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BANK LIABILITY FOR WRONGFUL ACCOUNT FREEZING AND E-FRAUD: ANY LEGAL REMEDY?

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Abstract

The digitalization of banking services in Nigeria has exponentially increased the incidences of electronic fraud (e-fraud) and the regulatory responses thereto, including the freezing of customers' accounts. While banks have a statutory and contractual duty to protect the financial system from fraud under the Banks and Other Financial Institutions Act (BOFIA) 2020, the Central Bank of Nigeria (CBN) Regulatory Framework for Bank Verification Number (BVN), and various anti-money laundering directives, this duty often collides with the customer's constitutional right to property and the contractual duty of a banker to honour its customer's mandate. This article examines the legal basis and extent of a bank's liability for wrongful freezing of a customer's account and for losses arising from e-fraud. It interrogates the tension between a bank's duty of care, duty to obey regulatory directives, and its fiduciary obligations. Using doctrinal and analytical methodologies, the paper reviews some Nigerian case laws as well as CBN's Regulation on Instant Electronic Payments, the Cybercrimes Act 2015 (as amended), and the NDIC framework. The study finds that while banks enjoy qualified immunity when acting pursuant to a valid court order or clear CBN directive, indiscriminate freezing of accounts based on mere suspicion, internal PND (Post No Debit) without due process, or failure to deploy adequate cyber security measures amount to breach of contract and negligence, attracting damages. The paper advocates for a stricter liability regime, statutory timelines for account unfreezing, and mandatory compensation for wrongful freezing.

Keywords: *Bank Liability, Wrongful Account Freezing, E-Fraud, Post No Debit (PND), Banker-Customer Relationship, Due Process, Digital Banking.*

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1. INTRODUCTION

More than five thousand years of conventional and ancient banking practices became upset to an enormous degree by the sweeping transition to electronic and digital technologies, which saw a transformation of banking as we know it today. On the one hand, shifting to digitalized banking has given customers faster and better-secured access to their funds, and on the other hand, it has helped bankers maintain proactive records of transactions while also giving them more control over the deposits made by customers.

A resultant reality trailing digital banking which may not have been anticipated was electronic fraud, or e-fraud. "Electronic fraud," according to Australian criminologist Russell Smith, means[1] any dishonest activity that involves the Internet as the target or means of obtaining some financial reward. E-fraud has become a persisting concern in the global finance sector and in Nigeria, with the Nigeria Inter-Bank Settlement System (NIBSS) reporting that Nigerian banks and their customers lost ₦25.85 billion to digital-payment fraud in 2025 alone. While highly advanced cyber-security systems have been integrated into the banking sector to counteract e-fraud, perpetrators have continued to exploit customer negligence and security loopholes to unlawfully obtain financial gains through equally sophisticated methods.

For this reason, banks are increasingly relying on transaction monitoring, fraud alerts, account restrictions, and post no debit (PND) measures to prevent occurrences of e-fraud. Thus, when a bank's system notices or reports an imminent security breach or fraudulent tendencies, it imposes a restriction on the affected account, thereby freezing the funds held in the account and making them inaccessible to the customer. This action is founded upon the principle of safekeeping, which is bankers' duty to protect customer deposits from any real or threatened illegal access. Yet, since these fraud prevention mechanisms often restrict access to funds kept in an account even from the account owner, they are usually in violation of customers' right to uninterrupted access to their funds, even though they may be well-intentioned. Between the duty of banks to prevent fraudulent access to customer funds and the right of customers to unfettered access to their deposits lies a tension that has become a growing legal concern.

Put in better light, the tension hinges on the exact point of reconciliation if a bank freezes an account because its systems identify it as connected with suspected e-fraud: does the bank's legitimate duty to prevent fraud become an unlawful interference with the customer's right to operate his account?

1.1 STATEMENT OF THE PROBLEM

1.1.1 INSTANCES WHERE LEGITIMATE CUSTOMERS' ACCOUNTS ARE FROZEN BECAUSE OF SUSPECTED FRAUDULENT TRANSACTIONS

This paper proceeds upon the appreciation of the fact that the freezing of accounts due to suspected fraudulent transactions is commonplace in Nigeria, and that real and particular cases demonstrating the frequency of the occurrence abound.

