MSI Journal of
Arts, Law and Justice (MSIJALJ)

MISTAKES OR OMISSIONS BY COURT OFFICIALS IN NIGERIA- EFFECTS ON LITIGANTS AND EXCEPTIONS THERETO

PROF OBIARAERI, N. O.[1*]

[1*] FACULTY OF LAW, IMO STATE UNIVERSITY, OWERRI, NIGERIA.

*** Correspondence:** PROF OBIARAERI, N. O.

The authors declare that no funding was received for this work.

OPEN ACCESS

Received: 19-October-2025
Accepted: 18-November-2025
Published: 20-November-2025

This article is published by **MSI Publishers** in **MSI Journal of Arts, Law and Justice (MSIJALJ)**
ISSN 3049-0839 (Online)

The journal is managed and published by MSI Publishers

Volume: 2, Issue: 11 (November-2025)

ABSTRACT: The position of the law and exceptions to the effect of mistakes or omissions made by Court officials on litigants has continued to generate endless objections in Court leading to waste of precious time of the Court. Given the frequency of this objection in the adjudicatory ecosystem, this paper deployed the doctrinal research method to examine decisions of Courts on variants of mistakes made by Court officials and the judicial attitude towards them. The paper established that as a general rule, mistakes of officials of Court are treated as mere administrative lapses that do not count against litigants. This is however subject to the exception that a litigant will bear the brunt if it is shown that he occasioned the mistake or connived or had full knowledge, encouraged, instigated, condoned, approved the said action or act. In order to reduce the frequency of this type of objections by aggrieved parties, it was recommended that the Rules of Court should be amended to expressly state that mistakes by Court officials are mere administrative irregularities. Furthermore, the Rules of Court should also contain circumstances when the act of a litigant that led to inadvertence or mistake of the Court official will count against the litigant.

Keywords: *administrative, Court, irregularity, mistake, registry.*

1.0 Introduction

The aim of this paper is to clarify the legal position on the effect of mistake or inadvertence of Court officials on litigants which is regularly a controversial question presented for judicial adjudication in Nigeria. To this extent, the paper will examine judicial decisions portraying the attitude of the Courts to mistakes occasioned by its officials and notable exceptions thereto. For orderly presentation and ease of comprehension, the paper is subdivided into the following parts namely: Registry as the administrative backbone of the Court; Presumption of regularity in the acts of Court; Duty of a litigant filing process and how discharged; Effect of Mistakes or Omissions by Court officials in the Registry; Exceptions to the general rule; and Conclusion and recommendations**.**

2.0 Registry as the administrative backbone of the Court

The Court Registry is the administrative hub and clearing house of any Court. All processes of the Court must be filed, endorsed, paid for and receipted where applicable, and served through the Court Registry. The Court Registry is manned by "Registrars of the Court" and other officials including "Bailiffs" who serve Court processes. For instance, Order 1, Rule 3 of the Supreme Court Rules, 2024 interprets "Chief Registrar" to mean "the Chief Registrar" of the Supreme Court"; "Registrar" as "any other Officer of the Supreme Court (by whatever title called) exercising the functions of the Chief Registrar" while "Registrar of the Court below" means "the Chief Registrar or other administrative staff (howsoever called) of that Court or any other Court or Tribunal whose decision is subject to appeal to the Supreme Court". In the same wise, "Bailiff" means "a person authorised to serve Court processes and carry out such other function(s) as the Court may, from time to time, assign to him, and includes any special Bailiff appointed by the Court". As an illustration, specific administrative functions and powers of the "Chief Registrar of the Supreme Court" exercisable at the behest of the "Chief Justice of Nigeria" are outlined in Order 2 of the Supreme Court Rules, 2024. These include but are not limited to the following – "(1) The Chief Registrar shall have custody of the records of the Court both physical and electronic, and shall exercise such other functions as are assigned to him by these Rules and by such directions as the Chief Justice may give from time to time. (2)

The Chief Justice may assign, and the Chief Registrar may, with the approval of the Chief Justice, delegate to any Registrar of the Court any function required by these Rules to be exercised by the Chief Registrar. (3) Except as may be otherwise provided in the Constitution or in any other enactment, the Chief Registrar shall have such powers and duties as are given him by these Rules or such further powers and duties as the Chief Justice may direct."

