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Challenge and Prospects of the Limited Liability Partnership and the Limited Partnership as Vehicles for Business in Nigeria

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Abstract

In a bid to improve the ease of doing business in Nigeria by ensuring that entrepreneurs are able to form partnerships and also enjoy reduced personal liability, the Companies and Allied Matters Act 2020 (CAMA 2020) provided for the establishment of Limited Liability Partnerships (LLPs) and Limited Partnerships (LPs) as vehicles for business in Nigeria. Similarly, it is indisputable that in 2009, the amendment to the Lagos State Partnership Law 2003, as amended (PL 2003), genuinely made provisions for the creation of LLPs and LPs; and was only applicable within the territory of Lagos State. Nonetheless, with the enactment of the CAMA 2020, it is abundantly evident that Nigeria now has a holistic legislation for the practice and procedure of LLPs and LPs in Nigeria. This paper adopted the doctrinal methodology. The paper found amongst others that there existed a jurisdictional challenge in the determination of matters arising from LLPs and LPs domiciled in Lagos State. In addition, LPs as provided in the CAMA 2020 are mere duplications of the business names procedure. Thus, the recommendations of this paper included that the provisions of **section 83 of the PL 2003 should be further amended by the Lagos State House of Assembly, and t***he National Assembly should amend the CAMA 2020 by expunging sections 795 to 810 dealing with the LP*.

Keywords: Business, Liability, Limited, Partnership

1. Introduction

In the course of floating a business organization in Nigeria, there are a plethora of corporate vehicles that can be adopted by the 'promoters' of a prospective business organization, these corporate vehicles include the practice of partnership, which may take the shade of a limited liability partnership or a limited partnership company. Essentially, a limited partnership is a hybrid of a general partnership and the concept of limited liability. It is a kind of partnership in which some partners have limited liability similar to the shareholders of a company.[1] It contrasts

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1. J E O Abugu, *Principles of Corporate Law in Nigeria* (2nd edn, Lagos: MIJ Professional Publishers Limited 2014) 24; B Adeyemi,'Limited Partnership: A Focus on Registration under the Lagos State Partnership Law by Offshore Entities'<https://www.dcsl.com.ng/data/content/_1357638361_TN84X70FE7.pdf>accessed 16 November 2020.

with the principles of general Partnership in that a limited partner is not responsible for the conduct or acts of the other partners.[2] It is worthy of note that several professionals have long used this vehicle to float their businesses due to ease of formation, tax reduction and organizational flexibility. Despite these benefits, it remains an area of concern that business entities are not separate from the partners. As a result of this, partners' personal assets are unprotected and also, they are exposed to liability for the actions of other partners. In addition, partnerships are dissolved upon the death or withdrawal of one of the partners, thereby endangering the business.[3]

Prior to the enactment of the CAMA 2020,[4] partnerships in Nigeria were regulated by the Partnership Act of 1890 (PA 1890),[5] while the Companies and Allied Matters Act 1990 (CAMA),[6] which regulated the operations of companies did not repeal the PA 1890 rather it limited the number of people allowed in a partnership to twenty (20) persons.[7] Furthermore, in 2003,[8] the PL 2003 introduced general partnership and the limited partnership as alternatives to the weaknesses of the existing forms of business organisations. However, arising from genuine criticisms, the PL 2003 was amended in 2009 to include the limited liability partnership.[9] Nonetheless, its application was restricted to Lagos State and this ultimately led to the introduction of Limited Liability Partnerships in the CAMA 2020.

Fundamentally, this paper seeks to critically examine the concept of LPs and LLPs as vehicles for business organisations in Nigeria; the benefits and features of the LLPs in Nigeria; examine the viability of the LLPs in the UK and India; the challenge and prospects of LLPs under the PL 2003 and the CAMA 2020.

