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Legal Evaluation of Premium Payment as a Condition Precedent for a Valid Insurance Contract

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Abstract: The idea of insurance is widely recognized in commercial law and has evolved into a fundamental tenet of contemporary business dealings and contracts. It was designed to satisfy the requirements of contracting parties and has been supported as a workable and commercial tool that an insured can use to reasonably mitigate the effects of a disaster or other occurrence by purchasing an insurance policy. A service known as insurance exchanges risk for monetary responsibilities known as premiums. It is not uncommon for an insured party, before the advent of Insurance Decree 1997 after negotiating and executing an insurance policy, to defer payment of premium until a later date; or for insurance companies to accept part payment of premium, on the condition that payment would be made in full before the end of the insurance policy period. This position changed with the provision of 'no premium no cover' under Section 37 of the Insurance Decree, 1997. In an action for enforcement of a contract, the party who alleges breach must prove the existence and validity of a contract between him and the other party. A very important ingredient of the insurance contract is consideration; that is, for a contract to be valid, something of some value, e.g. money or services, must be exchanged for the promise under the contract. Offer and acceptance refers to an offer being made and then being accepted by the other party. Fulfilment of this legal requirement implies that negotiations have been settled and parties have come to an agreement. Current study examined and evaluated premium payment of premiums as a prerequisite to enforceable insurance agreements and claims. It revealed that payment of full insurance premiums is imperative if a contract of insurance is legal and enforceable under section 50(1) of the 2003 Insurance Act. Also, it will be unreasonable and unjustifiable for an insured to be expecting indemnity when a full premium has not been paid to the insurer for proper coverage.

Keywords: insurance contract; premium; claims and indemnity, Nigeria law

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1. Introduction

Insurance Law, as a branch of commercial law, regulates the concepts and procedures of insurance, which is a contract in which a party known as "the insurer" agrees to pay a third party known as "the insured" a certain amount of money or its equivalent if a particular event occurs in exchange for a predetermined consideration known as a premium."[1] The majority of insurance contracts are indemnity agreements, in which the insurance provider agrees to pay the policyholder back for any damages suffered due to the occurrence of the incident (Irukwu 1971) that could give rise to the insurer's legal responsibility.[2] The possibility of being confronted with various hazards of life that could cause financial loss, and the uncertainty of the time and period of occurrence of any misfortune beyond human control necessitate the situation and need for insurance (Ivamy 1986).[3] The imperativeness of being unable to prevent death coming the way of a family's breadwinner or forestalling any accidental event occurring, such as fire outbreak as the occurrence might be beyond human control, further justifies the need and reasons to take out an insurance policy that puts us back to our expected position.

Before the enactment of the 1991 Insurance Decree, insurance companies in Nigeria were allowed to issue coverage on credit. But this approach resulted in problems like nonpayment of

[1] Section 3 of Nigerian Insurance Act 2003.Available online: https://lawsofnigeria.placng.org/laws/I17.pdf (accessed on 24 July 2024); See also the British Insurance Act 1870, available online: https://irdai.gov.in/evolution-of-insurance (accessed on 24 July 2024); and section 68 of Nigerian Insurance Act 1961, available online: https://www.i-law.com/ilaw/doc/view.htm?id=137351 (accessed on 24 July 2024).

[2] Section 58 of Nigerian Insurance Act 1991, Nigerian Insurance Act 1997 and 2003.

[3] Insurance is a branch of commercial and contract law that governs the principles and practices of the insurance sector of the economy.

premiums and insurers' incapacity to pay claims. The 1991 Insurance Decree outlawed the practice of providing insurance coverage on credit in order to address these problems. Nevertheless, the Decree of 1997's section 37 stipulates that the receipt of an insurance premium is a condition precedent to a valid contract of insurance and that there shall be no coverage in respect of an insurance risk unless the premium is paid 'no premium, no cover' which is in consonance with section 50(1) of the Insurance Act 2003 which states that "the receipt of an insurance premium shall be a condition precedent to a valid contract of insurance and there shall be no cover in respect of an insurance risk unless the premium is paid in advance."

