

ÆLEX

SQIMNGA V. SAP

ÆLEX is pleased to have successfully canvassed the position of law on the sanctity of a foreign jurisdiction clause in the contract of parties. The High Court of Lagos State in Suit No: LD/ADR/3116/2020- Sqimnga Nigeria Limited v. Systems Applications Nigeria Limited, upheld the contention in our preliminary objection and stayed the action filed by the Claimant against the Defendant based on the foreign jurisdiction clause in the Master Services Agreement (MSA) between the parties.

The Claimant, Sqimnga Nigeria Limited instituted action in July 2020 against the Defendant, Systems Applications Nigeria Limited at the High Court of Lagos State claiming the sum of N88,801,149.05 (Eighty-Eight Million, Eight Hundred and One Thousand, One Hundred and Forty-Nine Naira, Five Kobo) and interest on that sum at the rate of 10% as well as costs of N20 Million based on the MSA. ÆLEX, on behalf of the Defendant filed a notice of preliminary objection to the action on the ground that parties had agreed that the MSA would be governed by South African law, with South African courts having exclusive jurisdiction to resolve any dispute arising therefrom.

In arguing the objection, the Defendant contended that the foreign jurisdiction clause chosen by the parties ought to be upheld, in line with the principle of *pacta sunt servanda* and the decisions of the Supreme Court on the point.

The Claimant, on the other hand, argued that upholding the foreign jurisdiction clause in the MSA would amount to parties ousting the jurisdiction of a Nigerian court by their private agreement.

In upholding the Defendant's objection, the court held that the Claimant had not shown any compelling reason that would enable it exercise jurisdiction in the suit instead of the South African forum chosen by the parties. The Claimant did not also place any material before the court by way of an affidavit to show what prejudice it will suffer if the foreign jurisdiction clause was upheld.

The High Court of Lagos State therefore declined jurisdiction to entertain the matter and directed the parties to resolve their dispute at the South African forum freely chosen by them.

The ÆLEX team that represented the Defendant in the action were Godwin Etim and Linda Osuagwu, led by Adedapo Tunde-Olowu, SAN.