2. The Limited Partnership and the Limited Liability Partnership as Vehicles for Business Organisations in Nigeria

The LP is a business organization that consist of not more than 20 persons in which one or more persons known as general partners are liable for all debts and obligations of the partnership, and one or more persons described as limited partners who at the time of joining the partnership contributes thereto a sum or sums as capital or property valued at a specified amount who are not liable for debts or obligations arising from the partnership beyond the amount of contribution made.[10] It therefore logically follows that a limited partnership occupies a middle-point between

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[2]. *Ibid*.

[3]. Nexia, 'CAMA 2020 and the Introduction of Limited Liability Partnership' <https://nexianigeria.com/cama-2020-and-the-introduction-of-limited-liability-partnership/> accessed 16 November 2020.

[4]. CAMA 2020, ss. 746-810.

[5]. S P A Ajibade, 'A Review of Limited Liability Partnership under the Partnership Law of Lagos State 2009'<http://www.spaajibade.com/resources/a-review-of-limited-liability-partnerships-under-the-partnership-law-of-lagos-state-2009/> accessed 16 November 2020.

[6]Cap C20 Laws of the Federation of Nigeria (LFN) 2004 (Repealed).

[7]. *Ibid*, s. 19 (1).

[8] Partnership Law, Cap P1, Laws of Lagos State 2003, as amended (PL 2003).

[9]. *Ibid*, ss 58-84; N Amadike, 'The Introduction of Limited Liability Partnership Law in Lagos State of Nigeria as an Alternative to the Existing Forms of Business Organization: Echoes of a New Dawn?'[2020] 8[1] *Global Journal of Politics and Law Research***,** 69.

[10]. (n7); Amadike (n8) 77; Abugu (n1).

a partnership and a limited company in that it is an amalgam of limited and unlimited partnership.[11]

As a general rule, the limited partnership must be registered and where such a mandatory registration is not done, the limited partnership will be considered a general partnership and each of the limited partners will be a general partner. Also, a limited partner must not participate in the management of the partnership business and cannot bind the firm, although he can provide advice to the partners on the state and prospects of the partnership after he or his agents has inspected the books of the partnership. Where a limited partner takes part in the management, he will be liable for debts and obligations arising from the partnership during the period that he engages as if he was a general partner.[12]

Accordingly, in the absence of any express or implied agreement between the partners, a majority of the general partners may decide on any difference relating to the ordinary matters that connect with the partnership business; the share of a limited partner in the partnership can, with the consent of the general partners, be assigned by him and the assignee will become a limited partner having all the rights of the assignor; where a limited partner suffers his share to be charged for his separate debt, the other partners does not have the right to dissolve the partnership; the introduction of a new person into the partnership can be done without the consent of the existing partners; and the limited partnership cannot be dissolved by the limited partner giving a notice.[13] Taxation under this form of organization is subject to the Personal Income Tax Act 1993 (PITA).[14]

In the same stead, the CAMA 2020 for the registration of a limited partnership (LP);[15] in comparison, while a limited liability partnership (LLP) limits liability for all partners, a LP only limits its liability for some partners.[16] Essentially, *section* 795(3) of the CAMA 2020, provides that the LP shall consist of one or more persons called general partners, who shall be liable for all debts and obligations of the firm, and one or more persons called limited partners, while a LLP does not have such limitation under Nigerian *corpus juris.* Additionally, the limited partner cannot have significant money invested in or hold major decision-making power in the business; where they do, they risk losing their status as a limited partner and forfeiting their limited liability status.[17]

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[11]. M C Okany, *Nigerian Commercial Law* (Africana First Publishers Plc, 2009), 630.
[12]. (n7); Amadike (n8) 78.
[13]. G Ezejiofor and Others, *Nigerian Business Law* (London: Sweet & Maxwell 1982) 256- 257; Abugu (n1) 25.
[14]. Cap P8 LFN 2004 (as amended), s. 1.
[15]. CAMA 2020, s. 746 (1).
[16]. *Ibid.*, ss. 767; 795 (3).
[17]. A Olaniyi and J Akhator, 'A Review of Limited Liability Partnerships under the Companies and Allied Matters Act, 2020'Business Day (Lagos, 27 October 2020) 13.