This provision effectively made it mandatory for insurers to require payment of premiums before providing coverage. It was intended to ensure that insurance policies are properly paid for and to avoid the problems associated with issuing insurance coverage on credit. Insurance companies in Nigeria are therefore required to collet premiums in advance and to ensure that policies are not issued until such premiums have been received. This requirement is still in force today and remains an essential aspect of the regulation of the insurance industry in Nigeria. For instance, in Unitrust Insurance Co. Ltd. v. Ambico Senderian Nigeria Ltd. [4], the Supreme Court held that, failure to pay premium before the loss occurred result in a lack of insurance coverage. Also, in Ojeahere v. Alakija & Ors[5], the court held that failure to pay the annual premium before the insured vehicle was involved in an accident meant that coverage was not in force. Finally, the onus of proving payment of the premium lies primarily on the insured unless the insurer does not dispute the payments. This is because payment of the premium is a fundamental aspect of any insurance contract, proof of payment is necessary to establish the existence of the contract and that of the insurer's obligation to provide coverage.

2. Insurance Contract: Nature and Definition of Insurance

The very nature of insurance makes the creation of a good public image a difficult task. It is an unsought and intangible product that most potential Insured are not in a position to either evaluate or have knowledge of the contents and pricing in the same manner as consumers of tangible products. For this reason, people show little interest, even when approached by sales agent or insurance brokers. Perhaps, insurance is rather like dental treatment which most people need but few are prepared to admit that they do. The fact that insurance provides protection, security and indemnity to individual, survival of commercial and industrial organizations instead of their liquidation when adversities strike and in the face of unforeseen contingencies is neither recognized nor appreciated. To the public, insurance is buying something to comply with the law as in the case of motor insurance and other compulsory insurance, in case, their houses get burnt or something they should have to provide for their families and relations in the event of death. It is a product one cannot enjoy immediately until the Insured events occur or may never enjoy if the event insured against fails to occur (Amirekolade 1986).

The insured and the insurer are the two main parties to an insurance arrangement. The entity that offers benefits under an insurance contract is known as the insurer, and it needs to be a registered insurer—in this example, a corporate entity. Any individual who can sign an insurance contract is considered the insured. If the contract is for the advantage of the minor, it includes them. However, inebriated individuals and deranged people might not have this capacity, and any insurance contracts signed by them are void. Thus, in Irukwu v. T.M.I.B,[6] the appeals court clarified what an insurance contract is and whether a party can be forced to sign a contract by the court. An insurance agreement ought to be one of the highest calibre, or "uberimae fidei." Both the insured and the insurer need to be prepared and eager to participate in this kind of exchange. A party cannot be forced to enter into a commercial transaction by the court, particularly one involving insurance, which likewise has the typical features of an ordinary contract.

Additionally, the subject of insurance and the subject matter of the insurance contract need to be kept apart. In Rayner v Preston,[7] Brett made the clarification in his ruling when he said: "The subject matter of the contract of insurance is money and money only. The subject matter of insurance is a different thing from the subject matter of the contract of insurance. The only result in the policy on accident, which is within the insurance, is a payment of money. It is true that under certain circumstances in a fire policy, there may be an option to spend the money in rebuilding the premises, but does not alter the fact that the only liability of Insurance Company is to pay money". Lord Alexander J., made it clear in the case of Prudential Insurance Company v Inland Revenue Commission,[8] that, "it is not sufficient to call a document an insurance policy if the happening of the event insured against does not contain an element of uncertainty. He further asserted that the purpose of insuring a ship or a house is not to ensure that the ship shall not be lost or the house shall not be burnt but rather the insured should have a right to call on the insurer to indemnify or compensate him on the happening of the event to lessen or cushion the effect of the loss."

The nature of the insurance contract is clarified by judicial exposition. Lord Mansfield had declared that insurance contracts are contracts of speculation as early as 1766. It is speculative in that the insurer consents to provide a monetary payout or other benefits in exchange for an ill-defined specified event.[9] The insurer is unsure of the exact date. A portion of Lord Mansfield's remark explains how insurance contracts depend on or involve unpredictable dependent events. Insurance contracts are therefore aleatory. It is important to distinguish between wagering contracts and aleatory contracts at this point. Wagering contracts are legally null and void and cannot be enforced through the courts. Although an aleatory contract is typically not void, it lacks the qualities of an insurance contract, which

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[4] Unitrust Insurance Co. Ltd. v. Ambico Senderian Nigeria Ltd. (2007) LPELR-2570 (SC). Available online: https://lawcarenigeria.com/unitrust-insurance-co-ltd-v-ambico-sendirian-nigeria-ltd-2012/ (accessed on 24 July 2024).