In 2024, the Court of Appeal delivered a judgment in the case of Kuda Microfinance Bank Ltd v. Amarachi Kenneth Blessing,[2] which revolved around Kuda's restriction of the respondent's account following an erroneous transfer of ₦5 million into the said account. Similarly, Zenith Bank[33] was reported to have frozen the accounts of a certain Paulyn Abhulimen and some other persons as a fulfilment of a directive contained in an ex parte order. However, because the restriction was based on an invalid order that was issued by a Magistrate Court which lacked jurisdiction over banking disputes, the High Court of the Federal Capital Territory, Abuja, awarded ₦85 million in damages against Zenith Bank in favour of the account owners.

It would appear that, although banks have often effected the restriction of accounts based on lawful justifications, very many instances of account freezing in Nigeria proceed upon invalid court orders, as demonstrated, for instance, by the Zenith Bank case. Further evidence supports this claim. In Access Bank v. Oluwasesan Ifeoluwa,[4] the bank had frozen the account of the defendant after an invalid court order directing the restriction was issued to it, and without any lawful justification. The court would order Access Bank to pay damages to the defendant for placing a Post-No-Debit restriction on their account.

In 2019, Diamond Bank was also recorded to have unilaterally, and without following due process, frozen the account of a customer based solely on suspicion. The court, in the resultant case of Diamond Bank v. Unaka & Ors,[5] affirmed that a commercial bank has no legal right or power to unilaterally freeze a customer's account based solely on suspicion, internal investigations, or without a valid court order. A similar occurrence happened in Fidelity Bank Plc v. King-Anyiam Terhemba & Anor,[6] where the Court of Appeal addressed instances where accounts were frozen indefinitely on the strength of law enforcement letters without proper adherence to statutory time limits or court oversight.

1.1.2 FREEZING BASED ON REGULATORY, LAW-ENFORCEMENT, OR THIRD-PARTY COMPLAINTS

It should be noted that accounts can be restricted based on complaints raised by law enforcement, third parties, or regulatory bodies. These complaints could also border on suspected fraudulent transactions which have been considered in the preceding section.

1.1.3 Regulatory Intervention

Certain circumstances exist in which legislation or banking regulation permits regulatory authorities to initiate or procure restrictions on accounts connected with suspected criminal activity.

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[1] Russell G Smith, *'Electronic Theft and Fraud: Issues and Trends'* (2002) Australian Institute of Criminology.

[2] [2024] LPELR-80643(CA).

[3] [2024] FCT/HC/CV/2194/ (High Court of the Federal Capital Territory)

[4] [2024] FHC/L/CS/1008/(Federal High Court, Lagos Judicial Division).

[5] [2019] LPELR-50350(CA).

[6] [2024] LPELR-62518(CA).

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For example, **Section 60(b)** of the Banks and Other Financial Institutions Act (BOFIA)[7] provides a specific procedure where,

> "The Governor of the Central Bank of Nigeria has reason to believe that transactions in an account may involve a criminal offence. The Governor may apply ex parte to the Federal High Court and, upon obtaining an order, direct the bank to freeze the account."

What is deducible is that regulatory bodies, including the Central Bank of Nigeria, are not empowered to act based on reasonable suspicion alone, but are required to obtain court orders before freezing an account.

1.1.4Law Enforcement Intervention

The intervention of law enforcement, especially the Police, EFCC, and ICPC, usually occurs where an account is flagged as housing the proceeds of fraud or as having been used in fraudulent transactions. Yet, courts have frequently considered the limits of such intervention. For example, in Guaranty Trust Bank Plc v Adedamola & Ors,[8] the Court of Appeal held that a bank cannot unilaterally freeze a customer's account merely because of an ongoing criminal investigation. Similarly, in Access Bank Plc v Agbasiere,[9] the Court of Appeal emphasized that the investigative powers of the Police do not, by themselves, amount to a power to freeze a customer's account without a court order.

That is not to say, however, that every account restriction by a bank requires a court order in every conceivable circumstance. Recent appellate authority has recognized circumstances in which a bank may temporarily restrict an account in response to suspicious activity or a legitimate banking incident. For instance, the Kuda Microfinance Bank Ltd v Amarachi Kenneth Blessing[10] case demonstrates a situation where a restriction was imposed after another bank notified Kuda that the customer's account had been erroneously credited with ₦5 million.

