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# WHEN DOES A DIRECTOR BECOME PERSONALLY LIABLE ON A COMPANY'S CONTRACT:

## INSIGHTS FROM THE SUPREME COURT'S DECISION IN THE CASE OF *MAJOR CONCEPT LIMITED & ANOR. V. EZE* [2025] LPELR-80563 (SC)

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A director negotiates a major commercial contract on behalf of his company. He directs the counterparty to wire payments into accounts he controls, one of them belonging to his wife. When performance fails, he issues personal assurances that the deal will be completed. None of this, he might reasonably assume, makes him personally liable. The contract is the company's contract.

The Supreme Court of Nigeria addressed this exact situation in *Major Concept Limited & Anor v. Eze* [2025] LPELR-80563 (SC). The decision provides important guidance on when a director's conduct crosses the line from acting for the company into creating personal liability.

The general rule is that a company possesses a distinct legal personality, separate from its directors, shareholders, and officers. This doctrine, known as separate legal personality, was established in the classical case of *Salomon v. Salomon & Co. Ltd.* [1897] AC 22. It ensures that, in the ordinary course of business, directors act merely as agents of the company rather than as principals, and that contractual obligations entered into in the name of the company are binding only on the company itself, insulating its directors from personal liability.

## THE CASE

In November 2010, Major Concept Limited and Mr. Major E. Okwuosa (the Appellants) agreed to procure and supply to Prince Arthur Eze (the Respondent) a Maybach 62 S armoured Mercedes-Benz for a total purchase price of USD830,000. The Respondent would pay an upfront deposit of USD700,000, with the outstanding USD130,000 payable upon delivery. The vehicle was to be delivered within four months of payment.

The Respondent promptly transferred the agreed initial deposit of USD700,000 to the Appellants. However, there was no delivery. The Appellants, rather than fulfilling the contract within the agreed timeline, made a fresh demand for an additional USD300,000 before the vehicle could be released.

In a bid to secure delivery, the Respondent paid the additional USD300,000, bringing the total amount paid to USD1,000,000, which significantly exceeded the original agreed purchase price of USD830,000. Yet despite receiving the entire sum and giving repeated assurances, including a personal guarantee of delivery from Mr. Okwuosa, the 2nd Appellant, the Appellants still failed to deliver the vehicle.

The transaction having completely collapsed, the Respondent commenced legal proceedings to recover the USD1,000,000 paid. The Appellants defended the action, but the trial court found that their defence disclosed no reasonable answer to the claim and entered judgment in favour of the Respondent.

The Appellants appealed to the Court of Appeal, which dismissed the appeal. They then brought a further appeal to the Supreme Court.

## DECISION OF THE SUPREME COURT

The Supreme Court of Nigeria dismissed the appeal.
The central issue before the Supreme Court was whether the 2nd Appellant could be personally liable for a breach of contract to which, on his own case, only the 1st Appellant was a party.

The Appellants had argued that the contract was strictly between the 1st Appellant and the Respondent and that the 1st Appellant, being a company incorporated in Nigeria, is distinct from the 2nd Appellant who cannot generally be liable under the contract. The Appellants also argued that there was no privity of contract between the 2nd Appellant (who is the director and principal officer of the 1st Appellant) and the Respondent, and therefore the 2nd Appellant could not be liable for any breach of contract between the 1st Appellant and the Respondent.

Based on its review of the documentary evidence, the Supreme Court held that both Appellants were indeed parties to the contract. The starting point for understanding that conclusion is that the contract was made orally. There was no formal written agreement naming the contracting parties, so the court had to determine who those parties were from the documentary evidence generated during the transaction. Three features of that evidence proved decisive. First, by Exhibit A, the 2nd Appellant directed that payment be wired to two accounts in New York, one of which bore the name of his wife. Money due to a company is ordinarily paid into a designated corporate account. The direction of funds into a personal family account was inconsistent with normal corporate practice and indicated to the court that the 2nd Appellant was conducting the transaction in his personal capacity rather than purely on behalf of the company. Second, the communications between the parties, including Exhibit D, were addressed to the 2nd Appellant personally and sent to his personal email address rather than through the company's official channels, demonstrating that he retained personal control over the transaction throughout. Third, the 2nd Appellant executed Exhibit F, a letter of guarantee of delivery which, though written on the company's letterhead, contained an unambiguous personal undertaking in the first person, namely that if paid the sum of $300,000 on 7th July 2011, he would deliver the vehicle to Nigeria by 31st August 2011. The court found that these three elements, taken together, established that the 2nd Appellant was a party to the oral contract in his own right and not merely an agent acting on behalf of the company.