[5] Ojeahere v. Alakija & Ors. (2000) 6 NWLR (Pt. 660) 385. Available online: https://lawcarenigeria.com/mr-jimmy-ojeahere-v-sean-alakija-ors-2011/ (accessed on 24 July 2024).

[6] Irukwu v. T.M.I.B (1997) 12 N.W.L.R (pt 531) 113.

[7] Rayner v Preston (1881) 1 Ch. D1. Available online: https://lawprof.co/trust/constructive-trust-cases/rayner-v-preston-1881-18-ch-d-1/ (accessed on 24 July 2024).

[8] Prudential Insurance Company v. Inland Revenue Commission (1904) 2KB 658. Available online: https://s3.studentvip.com.au/notes/29449-sample.pdf?v=1551936395 (accessed on 24 July 2024).

[9] Lord Mansfield in Carter v. Boehm (1766) contract of insurance are of speculation. Available online: https://core.ac.uk/download/pdf/151161248.pdf (accessed on 24 July 2024).

are determined by an unknown element or an event that may or may not occur, as determined in the University of Nigeria Nsukka v. Edwards W. Turner & Sons (W.A) Ltd. case,[10] as an excellent illustration. In the case, the plaintiff consented to a lump sum payment of up to £46 million after the time in exchange for paying a premium of £51,660 annually, net over 50 years. The agreement makes it clear that this instance violates the indemnity concept. The court had no trouble concluding that the matter was essentially an investment scheme rather than an insurance contract.

Therefore, it is important to note that a proper definition of insurance must take into account its legal, economic, and social aspects in order to highlight its qualities, functions, and goals. Insurance law is concerned with the rules, principles and regulations which determine when an insured has suffered a loss or when an insurer is liable under the contract as well as the extent of the liability of the insurer. Greene's definition, therefore, asserts that "insurance is an institution which reduces risk by combining under one management a group of objects so situated that the aggregate accidental losses to which the group is subject become predictable but narrow limits." This definition blends legal and functional approaches. He goes on to say that insurance consists of specific contracts under which the insurer agrees, in exchange for a fee, to pay the insured back or provide services if losses or unintentional injuries occur while the agreement is in effect. When he writes, "Ivamy," a different writer who described insurance from a legal and functional standpoint, highlights the key components of insurance such that "insurance is a contract whereby one person called the insurer or assurer undertakes in return for an agreed consideration called the premium to pay another person called the insured or assured a sum of money or its equivalent on the happening of a specified event.[11]"

The section of Ivamy's book that was previously referenced clarified that the insurer, the insured, and the consideration—referred to as the "premium" in the insurance contract—are the three fundamental components of insurance. Lord Choley and Giles favored proposing that the essence of insurance is the acquisition of security, the guaranteed eagerness to safeguard himself against risk acquisition from the insurer, and the entitlement to indemnity should the risk materialize. The purchase price that the insured pays the insurer is referred to as the premium; this is frequently a yearly payment that the insurer guarantees will be made in the event that the event occurs. It is represented by something known as a policy. As a result, it is a contract in which one party (the insurer) agrees to do something worthwhile for another party (the insured) in the event that a certain contingency materializes. In particular, it is an arrangement whereby one party takes on a risk that another party faces in exchange for the payment of a premium.[12]

