
HOW TO GUIDE AGAINST INVESTMENT REGRET: MORAL AND LEGAL APPROACH

BY

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During this week review of mail inbox, I received a letter from an older friend whose wife, is a victim of ponzi scheme allegedly perpetuated in Nigeria by a 28 year old Nigerian girl whose name is Mrs Ovaioza Imu Yunusa, trending in style of Ovaioza Farm Produce Storage Business Limited, a subsidiary of the Ovaioza Group of Companies Limited.

He said that the wife is under depression having sank her savings into the ponzi scheme (sic: alleged fraud) what is more? Despite a high-level educational status of the victim, a British-trained graduate old a holder of masters Degree in Business Administration, she could not dictate a fraud scheme.

Having listened to his complaint, as a principle, I don't get involved in discussions or matters without first doing critical analysis of the situation, so I asked if there was any documentation as regard to the investment.

First, let us examine what a ponzi scheme is.

DEFINITION OF A PONZI SCHEME

A Ponzi scheme is a fraudulent investment scam which generates returns for earlier investors and with money taken from later investors, offering an unrealistic returns on investment to unsuspecting investors or clients.

IMPACT OF PONZI SCHEME IN NIGERIA

As of March, 2021, the Securities and Exchange Commission (SEC) in Nigeria had reported that three million Nigerians lost 18 Billion to Ponzi Scheme operators.

CAUSATIVE FACTORS TO POLIFERATION OF PONZI SCHEME DRIVE

- a. Devastating Impact of Economic Failure.
- b. Bad governance enhancing poverty
- c. Lack of social security

d. Increased use of online services to interact

k. psychological trauma and heart break

IMPACT OF PONZI SCHEME ON THE SOCIETY AND VICTIMS.

For instance, in Nigeria, as of March, 2021, the Securities and Exchange Commission(SEC) in Nigeria had reported that three million Nigerians lost 18 Billion to Ponzi Scheme operators.

SPECIFIC IMPACT

- a. Loss of income
- b. Dislocation of Economic status and amenities
- c. Mental health crisis and depression on the victims.
- d. Suicidal action.
- e. Public Odium on the reputation of the affected country.
- f. Marital and Family crisis such as divorce, domestic violence, effect on children education and scholarship such as false school drop-out.
- g. Increase of criminality and indulgence in confusion.
- h. Victims may resort to self help that leads to fetish rituals, murder and mindset of committing fraud against other persons.
- i. Burden on law enforcement agencies and the judiciary.
- j. Emotional Crisis such as abandonment by girlfriends / boyfriends, fiancé, as well as dejection by family members.

OVAIOZA'S CASE- LEGAL IMPLICATION ON THE VICTIMS

Back to Ovaioza's matter, as I mentioned, my question to my older friend was whether there was no documentation guiding or concerning the investment. The answer was in the affirmative. I asked if I could be obliged with a copy of such contractual instrument and I promised to keep it confidential, since, as I heard, the matter is already before law enforcement agency for investigation, It is therefore wrong for a non-authoritative person to display such materials pertaining to it. Fortunately, I was obliged with a copy of the investment contract.

In a nutshell, a perusal of the document indicates that there are transparency and exemption clauses demonstrating force majeure in the contractual instrument between the investor and the alleged scammer, Ovaioza actuated through Ovaioza Farm Produce Storage Business Limited, a subsidiary of the Ovaioza Group of Companies Limited.

Listening to the story behind the saga, there is likelihood or strong indication that the Ovaioza girl from outset, set out to defraud innocent investors. Her motive has been to dribble investors via ponzi scheme mechanism to a point

that she can successfully divest them of their monies to enrich herself. But this remains within the realm of ethical morality.

Even though law is an instrument that sustain justice, Law and justice are two different things altogether. Law sometimes do aid legalization of injustice. This is why you need to know how to deploy the instrumentality of the law to sustain justice against injustice or to guide against outcomes that turn detrimental to any investment you entered into.

I have some very pertinent observations to make about the Ovaioza investment contractual instrument Vis-à-vis the applicability of law. My old friend does not accept my contention that police arrest of Ovaioza girl is a mere matter of threat in any trivial sense, for as he pointed out, a crime has been committed and the girl must be jailed. That the police has assured them that justice will be done and her fleet of properties she purchased from the investors money will be sold and the monies returned to the owners. According to him, the Economic and Financial Crime Commission (EFCC) is also interested in investigating and prosecuting the case. But I told him, arrest, torture and all that extra-Judicial and administrative protocols do not guarantee a conviction. In actual judicial proceedings, the extension of general terms will involve a question of

principle of the credentials of the business which need to be inspected and juxtapose with the principles of law.