In Nigeria, limited liability partnerships like limited partnerships are governed by the general rules on partnerships unless there are specific provisions in the laws creating them to the contrary.[18] Pursuant to *section* 67 of the PL 2003, it is clearly provided in its proviso that:

> *Provided always that in the event of a conflict between any provisions of any general law relating to partnerships and the specific provisions of this Law as may be amended from time to time, the provisions of this Law shall supersede and the provisions of the general Law relating to partnerships shall be considered modified to the extent of any inconsistency with respect to its application to Limited Liability Partnerships.*

Thus, it is an ineluctable fact that the laws governing partnerships in Nigeria relate to and govern limited partnerships and limited liability partnerships incorporated in Nigeria.[19]Consequently, it suffices to state that an LLP is a dynamic business vehicle attractive to professionals and others who seek to do business and limit their liability without going through the process of formally incorporating a limited liability company.[20]

2.1 Designated Partners

The provision of designated partners under the CAMA 2020 with respect to LLPs in Nigeria serves as a major insignia of LLPs in Nigeria. It is against this backdrop that by section 749 of the CAMA 2020, the LLP must have at least two designated partners, provided that in case of the LLP in which all the partners are bodies corporate or in which one or more partners are individuals and bodies corporate, at least two individuals who are partners of the limited liability partnership or nominees of the bodies corporate shall act as designated partners.[21] Additionally, the designated partners must have the same rights and duties towards the LLP as any other member but with extra responsibilities. These include duties such as signing and delivering the accounts and annual returns and notifying CAC of any changes in membership, registered office address or name.[22]

In happenstances of any vacancy among the designated partner, the LLP is statutorily mandated to appoint a designated partner within 30 days of a vacancy; provided that if no designated partner is appointed, or if at any time there is only one designated partner, each partner is deemed to be a designated partner.[23]

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[18].O Adeyemi, 'Limited Liability Partnership as Veritable Vehicles of Carrying on Business'<https://aolulaw17.medium.com/limited-liability-partnerships-as-veritable-vehicles-of-carrying-on-business-fa8edb0d55d9>accessed 20 November 2020.

[19]. *Ibid.*

[20]. Lagos State Government, 'Limited Liability Partnership'<http://www.lagosstate.gov.ng/> accessed 20 November 2020.

[21]. CAMA 2020, s. 749 (1).

[22]. CAMA 2020., ss. 749 (2)-(5); 750.

[23]. *Ibid*,s. 751.

3. The Viability of Limited Liability Partnerships in the UK and India

It is not in doubt that a limited liability partnership is an alternative corporate business form that gives the benefits of limited liability of a company and the flexibility of partnership.[24] Most importantly, the Limited Liability Partnerships Act 2000 (LLPA 2000) and the Limited Liability Partnership Act 2008 (LLPA 2008),[25] respectively provide a template for the operational structure of LLPs in the jurisdictions of the UK and India. Therefore, this standpoint seeks to evaluate the viability of LLPs in the UK and India. Similar to how partnerships are treated in other countries, the LLPA 2000 provides for individual members to be subject to taxes and not the partnership;[because] the LLP is not acompany, a corporation or any other legal entity.[26] India, the LLP have perpetual succession.[27] Thus, any change in the partners of the LLP in India does not affect the existence, rights or liabilities of the LLP.[28]

In the jurisdictions of the UK and India, for the LLP to be incorporated, two or more persons associated with carrying on a lawful business with a view to maximizing profit must subscribe their names to an incorporation document,[29] which must be delivered to the registrar either the incorporation document or a copy authenticated in a manner approved by the registrar.[30] Nonetheless, under the LLPA 2008, where the number of partners of the LLP is reduced below two and the LLP carries on business for more than six months while the number is so reduced, the person, who is the only partner of the limited liability partnership during the time that it so carries on business after those six months and has the knowledge of the fact that it is carrying on business with him alone, will be liable personally for the obligations of the LLP incurred during that period.[31] Although, such provision is absent in the UK.