There has also been notable judicial pronouncement on the meaning of insurance. Lawrence J. in Lucena v Crauford,[13] says insurance is defined as a contract in which two parties agree that, in exchange for a payment sufficient to cover the risk, the other will not incur loss, damage, or prejudice should a stated hazard to particular items they may be exposed to occur. The Nigerian Court of Appeal, per Dennis Edozie, JCA in Liberty Insurance Co. Ltd. V. John,[14] defined as a contract in which the insurer promises to pay the insured for any losses he may suffer in the future as a result of the occurrence of the event that could give rise to the insurer's responsibility (Chamber's Encyclopedia 1870; Funk and Wagnalls, 1986). However, insurance has been defined as the conversion of intermediate risks into a fixed cost by way of consolidation. It is a legal and commercial contract that allows an insurer to reimburse an insured party for losses brought on by a contingency. Again, according to George J. Couch, insurance, also known as assurance, is a contract in which one party agrees to accept a certain payment of money in the event that something in which the other party has an interest is destroyed or damaged in exchange for a consideration sum or at various points during the risk's duration (Couch 1984).

An insurance contract exists where there is an agreement between an Insured and an insurer where one (insured) pays a certain amount, called the premium in order for his property or whatever he is insuring to be covered against any risk by the insurer or the insurance company. For an insurance contract to be binding there must be a payment made by the insured called the premium. Without the payment of the premium, the insurance contract is not binding and it becomes unenforceable. So, when there is a loss, the insured benefits nothing from the insurance company where he fails to pay his premium or where he fails to pay the premium completely. That is, where the premium is to be paid in instalments or in part payment should in case before the completion of the premium a loss occurred, there will be no proper coverage by the insurance company.

3. Insurance Premium

The amount that the insured pays the insurer in exchange for the protection that the insurer promises to provide against the insured event is known as the premium. A premium is typically paid in cash, either in the form of a bill or a cheque, and it is one of the conditions needed to create a legally enforceable agreement. An explicit or implicit agreement regarding the amount of premium to be paid and the method of payment is required for a contract to be deemed genuine. The payment of premiums is actually a prerequisite for the validity of an insurance contract. Additionally, the majority of insurers typically include language in the proposal form or policy stating that no insurance contract is considered legal until the payment is paid. Occasionally, the courts have ruled that an insured party cannot succeed, even in cases where a portion of the premium has been paid.

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[10] University of Nigeria, Nsukka v. Edwards W. Turner & Sons (W.A) Ltd. (1965) LLR 35. Available online: https://www.coursehero.com/file/p3u1t8fj/20-1997-12-NWLR-pt-531-113-21-Carter-V-Boehm-91766-3-Burr-1905-36-The-case-of/ (accessed on 24 July 2024).

[11] Insurance is a type of contract in which one party, known as the insurer or assurer, agrees to pay someone else, known as the insured or assured, a certain amount of money or what is equal to the amount, in the event that a certain event occurs in exchange for a predetermined consideration known as the premium.

[12] An agreement wherein one party, the insurance, promises to do something beneficial for another party, the insured, should a certain contingency arise. This kind of arrangement is particularly useful when one party agrees to take on a risk that another party would otherwise bear in exchange for paying a premium.

[13] Lawrence J in Lucena v Crauford (1806) 2 Bos 269 held that as a contract wherein, in exchange for payment of a price high enough to cover the risk, one party assures the other that, should a stated risk to particular objects that they may be exposed to, he won't suffer loss, harm, or prejudice, available online: https://vlex.co.uk/vid/lucena-v-craufurd-and-807223989 (accessed on 24 July 2024).

[14] *Liberty Insurance Co Ltd v John* (1996) NWLR 192 CA.

In insurance, a premium refers to the amount of money that an insured individual or entity pays to an insurance company in exchange for an insurance policy. It is the cost of insurance coverage for a specified period of time, usually a year. The premium amount is calculated by taking into account various factors, such as the type and amount of coverage being provided, the risk factors associated with the individual or entity being insured, and the likelihood of a loss occurring. Premiums are typically paid in regular intervals, such as monthly or annually, depending on the terms of the policy. The amount of premium paid by the insured is often determined by the amount of risk associated with the policy, such as the likelihood of a claim or loss occurring, and any deductibles or co-payment that may apply. Once an insurance policy is paid for and in force, the insurer is obligated to provide coverage as outlined in the policy for the duration of its term, as long as the policy conditions are met.