1.1.5Third-Party Complaints

A particularly difficult situation arises where a bank receives a notification from another financial institution or customer reporting an erroneous or fraudulent transfer into an account operated by that bank. This is because such notification is at most an allegation and not a judicial finding of guilt or a valid court directive. Yet, banks have often handled the situation through internal investigations into such complaints to determine, from their own records, whether the complaints hold merit. Where they determine that there are indeed reasons to believe an erroneous or fraudulent transaction has been made, they may impose a temporary restriction on the account to prevent the owner from moving the funds, pending a proper legal process.[11]

However, banks must take care not to restrict an account beyond a reasonable timeline in order not to infringe on the right to property of account owners, and are in fact advised to act only when they have obtained legal empowerment.

[7] Banks and Other Financial Institutions (Amendment) Act 2002.

[8] [2019] 5 NWLR (Pt 1664) 30.

[9] [2022] LPELR-58489 (CA).

[10] Ibid *(n.2)*

[11] [1997] 6 NWLR (Pt 509) 374.

1.2 RESEARCH QUESTIONS

By the nature of the discourse, this paper, through its cumulative content, is centered either explicitly or implicitly around the following questions. Thus, by the end of the papers, these questions would have been answered, even if some of them are not singularly addressed as a subheading:

1. When is a bank legally entitled to freeze a customer's account?
2. When does an account freeze become wrongful or unlawful?
3. What duties does a bank owe its customers in preventing and responding to e-fraud?
4. When can a bank be held liable for losses arising from e-fraud?
5. What remedies are available to customers?

2. THE LEGAL FRAMEWORK GOVERNING BANK ACCOUNT FREEZING AND E-FRAUD IN NIGERIA

2.1 THE BANKER–CUSTOMER RELATIONSHIP

Perhaps the most fundamental basis, the expectation that a customer should continue to enjoy unfettered access to an account held with a bank emanates from an age-old understanding that upon the creation of an account with the bank, a banker-customer contract is formed. This contract contains several express and implied terms, including that the bank assumes a duty to honour the customer's request to pay out deposits, subject to pre-agreed conditions, such as banker's charges or having sufficient funds in the account. Where, then, an account is frozen, it tends to breach this contractual obligation and entitles the customer to maintain an action against the bank.

By this contract, a duty of reasonable care and skill is also imposed on the bank. That is to say that the bank must take care not to restrict the account of a customer based on meritless speculations, invalid court orders, or hasty investigations initiated against the account by third parties or the bank itself. The bank is expected, in recognition of the existing contractual obligation to honour a customer's mandate and allow uninhibited access to their account, to painstakingly satisfy itself that the basis upon which a customer's account is sought to be restricted is lawful and valid. Thus, where an account is frozen based on an invalid court order, for instance, it has failed in its duty of care, as it should have confirmed the merit of the order before acting on it.

However, contractual obligations are a two-way traffic which equally runs in the direction of the customer. This means that a customer has corresponding contractual obligations, including to observe the agreement not to use the account for fraudulent transactions, to safeguard the account's security information from fraudsters, and to notify the bank of fraudulent transactions.[12] Where, in breach of these duties, a reasonable ground for restriction arises, the customer must recognize that it emanated from their default, even if it inconveniences them.

[12] Ibid *(n.5)*

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2.2 THE LEGAL BASIS FOR FREEZING BANK ACCOUNTS

2.2.1POST NO DEBIT

Post No Debit, or PND, is a banking restriction placed on an account which prevents withdrawals or debits from being made from the account, although it ordinarily allows the account to continue to receive credits. PND is usually instructed where e-fraud has occurred in an account, or where there is an active legal instruction to effect it, such as an order by a court or law enforcement intervention.

Generally speaking, PND is usually imposed for a short period to allow necessary actions to be taken regarding the particular circumstances for which it was placed. However, there are extreme situations where it may be placed indefinitely, especially in cases of using an account for a fraudulent business, or in corruption/embezzlement cases. However, the mere fact that a PND caused some inconvenience to the account holder does not make it unlawful. Rather, the question which the courts will principally consider is whether or not there was a lawful or valid justification for imposing it.

2.2.2FREEZING BY THE BANK ITSELF

By either express or implied terms, banks are empowered to freeze an account in situations where there is an overwhelming reason to do so. Where a bank detects suspicious withdrawals from an account, for instance, which do not seem to be authorized by the account holder, it may freeze the account to secure the funds in it before notifying the account holder of such transactions. The bank may also take the initiative to restrict access to an account where it suspects that it is being used in the operation of an illegal business or for fraudulent transactions, although it must then contact the relevant law enforcement agency to report the suspicion.