In sum, the explanations above serve to explicate that the Court Registry is at the heart of administrative responsibilities of the business of the Court. No process of Court is served on the Court or by the Judicial Officer directly except through the Registry. It is the responsibility of the registry to accept processes, issue receipts of payments and make necessary clerical or administrative endorsements on processes filed by litigants or lawyers on behalf of litigants. The relevance of endorsements on documents filed in Court Registries cannot be overemphasised. In *Re Otuedon*,[i] it was held by Iguh JSC that

> "It cannot be over-emphasized that the long-established practice is for appropriate court officials to endorse on documents filed in Court Registries the receipt numbers against which they were filed together with the date of such filing. These endorsements ought to be made at the time of filing of such documents to ensure that suspicions of fraud or irregular filing such as have arisen in the present application are eliminated. It is hoped that this basic but essential procedural requirement shall in future be strictly complied with by all Court Registries."

3.0 Presumption of regularity in the acts of Court

There is presumption of regularity in the acts of the Court. *Section 150 (1)* of the Evidence Act, 2011 as amended provides that "When any judiciary or official act is shown to have been done in a manner substantially regular, it is presumed that formal requisites for its validity were complied with." In the case of *Odubeko v Fowler,*[ii] it

was held that "in the absence of any evidence to the contrary, there is a presumption that things are rightly and properly done in accordance with the maxim "Omina *praesumuntur rite esse acta"*. This principle was also followed in the cases of *IRP (Nig) Limited v Oviawe*[iii] and Re *Randle Nelson & Anor v Akofiranmi.*[iv] Hence, when processes are filed in Court, there is a presumption that due process has been followed.

4.0 Duty of a litigant filing process and how discharged

Rules of Courts usually provide for procedure for filing and responding to Court processes. Once a litigant, complies with the stated procedure, there is nothing more left for him to do. The duty of a litigant is to file processes in the Court Registry in the required form and manner prescribed by both law and specific Rules of Court. A Court Process" or "Process" includes "originating process, complaints or originating summons, notice of appeal or other notices, pleadings, orders, motions, summons, warrants and all other documents or written communication filed in the Registry of the Court for which service is required in any proceeding before the Court".[v] Rules of Courts prescribe the procedure to be followed by litigants in filing processes in the Court Registry. As held in *Ogwe & Anor v I-GP & Ors,*[vi] "a document or process is deemed duly filed when it is taken to the court registry, assessed, by the officer assigned the responsibility and paid for". Where a process is not filed and endorsed at the Court Registry, the Court will discountenance it as having doubtful origin. In *Gbadeyan v FRN,*[vii] a written address dated 14th February, 2018 and signed by Counsel was not filed at the Court Registry as there was no indication of such filing. The Court decided that granted the process is an official document, the same would have at least been marked or stamped "Official" with proper endorsements by the designated Registry staff. Importantly, the long-standing practice for an appropriate Court official to endorse on a document filed in the Court Registry; the receipt number against which such document was filed, assessment of the filing fees and the date of such filing must be maintained. This endorsement is made at the time of filing of the document to eliminate suspicion of fraud or irregular filing such as can arise when the process in question is called to use. This basic procedural necessity must be strictly complied with by all the Court Registries. In the instant case where

there was no endorsement whatsoever on the written address of the Respondent herein, it was decided that the said written address was not filed "at the Registry of the trial Court" and so was not a process before the trial Court. The Respondent's written address ought not to have been relied on by the learned trial Judge, the same was accordingly struck out.

5.0 Effect of Mistakes or Omissions by Court officials in the Registry

The question whether the mistake or omission of Court Officials or the Court itself should be visited on the litigant is a recurrent issue in the Courts. Hence, it will receive detailed consideration in this segment of the paper. As a preliminary point, it must be underscored that Nigerian Courts remain unwilling to punish a litigant for the mistake of its Registry or officials. In *GTB v Innoson (Nig) Ltd*,[viii] Aboki, JSC, held that "once a party has performed creditably his own portion of responsibility of what he is required by the law to fulfill, in instituting an action, he should not be made to suffer the failure, blunders, or omissions of the Court Registry. It will be inequitable to do so. By law and practice, once a prospective party has properly made his claim as required by law and delivered same in the Registry, what is left to be done such as sorting out of the processes, giving them identification numbers for ease of reference; distributing such processes to the various Justices is the domestic responsibility of the Registry. The party has no more say on it except what the Court/Registry requires of him to do. Thus, it will be unconscionable and against the interest of justice to penalize such a party for such errors, lapses, mistakes or accidental slips or omissions by administrative or clerical functions of the Registry".[ix]

In *Famfa Oil Limited v A-G Federation,*[x] it was stated succinctly that it is wrong for a Court to punish a party for a mistake committed by the registrar of a Court. Olatawura, JSC (of blessed memory) held in the case of *Cooperative and Commercial Bank Plc v. Attorney General Anambra State & Ano*r[xi] that "It will be contrary to all principles to allow litigants to suffer the mistake of the Court Registry. In other words, the Court will not visit the "sin" of the Court's Registry, on a litigant or his counsel, unless, it was shown that the litigant and/or his counsel was a party

thereto or had full knowledge of the "sin" or mistake and encouraged or condoned the said act."