In the case of Ezeigbo v. The Lion of Africa Insurance Co. Ltd,[15] the court was of the opinion that the plaintiff who on the date of the accident had paid part but not whole of the agreed premium could not succeed. Although payment of premium may be a condition precedent, the insurer is not entirely free from liability under the contract. Similarly in the case of Babalola v. Harmony Insurance Co.,[16] the law is that the payment of premium is a 'sine qua non' to a valid insurance contract. With the statutory and judicial authorities above, it is clear that the basic principle of premium is "No premium, No cover.

In Charles Chime v. United Nigeria Insurance Co. Ltd,[17] once the premium is paid, the insurer is expected to perform his part of the obligation. This connotes that, the moment the premium is paid to an insurer. The insurer must perform his own obligation as part of the contract which binds the insurer and the insured. The insurer has the right to the premium under its right under the contract once the company has undertaken to indemnify the insured for issues that may be sustained. In order to pay for the liabilities related to the policies they underwrite; insurers use the premiums that clients and policyholders pay them. Certain insurers invest their premiums in order to increase their returns. By doing this, the businesses can assist an insurer in maintaining competitive pricing in the market by offsetting some of the costs associated with providing insurance coverage.

In certain cases, the commitment to pay the payment later may be the basis for concluding the insurance contract. According to court rulings, these insurance contracts are enforceable after the payment is paid in certain situations. In NICON v Power & Industrial Independent Engineering Co. Ltd.[18] The parties agreed on a contract of insurance and on the 15th January 1986, the appellant issued a Marine Insurance Open Cover and later a certificate of insurance. The premium was paid on demand on 24th February, 1986 which indicates that the agreement included a pledge to pay the premium upon demand and ascertained.

The court held that there was no substance in the argument that the premium was paid late and voids the contract and that a contract of insurance may involve a promised to pay the premium and the right of insurer to indemnify is not conditional on payment of premium. Nonetheless, if an express clause states that payment of the premium is required prior to the validity of an insurance contract, that becomes an important ingredient forming part of the contract to be created. The conditions of an insurance contract determine the premium amount that must be paid, which is often calculated based on risk. In certain instances, particularly when it comes to auto insurance, all insurers are required to utilize a uniform formula to determine prices. The premium is comprised of the following: additional charges, office expenditures, and the premium determined based on risk. The cost of the premium varies according to the form of insurance coverage and the kind of protection that the assured needs. Wider protection may therefore necessitate higher premiums, and vice versa. There is no need to know the exact premium amount. Before the contract is finalized, the parties must come to a clear understanding on the amount.

In Industrial and General Insurance Co. Ltd. Kechinyere Adoga,[19] it was held that section 50 of the Insurance Act does not contemplate instalment payment of premium, before a contract is binding on both parties, the entire amount must be paid. Similarly, in London & Lancashire Life Assurance C. V. Fleming[20], the payment of premium in advance is usually made a condition precedent to liability, not only in the case of the first premium but also of the renewal premium.

According to the court in Jammal Transport v. African Insurance Co[21], the insured's failure to pay the agreed premium under the contract of insurance when it is due does not absolve the insurer from liability which he has undertaken under the contract unless there is a provision in the contract to that effect or the failure to pay the premium amounts to a repudiation of the contract. The stature that now made no cover, no premium provision. Even after the premium is paid, an insurance contract is deemed completed under the Marine Insurance Act. For example, subsection 2 of the Insurance Decree states that where the insurance contract is effected on a premium to be arranged and no arrangement is made, then a reasonable premium upon payment, and where an additional premium is to be arranged but no such arrangement is made, then a reasonable additional premium shall be payable. All insurance companies are, however, prohibited from raising premium rates on their own without the commissioner's prior consent.[22]

It is worthy of note that due to the nature of this question, only "Premium" will be exhaustively dealt with. Premium simply refers to the sum of money or consideration paid by the insured to the insurer, which entitles him to claim compensation or cover in the event of the happening of the risk insured against. The court in the case of Wooding v. Monmoutshire and South Wales Mutual Indemnity Society[23] simply describes it as "payment for an insurance agreement". A premium is a sum of money paid above and above some fundamental or inherent worth; it is the cost of being shielded from risk, damage, or loss (e.g. insurance or options contracts). It may also mean the sum that the insured pays the insurer on a regular basis to cover his risk. A premium is also the amount of money, that

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15 Section 50(1) of the Insurance Act, 2003.