2.2.3FREEZING PURSUANT TO DIRECTIVES FROM INVESTIGATIVE AND REGULATORY AGENCIES

Where also there is an active investigation into an account by a law enforcement agency, such as an investigation of corruption or embezzlement carried out by the ICPC that is fully authorized by the court, the bank is under a lawful obligation to aid such lawful investigation, even if it means freezing the account. Where the bank fails to comply, it could be liable for aiding and abetting the illegal activity for which the investigation is initiated.

2.3 STATUTORY AND REGULATORY FRAMEWORK

Existing laws and statutory frameworks establish several positions regarding the freezing of accounts.

2.3.1The Constitution

The Constitution of the Federal Republic of Nigeria, 1999 (as amended), governs the right to property and restricts the compulsory acquisition or possession of movable and immovable property. This is specifically provided under Section 44 of the Constitution, which states:[13][13]

> "No movable property or any interest in an immovable property shall be taken possession of compulsorily and no right over or interest in any such property shall be acquired compulsorily in any part of Nigeria except in the manner and for the purposes prescribed by a law…"

It is abundantly evident, therefore, by the provisions of Nigeria's most elevated law, the sanctity of property and its desire that the right to property should be respected and defended. It could then be construed that freezing the funds in the account of a bank customer is a compulsory possession of their property, which is prohibited by the Constitution, except in cases where there is a lawful justification.

2.3.2EFCC Act

Section 34(1) of the Economic and Financial Crimes Commission Act provides that:[14]

> "Notwithstanding anything contained in any other enactment or law, the Chairman of the Commission or any officer authorized by him may, if satisfied that the money in the account of a person is made through the commission of an offence under this Act or any enactments specified under section 6 (2) (a)-(f) of this Act, apply to the Court ex-parte for power to issue or instruct a bank examiner or such other appropriate regulatory authority to issue an order … to freeze the account."

By this provision, the EFCC is empowered to restrict an account where it is satisfied that the money in the account of a person is made through the commission of an offence and has obtained a valid court order in that regard. There is, however, a convolution as to whether the EFCC can unilaterally freeze an account before obtaining a court order in cases of urgency. Available research argues that a restriction may be allowed in such situations, as long as the Commission proceeds immediately to procure a court order. However, an overwhelming part of legal scholarship has maintained that under no circumstances can the EFCC freeze an account prior to obtaining a valid court order, arguing that the letters of the EFCC Act are clear and imperative.

2.3.3Money Laundering (Prevention and Prohibition) Act 2022

Under **Section 7(6)**,[15] the Money Laundering (Prevention and Prohibition) Act provides a mechanism for restricting an account where a suspicious transaction has been identified. It permits a financial institution to freeze an account for a limited period of 72 hours, in the circumstances prescribed by the Act, while the relevant authorities take appropriate steps.

The significance of the above provision is that the Act does not contemplate indefinite freezing of an account under any circumstances, but only allows a lawful period of 72 hours.

2.3.4Cybercrimes (Prohibition, Prevention, etc.) Act 2015

As a principal legislation on e-fraud, the Cybercrimes (Prohibition, Prevention, etc.) Act criminalizes various forms of computer-related fraudulent conduct under **Section 27**. Its provisions

[13] Constitution of the Federal Republic of Nigeria 1999 (as amended), s 44(2)(k).

[14] Economic and Financial Crimes Commission (Establishment) Act 2004, s 34(1).

[15] Money Laundering (Prevention and Prohibition) Act 2022, s 7(6).

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therefore establish the substantive criminal-law foundation for prosecuting conduct that may underlie an electronic banking fraud.

What is to be noted, however, is that there is no express provision on the freezing of an account in the Act, although it extensively defines activities that amount to cybercrime and e-fraud, and thus provides more certainty on the activities that warrant restricting an account involved in or concerned with e-fraud.

2.3.5 Relevant CBN Regulations, Circulars and Guidelines on Electronic Banking, Fraud Management, Consumer Protection and Payment Systems

The Central Bank of Nigeria, as the principal financial institution in Nigeria, regulates banking practices in the country. Through occasional releases, it has laid down guidelines and regulations governing prohibited transactions and account freezing.