In both jurisdictions, the applicable extant legislation provides for the establishment of designated partners,[32] however, *section* 7 (1) the LLPA 2008 stipulates that every LLP in India must have at least two designated partners who are individuals and at least one of them must be resident in India: provided that in case of the LLP in which all the partners are bodies corporate or in which one or more partners are individuals and bodies corporate, at least two individuals who are partners of such LLP or nominees of such bodies corporate must act as designated partners. Furthermore, subject to the provisions of the LLPA 2008, a designated partner is mandated to be responsible for the doing of all acts, matters and things as are required to be done by the LLP in respect of compliance of the provisions of the Act including filing of any document, return, statement and the like, report as may be specified in the LLP agreement.

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[24]. Ministry of Corporate Affairs, 'FAQs on Nature of Limited Liability Partnership (LLP)' <http://www.mca.gov.in/MinistryV2/natureoflimitedliabilitypartnershipllp.html>accessed 21 November, 2020,

[25]. Act No.6 of 2009.

[26].Offshore, 'UK Limited Liability Partnership'<https://www.offshorecompany.com/company/uk-llp-2/.>accessed 21 November 2020.

[27]. LLPA 2008, s. 3(2).

[28]. *Ibid.*, s. 3(3).

[29]. LLPA 2000, s. 2(1) (a); LLPA 2008, ss. 6(1); 11(a); Pearse Trust, 'UK LLP: Key Features and Benefits Explained'<https://www.pearse-trust.ie/blog/bid/67579/uk-limited-liability-partnerships-key-features-benefits-explained> accessed 21 November 2020.

[30]. LLPA 2000, s. 2(1) (b).

[31]. LLPA 2008, s. 6(2).

[32]. *Ibid.*, s. 7(1); LLPA 2000, s. 8 (1).

Furthermore, a designated partner is liable to all penalties imposed on the LLP for any contravention of the LLPA 2008.[33] Conversely, in the UK, there is no limitation in the number of designated members however, if there would otherwise be no designated members, or only one, every member is deemed to be a designated member.[34] Again, where the incorporation document states that every person who from time to time is a member of the LLP is a designated member, every member is a designated member.[35]

In tandem with the position in most jurisdictions including Nigeria,[36] in India, every LLP must have either the words "limited liability partnership" or the acronym "LLP" as the last words of its name. Also, no LLP can be registered by a name which, in the opinion of the Central Government is undesirable; or identical or too nearly resembles that of any other partnership firm or limited liability partnership or body corporate or a registered trademark, or a trademark which is the subject matter of an application for registration of any other person under the Trade Marks Act, 1999.[37] By *section* 20 of the LLPA 2008, where any person or persons carry on business under any name or title of which the words "Limited Liability Partnership" or "LLP" or any contraction or imitation thereof is or are the last word or words, that person or each of those persons must unless duly incorporated as limited liability partnership, be punishable with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees.

Additionally, with respect to the extent of liability of a LLP in India and the UK, it must be stated that a LLP is not bound by anything done by a partner in dealing with a person if the partner has no authority to act for the LLP in doing a particular act; and the person knows that he has no authority or does not know or believe him to be a partner of the LLP.[38] However, an LLP domiciled in India is liable if a partner of the LLP is liable to any person as a result of a wrongful act or omission on his part in the course of the business of the LLP or with its authority.[39] Also, an obligation of the LLP whether arising in contract or otherwise, will be solely the obligation of the LLP.[40]

Nonetheless, in event of an act carried out by the LLP, or any of its partners, with intent to defraud creditors of the LLP or any other person, or for any fraudulent purpose, the liability of the limited liability partnership and partners who acted with intent to defraud creditors or for any fraudulent purpose will be unlimited for all or any of the debts or other liabilities of the limited liability partnership; provided that in case any such act is carried out by a partner, the LLP is