16 Suit No. 166/81 of 14/1/82, Ibadan. Available online: https://hiwriters.com.ng/product/analysis-of-the-basic-principles-of-insurance-under-the-nigerian-law-of-insurance/ (accessed on 24 July 2024).

17 Charles Chime v. United Nigeria Insurance Co. Ltd. (1972) E.C.S.L.R. 808.

18 NICON v Power & Industrial Independent Engineering Co. Ltd. (1986) 1 NWLR Pt. 14, P.1.

19 General Insurance Co. Ltd. Kechinyere Adoga (2009) LCN/3299(CA).

20 London & Lancashire Life Assurance C. V. Fleming (1897) AC 4 99 P.C

21 Jammal Transport v. African Insurance Co. (1971) N.L.C.R 145.

22 Section 51(1) of the Insurance Act, 2003.

23 [1939] 4 All E.R. 570 (H.L.). (3).

is, the consideration furnished and paid periodically by the insured to the insurer (insurance company) in exchange for coverage. In the case of Sun Insurance Office v. Clark,[24] Lord Atkinson defined premium to be "the consideration which the assured in exchange for their undertaking to pay the sum insured in the event insured against". Thus, the payment of a premium immediately guarantees financial coverage owed to the insured in so far, the insurance terms and conditions are followed. It serves as an exchange element in the bargain which is required to stand before the insurance company can honor their own obligation under the insurance contract. Premiums also represent sources of funds for the insurance companies from which the insurer can indemnify its client

From the above, it can be seen that the importance of premium cannot be overemphasized and it is a requirement of insurance law. Looking deeply into premiums, it can be concluded that where there is no payment of premiums, coverage will not stand.

Calculation of Insurance Premium

When determining how much to charge each individual who wishes to cover certain risks for something important to them, insurers use their commercial judgement. For instance, the insurer will determine what risks are worth insuring and how much your car is worth (market value) when you apply for a comprehensive or third-party property policy. You might also be able to designate the vehicle's insured value with the insurer. Data is consulted by insurers while making choices. If the vehicle is stored in a suburb where auto theft is more common, you will be considered a higher-risk driver and could have to pay a higher premium than someone whose vehicle is kept in an area where auto theft rates are lower. Other factors that insurers may consider include the diver's age, sex, and claims history. This is because certain groups of people have a statistically higher likelihood than others of filing a claim under their policy. An additional variable that impacts risk is the driver's individual driving history. The majority of insurers will consider if you have been involved in prior collisions at fault or if you have received a fine for speeding, drunk driving, or other moving violations. The insurers will use all of these variables to determine a fair premium.

Factors that Determine Premium Calculations

The insurance premium serves as compensation for the insurance company's assumption of risk and provision of coverage. The amount of the premium is determined by several factors, including:

1. Risk Assessment: Insurance companies evaluate the level of risk associated with insuring the policyholder. Factors such as the insured age, health status, occupation, location, claims history, and the type and value of the insured property are taken into consideration. Higher-risk individuals or properties may attract higher premiums.
2. Coverage Limits: The extent of insurance coverage desired by the policyholder also affects the premium amount. Higher coverage limits or broader coverage options often result in higher premiums.
3. Deductibles: The amount that the insured party consents to pay out-of-pocket prior to the start of insurance coverage is known as the deductible. Policies with lower deductibles generally have higher premiums because the insurance company assumes a larger portion of the risk.
4. Insurance Type: Different types of insurance (e.g. auto insurance, health insurance, homeowners' insurance) have their own unique risk profiles and pricing structures. Premiums will vary based on the specific type of insurance being purchased.
5. Insurance Company Factors: Each insurance company may have its own proprietary underwriting models and rating systems, which can result in different premium rates for similar coverage. Factors such as the insurer's claims experience, operating costs, and profit margin targets may also influence the premium calculation.

It is important to note that insurance premiums are subject to change over time. Insurance companies may adjust premiums based on various factors, such as changes in risk assessment, inflation, regulatory requirements, or market conditions. Policyholders have the responsibility to pay their premiums on time and in accordance with the terms of the insurance policy. Failure to pay premiums within the specified timeframe may result in a lapse or cancellation of the insurance coverage.