Through the CBN Guidelines on Electronic Banking in Nigeria,[16] the apex bank emphasised the risks, such as e-fraud, associated with the emerging electronic banking environment and the duty upon financial institutions to ensure maximum security of funds kept in their care. This more or less reiterates the banker's contractual responsibility of safekeeping and the corresponding obligation of customers to protect their accounts from fraud. These guidelines appear to acknowledge instances of necessity in which a bank must take action to protect an account holder's or a third party's financial interest, including through placing a restriction on affected accounts.

Nevertheless, the restriction-upon-necessity rule has limitations. The CBN Consumer Protection Framework, 2016[17] and the CBN Consumer Protection Regulations, 2019,[18] both of which are consumer protection frameworks, indicate that account holders are entitled to fair treatment, including disclosure, transparency and redress, as well as provide that banking business conduct must be conducted in accordance with the law. Therefore, unlawful or unjustifiably prolonged account restrictions are discouraged by the CBN, with available consequences spelt out.

2.4 THE LEGAL MEANING AND DIMENSIONS OF E-FRAUD

For a term so commonly used to refer to any dishonest activity that involves the Internet as the target or means of obtaining some financial reward, there is no statutory legal definition for e-fraud. Instead, e-fraud is a descriptive term for a range of offences involving several statutory offences, principally covered by the Cybercrimes (Prohibition, Prevention, etc.) Act 2015 and the Money Laundering (Prevention and Prohibition) Act 2022.

Offences which amount to e-fraud in the realm of banking and finance include unauthorized electronic transfers, account takeover, phishing and social engineering, SIM-related fraud, mobile and internet banking fraud, insider fraud and fraudulent third-party transfers.

With respect to banking, e-fraud operates in two senses: the first sense is where an account is a victim of fraudulent transactions, such as account takeover or unauthorized electronic transfers, while in the second sense, an account could actively be operated by e-fraudsters or other partakers in illegal businesses as a holding account for their illicit proceeds. In either case, a bank may, subject to all legal requirements, freeze an affected account.

2.5 THE BANK'S PREVENTIVE AND PROTECTIVE DUTIES

As financial institutions with contractual obligations to safe keep funds kept in their custody, banks are ordinarily expected to ensure, through every reasonable means possible, that security measures are put in place to prevent breaches. This is not so much out of moral favour, but because they may be legally liable to account holders in events where a breach occurs as a result of negligence or weak safeguarding measures.

The preventive and protective duties of a bank may involve some or more of the following processes, most of which arise either as regulatory requirements or as contractual obligations:

1. Customer authentication.
2. Transaction monitoring.
3. Fraud detection.
4. Alerts and verification.
5. Protection of customer credentials and banking platforms.
6. Responding promptly when suspicious transactions are reported.

3. BANK LIABILITY FOR WRONGFUL ACCOUNT FREEZING AND E-FRAUD

3.1 WHEN DOES AN ACCOUNT FREEZE BECOME WRONGFUL?

Evidence so far provided in this work establishes that a bank may, under special circumstances, place a restriction on a customer's account, and it would not be prima facie unlawful, as long as there is a legally justifiable basis for freezing such an account. But it has been equally established that placing a restriction on an account held by a customer could amount to an unlawful act.

It is desirable, therefore, to ascertain the exact point at which an account freeze crosses the bounds of legality and becomes wrongful. It is interesting to note that an account freeze can become unlawful where it was done without legal or necessary justification, and where, although there is a legal sanction empowering it, such sanction is either without force or has exceeded the timeframe within which it is to be effective.[19] Thus, these underline several situations where account restriction becomes unlawful.

An account freeze would be illegal, and indeed impose legal liability on a defaulting bank, where, one, there is no valid legal authority for the restriction. For example, in Diamond Bank v. Unaka & Ors,[20] the bank had frozen the defendant's account based solely on suspicion without any legal or regulatory mandate. Secondly, where a bank acts merely on an unauthorized instruction to freeze an account, it would be illegal. Amongst many possible

[16] CBN Guidelines on Electronic Banking in Nigeria, 2020.

[17] The CBN Consumer Protection Framework, 2016.

[18] The CBN Consumer Protection Regulations, 2019.

[19] [2019] LPELR-47823(CA).

[20] Ibid *(n.5)*

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scenarios, this may arise where a person notifies a bank of a wrongful transfer into another customer's account, and the bank proceeds to freeze the recipient's account solely on the merit of the allegation.