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[33]. LLPA 2008, s. 8(a) (b).
[34]. LLPA 2000, s. 8 (2).
[35]. *Ibid.*, s. 8 (3).
[36]. CAMA 2020, ss. 757 (1); 759.
[37]. LLPA 2008, s. 15(1)-(2); 20.
[38].*Ibid*, s. 27(1); LLPA 2000, s. 6 (2); Legalraasta, 'All About Limited Liability Partnership (LLP)- A Complete Guide' <https://www.goggle.com/amp/s/www.legalraasta.com/limited-liability-partnership/amp/>accessed 21 November 2020.
[39]. LLPA 2008, s. 27(2).
[40]. *Ibid*, s. 27(3).

liable to the same extent as the partner unless it is established by the limited liability partnership that such act was without the knowledge or the authority of the limited liability partnership.[41]

In similar vein, in order to improve the viability of LLPs in India, a firm, private companies and unlisted public company is permitted to convert into limited liability partnerships.[42] Whereas the Central Government is empowered to make rules for the establishment of place of business by foreign LLPs within India and carrying on their business therein by applying or incorporating, with such modifications, as appear appropriate.[43] Also, the LLPA 2008 provides for some sort of reconstruction between LLPs in India. Accordingly, by *section* 60 of the LLPA 2008, where a compromise or arrangement is proposed between the LLP and its creditors; or between the LLP and its partners, the National Company Law Tribunal may, on the application of the LLP or of any creditor or partner of the LLP, or, in the case of a limited liability partnership which is being wound up, of the liquidator, order a meeting of the creditors or of the partners, as the case may be, to be called, held and conducted in such manner as may be prescribed or as the National Company Law Tribunal directs.[44]

In sum, it is pertinent to state that the LLPs in the UK combine the benefits of corporate status and unlimited capacity with the protection of limited liability for members and the ability to operate and be taxed as a partnership. As a result of the LLP's separate legal personality, it may contract and hold assets in its own name where required, similar to a limited company.[45]The LLP structure in the UK is commonly used by accountants to retain the tax structure of traditional partnerships whilst adding some limited liability protection. Hence, the LLPA 2000 is widely applicable in the UK, unlike Australia where partnerships are governed on a state-by-state basis.[46] Instructively, in 2018, the UK Government proposed a series of reforms to the law on LLP.[47] Although the Limited Partnerships Act 1907 provides for the registration of a business as LPs in the UK, such LPs are extremely rare, largely because limited liability is more readily obtainable by incorporating the business as an LLP or company.[48]

4 Challenge and Prospects of the LLP under the PL 2003 and the CAMA 2020

In 2009, the LLP became the newest type of business organization introduced in Lagos.[49] Accordingly, Lagos State followed suit with developed countries such as the US and UK in incorporating the LLP model;[50] although, the CAMA 2020 now provides a holistic legislation for the practice and procedure of LLPs and Limited partnerships in Nigeria.[51] Most importantly, an LLP is an alternative corporate vehicle that combines the flexible structure of a partnership with the benefits for its partners or members. A LLP is a corporate business vehicle that enables

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[41]. *Ibid.*, s. 30(1).
[42]. LLPA 2008,chap X, 2nd - 4th schs.
[43]. *Ibid*, s. 59.
[44]. *Ibid.*, ss. 2, 60.
[45]. (n50).
[46]. (n 3).
[47] L Roach, *Company Law* (Oxford UK: Oxford University Press 2019) xxi.
[48]*Ibid* 16.
[49]. (n 7); Amadike (n9) 82.
[50]. Partnership (amendment) Law 2009, s. 59(1).
[51]. CAMA 2020, ss. 746-810.