It is instructive to note that the court's finding of personal liability rested on the conclusion that the 2nd Appellant was a party to the original contract, not on any lifting of the corporate veil. This distinction carries practical significance. Veil-lifting is an exceptional remedy, available in limited circumstances such as fraud or deliberate abuse of the corporate form, and its effect is to expose a director to liability for obligations that are properly the company's. What happened here was different and, from a claimant's perspective, more straightforward. The finding that the 2nd Appellant was a party to the oral contract in his own right meant that he was jointly liable alongside the company on ordinary contractual principles, giving the Respondent a direct path to pursue both the company's assets and the 2nd Appellant's personal assets concurrently. For directors, the implication is equally clear. A director who is found to have contracted personally, whether through the accounts he nominates, the communications he sends, or the guarantees he provides, cannot shelter behind the company's separate legal personality when things go wrong. The corporate structure offers no protection where the evidence establishes that the director was never acting purely as a corporate agent in the first place.

The significance of this decision lies not in any new principle of law but in the practical lesson it offers about how personal liability can arise without any deliberate intention to assume it. The 2nd Appellant almost certainly did not regard himself as personally contracting when he directed payments, communicated with the Respondent, and issued his guarantee of delivery. Each of those acts might, viewed individually, have seemed like ordinary commercial communication by a director managing a transaction on behalf of his company. The court, however, saw them differently in aggregate. The use of a personal family account for receipt of funds, the conduct of negotiations through personal rather than corporate channels, and the provision of a first-person guarantee of performance collectively displaced the corporate structure that the 2nd Appellant sought to rely upon when the transaction collapsed. Directors who manage significant contracts in this manner should understand that the line between acting for a company and acting personally is drawn not by intention but by evidence.

## PRACTICAL INSIGHTS

Corporate directors and their companies should ensure that contractual documents clearly distinguish between obligations undertaken by the company and obligations assumed personally by directors or other officers. The capacities in which parties sign and communicate must be carefully delineated to avoid unintended personal liability. This discipline is particularly important where contracts are concluded informally or orally, as was the case here. Even in informal transactions, the parties should ensure that some written record exists and that it contains language making clear that all directors, officers, and staff involved are acting solely in their capacity as agents of the company and not in any personal capacity.

Directors should also be attentive to the manner in which they conduct themselves during the life of a transaction. The account into which payments are directed, the email address from which communications are sent, and the terms in which assurances are given are not merely administrative details. They are, as this case demonstrates, the raw material from which a court will determine whether a director was acting for his company or for himself. A director who wishes to preserve the protection of separate legal personality must ensure that every aspect of his conduct in relation to a transaction is consistent with that intention.

Counterparties entering into significant transactions with director-controlled companies should equally take note. Where a director nominates personal accounts for receipt of funds, conducts negotiations through personal rather than corporate channels, or provides assurances in his own name, those facts may support a claim against him personally in the event of default. Those who identify personal conduct of the kind described in this case are better placed to structure their claims and enforcement strategy accordingly if things go wrong. Counterparties who intend from the outset to contract with the director jointly with the company should ensure that intention is reflected clearly in the transaction documents.

## CONCLUSION

The decision in *Major Concept Limited & Anor v. Eze* [2025] LPELR-80563 (SC) is a timely reminder that the protection of separate legal personality is not self-executing. It does not follow automatically from the fact of incorporation. Where the documentary record of a transaction tells a court that a director was conducting business on his own account rather than purely as a corporate agent, the company's separate legal personality will not shield him from the consequences of that transaction. The lesson for directors is straightforward. The corporate structure protects those who consistently conduct themselves within it. Those who do not should expect to be held personally to account.

## CONTACTS

**OLADAPO ADEMOLA**
oladapo.ademola@advocaat-law.com

**EDWIN EKWEALOR**
edwin.ekwealor@advocaat-law.com

**AMARACHUKWU NWOSU**
amarachi.nwosu@advocaat-law.com

**AUGUSTINE KANAYOCHUKWU**
augustine.kanayochukwu@advocaat-law.com

**FAVOUR ODUNOWO**
favour.odunowo@advocaat-law.com

**LAGOS OFFICE**
13 Norman Williams Street
Off Keffi Street, Ikoyi
Lagos Nigeria

**ABUJA OFFICE**
Nigerian National Merit Award House Enspire
1st Floor Room 3
Plot 22 Aguiyi Ironsi Way Maitama Abuja
Nigeria

**CALABAR**
Akom Building
15 Murtala Mohammed Highway Calabar
Cross River
Nigeria

**TELEPHONE**: (LOS)+234 02014547932   (ABJ)+234 8105340496