A third instance where restricting an account will be unlawful is where a bank acts even when a required court order was not obtained. This could be in a situation where a regulatory body such as the EFCC notifies the bank to freeze an account on the suspicion of fraud, without first obtaining a court order as provided in Section 34(1) of the Economic and Financial Crimes Commission Act. Another situation is where a statutory time limit expires without further judicial authorization. This was exemplified in Fidelity Bank Plc v. King-Anyiam Terhemba & Anor,[21] where the bank had frozen the holder's account beyond the time limit stipulated in the court order which authorized the restriction. The bank refuses to lift a restriction after receiving appropriate clearance. Much like the instance of no valid legal authority for freezing an account, it would also be unlawful for the bank to freeze an account merely because of an allegation of fraud. Thus, the bank must satisfy, through careful internal investigations, that there is material evidence in support of the allegation before acting.

Ultimately, what is to be noted is that a bank is not empowered outside the bounds of law to freeze an account, and where it does so without any legal grounds, it will be legally liable to the affected customer for breaching their consumer rights. This is supported by a recent ruling of the National Industrial Court that a bank has no general power to freeze a customer's account on its own initiative.

3.2 LIABILITY ARISING FROM BREACH OF THE BANKER–CUSTOMER CONTRACT

A number of contractual and regulatory liabilities could arise from freezing a customer's bank account. These liabilities would ordinarily entitle a customer to sue the bank where they have occurred. They could effectively be categorized into breach of the implied contractual obligation to honour the customer's mandate and tortious liability.

3.2.1Breach of the Implied Contractual Obligation to Honour the Customer's Mandate

As earlier established, a contractual obligation to honour a customer's mandate regarding payments from their account arises on the part of the bank once an account is created with the bank. Where, then, a customer issues a withdrawal or payment mandate and it is declined due to a restriction placed on their account, a breach of the obligation to honour the customer's mandate has occurred. Yet, it would not be wrongful in all situations to dishonour a customer's mandate. For situations where there is a legal justification, dishonour of the customer's mandate will be excused. However, liability will arise where the dishonour is wrongful. This is legally known as wrongful dishonour. Liability will also arise in cases of unauthorized interference with the customer's funds. If, without pre-agreement or reasonable cause, the bank deducts or interferes with funds held in a customer's account, it would be liable in damages to the affected customer, amongst other possible legal consequences.

3.2.2Liability For Consequential Financial Loss

Another form of liability which will also arise as a breach of the banker-customer contract is liability for consequential financial loss. This is financial loss which arises in consequence of a restriction placed on an account which would not have occurred if the account was not frozen. For instance, where a business owner is prevented from accessing funds with which their business is to be maintained, such as restocking, the money lost due to the resultant inability of the business owner to attend to the needs of customers will be regarded as consequential financial loss.

The disposition of courts towards disputes of this nature has often been to factor in financial loss suffered as a result of the account freezing and award special or liquidated damages to the injured account holder. The damages awarded to Paulyn Abhulimen and other injured persons by Zenith Bank in the case of Zenith Bank v. Paulyn Abhulimen & Ors[22] included special damages for consequential financial loss.

3.2.3Loss Of Business Opportunities And Reputational Consequences

This strain of liability is similar to liability for consequential financial losses, but it is more encompassing and includes other forms of losses which could be suffered because an account was restricted. Because many aspects of a person's life are tied to the money kept in their account, it is possible that, by freezing their account, they may lose the ability to take advantage of business or other opportunities and therefore suffer loss.

Additionally, where the restriction of a person's account is the subject of public attention, it could severely prejudice them and affect their reputation, even if the allegations upon which the account was frozen are unfounded or untrue. This could be construed as implied defamation, where, although no express defamatory claims are made, the act of freezing the account held by a person would imply that they are guilty of the suspicion raised against them.

These injuries are sufficient to entitle affected persons to maintain an action against defaulting banks and obtain judicial or regulatory redress. Judicial redress could be in the form of damages, injunction, or specific performance, while regulatory redress could be an authorization or direction by a regulatory body, such as the CBN, for the lifting of all restrictions placed on the account.