professional expertise and entrepreneurial initiative to combine and operate in flexible, innovative and efficient manner, providing benefits of limited liability while allowing its members the flexibility for organizing their internal structure as partnership.[52]The partners of the LLP shall be liable to make contribution in event of it being wound up or dissolved. The LLP can sue and be sued in its registered name nonetheless the LLP can be sued in his personal capacity for acts of the partnership in some restricted circumstances.[53] These include in cases of fraud, misrepresentation and other alleged improper conduct by the limited partner; where the written consent of the CAC is obtained having established that it is in the reasonable interest of the public to take action against an individual or the LLP. A judgment made against the LLP cannot be executed on the asset of a partner except a judgment is also made against the partner. Execution may not be levied on the assets of an LLP by a judgment creditor if the claim is against a partner except a judgment relating to the same claim has been obtained against the partnership.[54]

It is a general proposition that the death of a partner or bankruptcy of a partner in the case of artificial persons brings a partnership to an end by operation of law.[55] Hence, in the *locusclassicus* case of ***Gillespie vHamilton***[56] it was held that a partnership for a fixed term is dissolved by the death of either partner before the term has expired; in the same vein, the English Court in ***Re Agriculturist Cattle Insce Co, Baird's Case***[57] held *inter alia*: "…in an ordinary partnership, the presumption is that the interest and the liability of a partner are terminated by a partner's death...".

Flowing from the tenor of the above decision, *section* 34 of the PL 2003 provided that "*subject to the provisions of Part 3 hereof and to any agreement between the partners- every partnership is dissolved as regards all the partners by the death or bankruptcy of any partner…" Nonetheless, it is pertinent to state that pursuant to section 69 (2) of the PL 2003,* the death of a partner of the LLP does not bring the partnership to an end by operation of law, although, the personal representative, trustees in bankruptcy, assignees, trustees under a trust deed may however not *interfere or participate in the management or administration of any business or affairs of the LLP or represent to members of the public that he is still a partner.*[58]

Currently, in Nigeria upon the incorporation of the LLP, the persons who subscribed their names to the incorporation documents are mandated to be its partners and any other person may become a partner of the LLP in accordance with the LLP agreement.[59] More so, the mutual rights and duties of the partners of a limited liability partnership, and the mutual rights and duties of an LLP and its partners, shall be governed by the LLP agreement between the partners, or between the limited liability partnership and its partners. Thus, the LLP agreement and any changes, made in it must be filed with the CAC in the form and manner; and accompanied by the fees as may be

[52]. (n 33).
[53]. (n 7); Amadike (n 9) 83.
[54]. PL 2003, ss. 59 (2) (4)-(6).
[55]. (n 1).
[56]. [1818] 3 QB 705.
[57]. [1870] Ch App 753.
[58]. CAMA 2020, s.763; PL 2003, s. 69(2).
[59]. CAMA 2020, s.761.

prescribed by the CAC.[60] Similarly, an agreement in writing made before the incorporation of a limited liability partnership between the persons who subscribe their names to the incorporation documents may impose obligations on the LLP where such agreement is ratified by all the partners after the incorporation of the LLP.[61] However, it is pertinent to state categorically that in the absence of agreement as to any matter, the mutual rights and duties of the partners and the mutual rights and duties of the LLP and the partners must be determined by the provisions relating to that matter as are set out in the Fifteenth Schedule to the CAMA 2020.[62]

Additionally, by virtue of *section* 770(1) of the CAMA 2020, a partner's contribution may consist of tangible, intangible, movable, immovable or property or other benefits to the LLP, including money, promissory notes, other agreements to contribute cash or property, and contracts for services performed or to be performed. Fundamentally, it is trite that the monetary value of the contribution of each partner must be accounted for and disclosed in the accounts of the LLP in the manner as may be prescribed.[63] It is against this backdrop that an obligation of a partner to contribute money, property or other benefit or to perform services for the LLP must be in accordance with the LLP agreement.[64] Thus, a creditor of the LLP, which extends credit or otherwise acts in reliance on an obligation described in that agreement, without notice of any compromise between partners, may enforce the original obligation against such partner.[65]

Accordingly, where a court, by order, declares that the affairs of the LLP ought to be investigated, the CAC is statutorily mandated to appoint one or more competent persons as inspectors to investigate the affairs of the LLP and to report thereon in such manner as it may direct. However, it is not in doubt that the CAC is empowered to appoint one or more competent persons as inspectors to investigate the affairs of the LLP and to report on them in such a manner as it may direct.[66] In the same strength, the appointment of inspectors may be made in happenstances where: at least one-fifth of the total number of partners of the LLP make an application along with supporting evidence and security amount as may be prescribed.

