigeria is a literal one and interpretative approach is justified on the ground that where the text of a statute is clear, without any manifest absurdity, the rule of interpretation states that the literal approach should be adopted.

Note 26. The law is not dynamic. It keeps on changing in order to meet up with changing times and seasons. The removal of *locus standi* at worst can inundate the courts with legal matters and at best it would make the path of justice to be easily accessible to litigants who have sufficient interests in such matters whether or not they are directly connected to it.

Note 27. Justice, though a relative term, is understood better when matters are treated according to the provisions of the law.

Note 28. The quantitative and qualitative aspect of justice respectively relates to the number of cases treated by courts and the holistic address of all the issues raised in the legal matters as to give all the parties the impression that the treatment of the matters was a fair one to all who have one interest or the other in the matters.

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