3.3 TORTIOUS LIABILITY AND THE DUTY OF CARE

3.3.1Negligence

Negligence is the failure to apply reasonable care. As was established in the landmark case of Donoghue v. Stevenson,[23] an obligation is upon any person who owes a duty of care to another person to discharge that duty. Following from the case's Neighbour Principle, a bank, by contract, immediately assumes a duty of care upon the opening of an account for a customer. Thus, it is from there expected to apply expertise and observe all requirements of the banking business to ensure that this duty is not breached, either by security breaches or groundless account freezing. Where it fails in this duty, it will incur liability.

However, there is a legal dilemma surrounding the duty of care owed by a bank to its customers. If, on the one hand, the bank must ensure the safety of funds kept by customers in its care, and, on the

[21] Ibid *(n.6)*

[22] Ibid *(n.3)*

[23] [1932] AC 562 (HL).

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other hand, must allow unfettered access to these funds as of right to their owners, how does the bank balance the duty of allowing unrestricted access to an account and taking reasonable steps to protect the financial interests of customers or third parties by freezing an account as a security measure, where clearly these options are inherently conflicting? The answer is that the balance lies exactly at the grey point of necessity and legal justification, as these special circumstances may not only be legally justified, but reasonably necessary.[24]

3.4 BANK LIABILITY FOR E-FRAUD

Where e-fraud has occurred, the bank could be liable under certain circumstances. It is settled that banks are not authorized to freeze accounts of customers, but there are circumstances in which regulation or discretion requires that a bank must promptly restrict an account. The court will consider the merits of the circumstances to determine whether liability will be borne by the bank, by the customer, or shared between the bank and the customer.

One of the foremost considerations in ascertaining if liability will be borne by the bank is whether the customer authorized the transaction. If the customer authorized the transaction, then their own negligence will not burden the bank with liability. Where, however, a transaction was carried out without the knowledge or authorisation of the account holder, then the bank will be liable, as it must have arisen out of its own negligence. Yet, even if a transaction was executed on an account without the owner's knowledge, but the credentials which were used to execute the transaction, such as a Bank Verification Number (BVN), were obtained as a result of the owner's failure to protect them, then the bank would not be liable.

A second consideration would be whether the bank's security system was adequate. Where an unauthorised transaction occurs on a customer's account due to the bank's weak security infrastructure, then it would be liable in negligence to the customer. Also, it will be important to consider whether the bank received timely notice of e-fraud. In today's world where money travels virtually, it is important that a customer notifies their bank of attempted or executed fraud on their account in order for it to take appropriate measures to contain the situation. Where the customer fails to do this, the bank will not be liable, except they are able to prove that the bank had knowledge of the fraudulent transaction at the time it occurred.

Another important factor to consider in determining if a bank would bear liability for fraud is whether the bank could have detected or stopped the transaction. Where the fraudulent transaction occurred in such a manner that the bank could not have reasonably noticed or prevented it, it will be excused from legal liability. Additionally, it would be considered whether the fraud occurred as a result of internal bank failure or external criminal activity. Where the fraud was conducted by entities within the bank, then it would bear responsibility for it, but where it was carried out by external criminals, the liability of the bank becomes significantly reduced.

4. LEGAL REMEDIES AND CRITICAL EVALUATION

4.1 REMEDIES AVAILABLE TO VICTIMS OF WRONGFUL ACCOUNT FREEZING

Once it is determined that a customer's account was frozen without due process, the court will be minded, in the interest of justice, to grant remedies to the aggrieved party. Depending on the gravity of the case, these remedies could be singular or encompass a number of remedies. In **Access Bank v. Oluwasesan Ifeoluwa**,[25] the court determined that damages were enough to recompense the injury suffered by the defendant in the case.

Based on judicial evidence, the following remedies are available to victims of wrongful account freezing:

1. Declaration that the freezing was unlawful.
2. Order directing the bank to unfreeze the account.
3. Damages for breach of contract and/or tort.
4. General and special damages.
5. Injunctions restraining continued or future unlawful restrictions.
6. Fundamental rights enforcement, where applicable.
7. Recovery of unlawfully withheld funds.
8. Interest and costs.

Recent Nigerian litigation demonstrates that claims challenging unlawful freezing can combine declaratory relief, defreezing orders, damages, and injunctive relief.

4.2 REMEDIES FOR VICTIMS OF E-FRAUD

Victims of e-fraud enjoy a wider scope of redress, as available remedies transcend merely court-imposed redress and extend to regulatory or technological intervention. They are:

1. Recovery/reversal mechanisms.
2. CBN consumer complaint mechanisms.
3. Police/EFCC reporting where criminal conduct is involved.
4. Civil action against responsible parties.
5. Dispute resolution mechanisms.