The affairs of the LLP may also be investigated where the LLP itselfmakes an application that its affairs ought to be investigated; or in the opinion of the CAC, there are instances which suggest that: the business of the LLP is being or has been conducted with an intent to defraud its creditors, partners or any other person, or otherwise for a fraudulent or unlawful purpose. Other instances include where the business of the LLP is being or has been conducted in a manner oppressive or unfairly prejudicial to some or any of its partners, or that the LLP was formed for any fraudulent or unlawful purpose; the affairs of the LLP are not being conducted in line with the provisions of the CAMA 2020, or that, on receipt of a report of the CAC or any other

[60]. *Ibid.*, ss. 762(1)-(2).
[61]. *Ibid*, s. 762(3).
[62]. *Ibid.*, s. 762(4).
[63]. CAMA 2020, s. 770(2).
[64]. *Ibid.*, s. 771 (1).
[65]. *Ibid.*, s. 771(2).
[66]. *Ibid.*, ss. 775(1)-(2).

investigating or regulatory agency, there are sufficient reasons to show that the affairs of the LLP ought to be investigated.[67]

It is trite law that any matter that relates to the *administration* of the CAMA 2020 is a matter that falls within the exclusive jurisdiction of the Federal High Court. **Imperatively, *section* 251(1)(e) of the Constitution of the Federal Republic of Nigeria 1999, as amended (CFRN),** provides as **follows:**

> *Notwithstanding anything to the contrary contained in this Constitution and in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly, the Federal High Court shall have and exercise jurisdiction to the exclusion of any other court in civil cases and matters arising from the operation of the Companies and Allied Matters Act or any other enactment replacing the Act or regulating the operation of companies incorporated under the Companies and Allied Matters Act.*

In ***Babington-Ashaye v E.M.A.G. Ent. (Nig) Ltd,***[68] the Court of Appeal while considering this provision held among others that:

> *There is no doubt under provisions of the Constitution as amended that the exclusive jurisdiction conferred on the Federal High Court is limited to the operation of any Act or Decree relating to companies and allied matters and any other Common law regulating the operation of companies…The simple fact that a company or a body is registered under the Companies and Allied Matters Act does not qualify every action brought by or against it as "matters arising from the operations of that act or regulating the operations of that act or regulating the operation of Companies incorporated under the Companies and Allied Matters Act" as contemplated by the provisions of section 251(1)(e) of the 1999 Constitution. Neither is it the law that a consideration of the parties is required before vesting the Federal High Court with jurisdiction.*Thus, ordinarily, the Federal High Court has exclusive jurisdiction in relation to matters relating to the administration of the Companies and Allied Matters Act. However, it would not have jurisdiction merely because the party involved is a company. Lagos State High Court has exclusive jurisdiction in relation to the administration of the Law establishing the Limited Liability Partnerships. **Section 83** provides in this light that:*the High Court of Lagos State shall exercise jurisdiction with respect to the interpretation and application of the provisions of this Law relating to registered Limited Liability Partnerships and all matters arising from this Law*.