Where fault, defect, error or default is that of the Court, it is treated as administrative and does not count against the litigant. In the case of *Saude v Abdullahi*,[xii] it was decided that "originating summons signed by the registrar instead of the Judge is a mere irregularity occasioned by the fault of the registry of the Court which should not be visited on the litigants and that where the non-compliance with the rules of Court is on the part of the Court, the defect is merely administrative and does not render the proceedings consequent thereto a nullity".

In *Opara v Paul & Ors*,[xiii] the case revolved around the question whether a party can be punished for the mistakes or omissions of Court officials in the Registry as no number was affixed on the duly filed process. The 1st Respondent as Plaintiff had filed the suit against the 2nd and 3rd Respondents and the Appellant as 1st, 2nd and 3rd Defendants respectively seeking for the certain reliefs. The 1st Respondent filed along with the Writ of Summons and Statement of Claim a Motion on Notice for Interlocutory Injunction. On being served with the originating processes by substituted means, the Appellant filed an application for extension of time to enter appearance and for an order deeming the Memorandum of Appearance as duly filed and served. The application was duly granted by the lower Court. The Appellant also filed a Counter Affidavit in opposition to the 1st Respondent's Motion for Interlocutory Injunction. The 2nd and 3rd Respondents with the leave of Court filed Amended Statement of Defence and the 1st Respondent with leave of Court filed a reply and further Witness Statement on Oath to their Amended Statement of Defence. The 1st and 2nd Respondents joined issues at the trial Court, called witnesses and adopted their respective trial addresses. On 12th February, 2018, the learned counsel for the 3rd Defendant (Appellant) informed the Court of the Appellant's application which the Plaintiff's counsel opposed on the ground that it had no motion number and therefore incompetent. The learned trial Judge adjourned the suit for judgment to 27th February, 2018. On that day, the application was moved and refused and the Court decided in favour of the 1st Respondent.

Aggrieved, the Appellant appealed to the Court of Appeal. One of the issues relevant to this paper was the question whether the Court will visit the mistake of the Court's Registry on a litigant. The Court of Appeal found the appeal meritorious and allowed it. The judgment of the trial Court was set aside. An order for retrial before another Honourable Judge of the FCT High Court was made. The Court of Appaeal found that the only reason deductible from the refusal of the learned trial judge to hear the Appellant's application on 27/2/2018 was because there was no motion number on the motion paper and held that the learned trial Judge was wrong to have refused to hear the Appellant's application on that day in question merely because of the absence of motion number on the process which was duly filed before the Court. This view is tantamount to technical justice, frowned upon by the Courts. It was held in extenso that

> Judicial notice can be taken of the procedure in the registry of a Court. It is the duty of the registry staff of the Court to assess and assign appropriate numbers to processes duly filed by litigants or their counsel. It is not the duty of the litigant or his counsel to endorse anything on the process after it has been duly filed in Court. Unarguable, therefore, it was the responsibility of the registry officials to assign number to the motion filled by the Appellant for the application for enlargement of time to file his statement of defense. Evidence on the record shows that this motion was assessed and duly paid for by the appellant (See page 380 of the record of appeal). There was therefore nothing left for the Appellant to do in respect of the application duly filed before the Court. He had no role whatsoever to play in the assignment of a motion number on the motion paper. It is the exclusive responsibility or duty of the Court Registry and their staff to see that the application was properly attended to, including assigning

> motion number on it … The motion on notice filed by the Appellant on 27/2/18 is therefore deemed to be regularly filed and properly placed before the Court. The principle is established that a litigant must not be punished for the administrative error, incompetence, fault, mistake, negligence or sins of the court and its officials.

In *FCMB v John*,[xiv] the Judge had in his ruling acknowledged that the motion was struck out because the appellant was not aware of the date fixed for the motion. It was held that this vindicated the deposition of the appellant that the motion was struck out in its absence as it was not notified or served with hearing notice as that was the fault of the registry of the trial Court. It was held that "the law is well established that a litigant should not suffer for the mistake of the registry of the Court. The registry of a Court should not eat sour grapes and set the teeth of a party or litigant on edge". Conclusively, a litigant is not to suffer for the mistake of the Court Registry and it remains the duty of the Court Registry to transmit the Record of Appeal.

