

SUIT NO. FHC/L/CS/274 2010:

**BETWEEN MUSICAL COPYRIGHT SOCIETY OF NIG. (MCSN) LTD/GTE v.
COPYRIGHT SOCIETY OF NIGERIA (COSON) LTD/GTE**

G.O. SODIPO AND CO.

CASE REVIEW

July, 2020 Edition

This review has become necessary as a result of the misrepresentation of facts currently being circulated to the general public by **MUSICAL COPYRIGHT SOCIETY OF NIG. (MCSN) LTD/GTE.**, thus: “the effect and implication of this is that **COPYRIGHT SOCIETY OF NIGERIA (COSON) LTD/GTE** never existed in law and anything done by and with the organisation is null and void ab initio, while, MCSN’s rights and operations are confirmed and remain unimpeachable”.

I cannot but laugh at the fallacy of the above statement. However, it points out that MCSN did not even understand the Judgment delivered in their favour. For a clearer understanding of this case, I will give a brief summary of it, before proceeding to address the effect of change of name of an existing company. MCSN went to Court to challenge and nullify the registration and approval of COSON by both the Attorney-General of Federation and Corporate Affairs Commission (CAC) on the ground that it had a prior and subsisting application for the reservation of the name “**COSON**” pending with CAC, when same was approved for COSON. The Trial Court agreed with them and gave Judgment on the 25th of March, 2020. On this same day, COSON duly appealed the said Judgment at the Court of Appeal and equally filed an application staying the execution of the judgment pending the Appeal.

I hereby restrain myself from further discussing the merit and/or otherwise of the said Judgment, since, it’s already subjudice and unethical to discuss same at this stage. However, I should not fail to emphasize here that it is premature to attempt to enforce and/or execute a Judgment which has been duly appealed with application for stay of execution still pending in Court.

What is the legal effect of the Change of Name?

I wish to state unequivocally that the consequence or result of the above judgment is that COSON should not use this name “**COSON**”. It does not mean that whatever transactions or action taken in the name COSON before the Judgment is null and void as speculated by MCSN. It simply means that COSON should change its name from COSON to any other name (but remember that it’s already on appeal and COSON will continue to use this name until the finality of appeal on this matter) and the consequence of the change of name is clearly stated in Section 31(6) of Companies and Allied Matters Act (CAMA) which state thus:

“The change of name shall not affect any rights or obligations of the company, or render defective any legal proceedings by or against the company, and any legal proceedings that could have been continued or commenced against it or by it in its former name, may be continued or commenced against it in its new name.”

The provision of Section 31(6) of CAMA is very clear and unambiguous; however, I will still want to look at one or two judicial interpretation of this provision.

In **SDV (NIG.) LTD v. OJO & ANOR (2016) LPELPR - 40323 (CA)**, the Court of Appeal held thus:

“Section 31(6) of the Companies and Allied Matters Act (CAMA) provide thus:
“The change of name shall not affect any rights or obligations of the company, or render defective any legal proceedings by or against the company, and any legal proceedings that could have been continued or commenced against it or by it in its former name, may be continued or commenced against it in its new name.”

The quotation above preserved the rights and obligations of a company that has changed its name. A change of name is not synonymous to dissolution or winding up of the Company, which in effect means the total disintegration on termination of the company. In a change of name, only the identifiable description of the company changes while other basic element of the company remains intact, i.e the life of the Company is preserved. Rights and liabilities remains the same. CAMA acknowledged that for business purposes, a company may decide to change its name, but in doing so, it maintains everything about its except the way it is called or identified. If a change of name can have the effect of total annihilation of a company, then, it must have corresponding legal implications to that of a dead person. However, the law preserves the existence of a company when it changes its name. A man can change name and still remains the same person but for the description on how he is addressed or called. He remains largely who he is and in describing such a person, other features about him remain unchanged”. Per NIMPAR, JCA (Pp. 8-9, Paras. C-D).

The same case went further to interpret Section 31(5) & (6), thus:

“(5) where a company changes its name, the commission shall enter the new name on the register in place of the former name, and issue a certificate of incorporation altered to meet the circumstance of the case...”

Obviously, the aim of Section 31(6) of CAMA is to avoid rendering legal proceedings commenced or continued by or against companies with new names, defective”. Per Augie, JCA (Pp. 3-4, Paras. A-A)

From the interpretation of Section 31(6) of CAMA by the Court of Appeal above, assuming COSON has decided not to appeal this Judgment, it can legally change its name from COSON to any other name and/or it can even change its name to a new name on its own accord, without affecting any of its pre-existing obligations and rights. It therefore means that MCSN's position as to nullity of all actions taken in the name of COSON, does not exist in law but mischievous.

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