Flowing from the decision in ***Babington-Ashaye v E.M.A.G. Ent. (Nig) Ltd*, it can be logically inferred that there exist certain jurisdictional challenges with respect to the practice and procedure of LLPs in Lagos State. With the enactment of the CAMA 2020, it is abundantly clear that there is now an umbrella legislation that governs the practice and procedure of LLPs and LPs in Nigeria. However, a conscientious glean of section 83 of the PL 2003 gives**

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[67]. *Ibid*, s. 775 (3).
[68]. [2011] 10 NWLR (pt. 1256) 479 at 521-522.

rise to the poser of determining what court is empowered with the jurisdiction of entertaining matters arising from LLPs and LPs in Lagos State. Simply put differently, with the provision of LLPs and LPs under the CAMA 2020, is the Lagos State High Court still empowered with the jurisdiction of determining matters relating to LLPs and LPs domiciled in Lagos State?

It is elementary law that the CFRN is supreme, thus any law that is inconsistent with the its provisions must abate to the extent of inconsistency.[69] **Unequivocally, by *section* 251 (1)(e) of the CFRN, the** *Federal High Court is empowered to have and exercise jurisdiction to the exclusion of any other court in civil causes and matters arising from the operation of the Companies and Allied Matters Act or any other enactment replacing the Act or regulating the operation of companies incorporated under the Companies and Allied Matters Act, which explicitly refers to CAMA 2020. Similarly, by section 868 (1) of the CAMA 2020 which stands as the interpretation section to the CAMA 2020, it is clear that the phrase "Court" or "the Court" used in relation to a company, means the Federal High Court, and to the extent to which application may be made to it as; court includes the Court of Appeal and the Supreme Court of Nigeria.*

*Accordingly, it is the view of this paper that by juxtaposing the tenor of**section* **83 of the PL 2003** *with a community reading of section* **251 (1)(e) of the CFRN and *section****868 (1) of the CAMA 2020; without any scintilla of doubt, there exists some jurisdictional challenge with respect to the determination of matters arising from LLPs and LPs domiciled in Lagos State and this by extension has the proclivity of thwarting the commercial relevance of establishing the LLP.*

5 Conclusion and Recommendations

Globally, the need for a more dynamic form of partnership to address the increase in litigation resulting in personal liability by partners and the consequent threat to partnership firms and their partners has necessitated the introduction of a form of partnership that would provide a limitation of liability analogous to that enjoyed by directors of a limited liability company. This is timely and important especially for individuals and groups providing professional services. In the same vein, the desire to protect investors and keep the trend of LLPs in growing economies around the globe encouraged the government of Lagos State to push for the creation of limited liabilitypartnerships. Similarly, with the enactment of the CAMA 2020, by virtue of sections 746 to 810 of the CAMA 2020, the LLPs and the LPs are now veritable vehicles for business in Nigeria, which is suited to a group of professionals with lots of experience and clients between them, as it allows them pool resources together, thereby lowering the cost of doing business.

In sum, with the coming into effect of the CAMA 2020, local and foreign companies are at liberty to adopt LLPs and LPs as vehicles for running businesses in Nigeria. However, despite the great prospects of LLPs and LPs in Nigeria, this paper identified the jurisdictional challenge of determining matters pertaining to LLPs domiciled in Lagos State owing to the purport of ***section* 83 of the PL 2003,** *and sections* **251 (1)(e) of the CFRN and** *868 (1) of the CAMA 2020.*

[69]. CFRN, s. 1(1)(3); *Chief Olabode George* v *FRN* [2013] LCN/4063 (SC).

It is the light of the above, the recommendation of this paper is that in order to strengthen the commercial relevance of establishing LLPs and LPs in Lagos State, the provisions of **section 83 of the PL 2003 should be amended by the Lagos State House of Assembly so as to be** *in tandem with the unequivocal provisions of sections 1(1) (3);* **251 (1) (e) of the CFRN and** *868 (1) CAMA 2020. Furthermore, the National Assembly should amend the CAMA 2020 relating to the LP by expunging sections 795 to 810 of the CAMA 2020 as the mattes provided therein are mere duplications of the already existing business names procedures.*[70]

[70] CAMA, ss 569- 589; CAMA 2020, ss 811 – 822.