6.0 Exceptions to the general rule

As variously stated, the general rule is that "it will be contrary to all principles of justice, equity, fairness and good conscience, to allow litigants to suffer for the mistake of the Court Registry". In other words, the Court will not visit the sin of the Court's Registry on a litigant or his counsel. However, this rule is not without exceptions. in *Cooperative and Commerce Bank Nig Ltd Plc v Attorney-General, Anambra State & Anor;*[xv] the exception was recognised that this rule will not apply "where it was shown that the litigant or his counsel was a party thereto or had full knowledge of the sin or mistake and encouraged or condoned the said act".

Thus, the Court will visit the "sin" of the court's registry, on a litigant or his counsel, where it was shown that the litigant and/or his counsel, was a party thereto or had full knowledge of the "sin"; or mistake, and encouraged/instigated/condoned/approved the said action/act. This was the decision of Ogbuagu, JSC, in *Duke v Akpabuyo*

Local Government.[xvi] The position of the law where documents or Court processes are filed in the Registry of the Court but are not fixed for hearing and served on the parties is that Court cannot be blamed for not taking such process into account. This principle was reiterated in *Coscharis Beverages Ltd v ITF & Anor*[xvii] as follows:

> The Supreme Court case of *MC Investments Ltd & Anor v Core Investments Capital Markets Limited* (2012) 12 NWLR (Pt. 1313) 1 at 18-19 following the cases of *Ekpeto v Wanogho* (2004) 18 NWLR (pt. 905) 394; *Oforkire v Maduike* (2003) 5 NWLR (Pt. 812) 166 that where documents or Court processes are filed in the registry of the Court but are not fixed for hearing and served on the parties, the Court cannot be blamed for failing to take such matters into consideration because such processes cannot be deemed to be within the knowledge of the Court.

7.0 Conclusion and recommendations

This paper has explicated that the law is well settled that, based on equity and good conscience, inadvertence by the Court or its Registry officials are not counted against a litigant. It is believed that if this body of knowledge is made available to legal practitioners and litigants, the frequent argument and disputations in Courts to the contrary will be reduced if not completely eliminated. It is recommended that in order to avoid abuse of this equitable principle, where a litigant is complicit in the inadvertence, the Court should not hesitate to visit the consequences of such mistake on the litigant. It is desirable that Courts should own up to the mistakes of its Registry staff in order to instill confidence in Court users as nobody is perfect. By so doing, it will also rekindle the hope of the ordinary man in the dignity and impartiality of the Courts. However, a party who seeks to take advantage of this principle to perpetuate injustice should be stopped at all cost.

REFERENCES

[i] (1995) LPELR-1506(SC) (Pp. 22 paras. B).

[ii] (1993) 7 NWLR (Pt.308) 537 at 555.

[iii] (1992) 4 NWLR (Pt. 183) 119 (CA).

[iv] (1962) 1 SCNLR 252 (1962) All NLR 130.

[v] Order 1, Rule 5 of the Federal High Court (Civil Procedure) Rules, 2019 and Order 1, Rule 10 of the National Industrial Court (Civil Procedure) Rules, 2019. Thereunder, "Registry" also means the Registry of the National Industrial Court of Nigeria in any Judicial Division of the Court or any State Registries of the Court.

[vi] (2015) LPELR-24322(SC) (Pp. 18 paras. B).

[vii] (2021) LPELR-55001(CA) (Pp. 13-14 paras. A-A).

[viii] (2022) LPELR-56657(SC) (Pp. 30-32 paras. E).

[ix] *Ede & Anor v Mba & Ors* (2011) LPELR 8234 (SC).

[x] (2003) LPELR - 1239 (SC).

[xi] (1992) 8 NWLR (Pt. 261) 528.

[xii] (1989) 4 NWLR (Pt. 116) 387.

[xiii] (2019) LPELR-47678(CA) (Pp. 17-19 paras. D).

[xiv] (2021) LPELR-53356(CA) (Pp. 36-38 paras. E).

[xv] (1992) 8 NWLR (Pt. 261) 528 at 561.

[xvi] (2005) LPELR-963(SC) (Pp. 22 paras. A).

[xvii] (2021) LPELR-56849(CA) (Pp. 15-16 paras. D).