I make a valuable point that the role of coercion, which is common in investigation stage of legal complaint, may be entirely different in pure law proceedings. In a judicial sphere, such is that the position of victim's vulnerability may not be the primary consideration until a question of pure law and technicality is thoroughly resolved. That is why in a well-regulated state, restrains from arrest generally, usually prevails until thorough investigation and findings whether a case is triable is established. It may be said, however, that many developing countries, such as Nigeria, the operation of law is exceedingly inefficient, that is why law enforcement engages in media prosecution and inordinate arrest before investigation; and that is why over-powerful citizens and corporations may be able to evade or resist or secure perversion of actual legal rule. The situation, however, by no means hold in regard to when a matter has been subjugated to judicial proceedings. When good lawyers who understand the law and its procedures are involved as defense counsel, there may be risks involved on investment relations' Criminal trial and civil proceedings to the detriment of the investors or the victims.

Even though, in a country where intellectual poverty is a dominant consciousness- when a vast number of collegiate men and women including lawyers are not much different with periwinkle Sellers of the 18th century in white-market of Nigeria in their reasoning. Such a place like Nigeria, a country which is obvious that certain fallacy constantly involved in the reasoning with regards to law- making it a kind of primitive system where people jump into the conclusion and public sentencing of the accused and suspect whenever someone is under arrest, ultimately, in actual judicial proceeding truly enough, its substance is an exercise in pure law and legal logic, not in morality and that what law is.

Therefore, despite the many valid criticism and circumstances of this Oviaza, the alleged scammer of over 3 billion Naira belonging to the investors, in judicial proceedings, where legal rules are to be equated with the norms and interpreted in a non-contradictory field of law in meaning and substance, the Oviaza girl may walk homes; if not at the trial court, at the appellate or apex court . This is because of the transparency and exemption clauses which demonstrate a force majeure clause in the contractual instrument she designed for her investors. The investors voluntarily entered into such agreement without scrutinizing the

terms of the instrument. All the alleged scammer may need to prove is whether it is true that there was a business failure of circumstance beyond her control. If that is proven, she walk home at last, Investors then may lost out.

When that cannot be proven, then she will be criminally liable. What if she can establish that actually, there was a business failure caused by circumstances beyond her control?

PREVENTIVE STEPS IN OVERCOMING INVESTMENT AND CONTRACTUAL LOSSES

a. Character Orientation- Overcoming Greed

The primary means that any investor or any one who intend to enter into a contractual agreement or invest in any scheme need to do is to learn to overcome over-ambitiousness, this is however, a moralistic view and not law. It is greed that make one to believe that if he invest N10k within a month, he can make N100k, meaning 90% of his investment as returns without analyzing the possibility of such returns. If you can prefer free things, you are greedy. It mean there is no much difference between you and the scammer. You have the same character but

operate in a different frequency and modus operandi.

But as a said, this is a moralistic reason.

b. The importance of lawyers in your pre-investment and pre-contractual arrangement

Before you sign any contractual instrument, purchase any property, undertake any business investment or partnership, make sure you involve a Lawyer to Scrutinize all Business and Investment Instrument before you sign it.

Law , in the most generic and comprehensive acceptation in which the term, in its literal meaning, is employed, may be said to be a rule laid down for guidance of one who have learned it or practiced it. Lawyers are trained to understand the tenet , procedure and applicability of law. Even if you are a professor of ten different specialties and appear highly educated, you may

not understand adequately the intricacies of law embedded in a contractual instrument or investment scheme.

The money you spent in consulting a lawyer is far less in value than what you will spend attempting to recover your losses. That is, if you are lucky enough to survive the tension that might lead to psychological trauma and heart break. Find any kind of lawyer-whether a practicing lawyer or academic lawyer. Infact, if you cannot find any lawyer around you and there is a law student around, give him as an assignment, he will contact his lecturer who is either doubling as a practicing litigation lawyer or solicitor or as academic lawyer. He would, as we hope, have the basic knowledge of any implication that might arise as to the contractual instrument. Just find a lawyer before you sign any instrument, buy any property or undertake any investment.

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