4.3 LIMITATIONS OF EXISTING REMEDIES

Although judicial or regulatory remedies can be effective in many instances, they are not foolproof and may have limitations. These limitations could stem from several factors, including the fact that it may be challenging for the court or regulatory authorities to determine the origin of a wrongful act. Some of these limitations include:

1. Delay in obtaining relief.
2. Difficulty tracing stolen funds.
3. Banks' defensive approach to fraud complaints.
4. Conflicting institutional directives.
5. Uncertainty surrounding the extent of bank liability.
6. The financial and procedural burden on customers.
7. The problem of accounts remaining restricted after the

[24] [2000] 5 NWLR (Pt 657) 441.

[25] Ibid *(n.4)*

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lawful basis has disappeared.

4.4 RECOMMENDATIONS

Over the last few years, Nigeria's legal system has witnessed tremendous reforms in the area of banking, with statutes and regulations introduced to refine banking practices in the country. However, despite these reforms, there is still room for improvement. This paper argues that certain recommendations are imperative and should be implemented for better legal and regulatory certainty and operational efficiency.

4.4.1 Clearer Statutory Rules on Bank-Initiated Account Restrictions

First, clearer statutory rules on bank-initiated account restrictions should be made in order to rule out speculation or provide excuses of legal vacuum for unreasonably prolonged restrictions. Across the EU, for example, harmonized payment frameworks and consumer protection laws strictly govern when and how financial institutions can block accounts or suspend transaction execution.[26] Regulations demand transparent justification, prompt communication with the customer, and objective risk criteria rather than unverified speculation, leaving banks exposed to regulatory penalties and civil liability if restrictions are unreasonably prolonged.

4.4.2 Mandatory Notification to Customers

Secondly, mandatory notification to customers, subject to legitimate investigative exceptions, should be introduced. It is grossly unreasonable for a bank to freeze a customer's account for some reason and fail to notify the customer, with the customer left to eventually discover the development. Thus, it is highly necessary that where, for any reason not precluded by an exception, the account of a customer is frozen, the account holder is alerted, so that they might commence the process of recovery or take required actions.

4.4.3 Automatic Lifting of Restrictions Upon Expiration of Statutory Authority

Furthermore, this paper suggests automatic lifting of restrictions when statutory authority expires. Banks should be made to develop and deploy systems which would be used for registering valid court orders or other relevant regulatory instructions with respect to an account, and which would then automatically lift the restriction where the deadline provided in the instrument has elapsed.

4.4.4 Clearer Allocation of Liability for Unauthorized Electronic Transactions

Another equally important recommendation is defining how liability should be allocated for unauthorized electronic transactions. This could be achieved by integrating a real-time, round-the-clock diagnostic system to detect and record all banking activities involving the accounts of customers. This is in order to monitor transactions and take record of the origin and causes of e-fraud, so as to diagnose which entity between the bank and customer should bear the responsibility, and to what extent. This is especially timely because the CBN's recent reforms include stronger fraud-monitoring and identity-verification requirements for financial institutions, with some measures taking effect in 2026.

5. CONCLUSION

The whole essence of any contract is that all parties hold up to their own end of the bargain, and where any of them fails to do this, they become legally liable. For many years since the full digitalization of banking in Nigeria, banks have often resorted to freezing the accounts of customers, especially in cases of e-fraud. The prominent dilemma is whether a bank's contractual understanding to always honour the account holder's mandate precludes it from freezing accounts, and whether freezing accounts is a breach of this contractual obligation. What has been made clear in this paper is that the balance in answering the question lies in understanding the requirements stipulated by the law for every particular instance and ensuring that they are complied with.

Freezing an account when the required justification is lacking will make the bank liable at law to the customer or account holder. These liabilities are usually satisfied either through judicial or regulatory redress, although literature argues that the available redress is not sufficient. Whether in response to e-fraud or in the advancement of a legitimate reason, this paper has, through evidence and argument, shown that a bank should not indiscriminately restrict the account of a customer. Doing so violates contractual obligations and could cause grave injury to the customer.

[26] Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on Payment Services in the Internal Market (PSD2), OJ L 337, 23 December 2015, 35–127.

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