Payment of Premium in Part

The need in section 50(1) of the Act 2003 that premiums be paid in full and in advance makes it significant. A partial payment of the agreed-upon premium does not mean that the condition antecedent has been met. In Industrial and General Insurance Company Limited v. Kechinyere Adogu [25] The Court of Appeal determined that section 50(1) of the Act's condition precedent was not satisfied by a partial premium payment. According to Abba Aji JCA, "If the section intends to make payment of premium in part or by instalment, it would have stated so as what is not stated is meant to be excluded. Section 50 of the Act therefore does not contemplate install mental payment of premium in an insurance contract. The payment of premium is a condition precedent to the contract of insurance and where parties have entered into a conditional contract, the condition precedent, like in the instant case, that is, the full payment of premium must happen before either party can become bound by the contract."

Post-dated Cheques Payment

In the case of Prestige Assurance Plc v Sara Foods[26], A warehouse fire damaged the things kept there. Postdated checks that the insured had written were accepted by the insurer as full payment for the premium, and some of the checks had already been granted credit prior to the loss. In response to an insured party's claim, the insurer invoked section 50(1) of the Act to disavow liability based on the payment made for the premium was not complete upfront. The insurance contract was declared unlawful and unenforceable by

[24] 49 SLR 1038[1912] UKHL 1038.

[25] Industrial and General Insurance Company Limited v. Kechinyere Adogu (Mrs.) (2009) LPELR-15093(CA) Aji, J.C.A. at Pp. 20-2.

[26] Prestige Assurance Plc v. Sara Foods. unreported CA/L/60/2015) delivered 5th July 2017.

the Court of Appeal. Ekanem, JCA said, "The payment of premium by post-dated cheques runs foul of the requirement of section 50(1) of the Insurance Act, 2003. Acknowledgement and receipt of such post-dated cheques, as in this instance, does not change the situation as they do not turn those post-dated cheques into money. Unless and until a cheque is honored, it cannot be said to be the same thing as money. There was therefore no valid contract of insurance to ground the respondent's claim of indemnification against the appellants."

In another case; Anglia Underwater Survey Limited v. Leadway Assurance Company Limited[27] the Federal High Court of Nigeria considered whether part payment of premium is sufficient to validate an insurance contract. In this case, Anglia entered into an insurance contract with Leadway in relation to its patrol boat that was in Greece. The contract had a tenure of one year. However, Anglia paid an amount that was equivalent to half of the premium. Therefore, the cover under the contract was pro-rated to six months. When the initial six months elapsed, it became necessary for the vessel to travel from Greece to Nigeria. Leadway issued payment advice for a "one-off voyage from Greece to Nigeria commencing from 28th February 2015 to 31st March 2015. The patrol boat set sail on the 28th of February 2015. Unfortunately, the vessel encountered a mishap on the voyage on the 11th of March 2015 and sank at the coast of Tunisia. Anglia thereafter proceeded to pay the premium on 12th March 2015. Anglia sued Leadway to recover the insured sum. Leadway disputed liability for several reasons, including the failure of Anglia to pay the premium relating to the one-off voyage before the patrol boat capsized. Anglia argued that since it had initially taken out a one-year insurance policy and made payments (for six months and for the one-off voyage), its previous payments amount to part payment of the premium. The court ruled that there was no valid insurance contract because of the fact that the premium had not been paid in full at the patrol boat sunk.

When the insurers accept the assured's proposal and give credit coverage, the Insurance Contract is considered to have been completed, as per section 23 of the Insurance Act of 1961. However, in order for an insurance contract to be effective and for claims to be filed, section 37 of the Insurance Act of 1997 requires that an insurance premium be received. A risk covered by insurance is uninsured unless the payment is paid.

Hence in Leadway Assurance v J.U.L Ltd,[28] The respondent provided the appellant with two "marine insurance policies" to cover the products that were imported. The ship departed port on March 6, 1997, and the two policies were issued on March 10 and 12, 1997. However, the premium was not paid at the time of policy issuance. The appellant was notified that the items were lost at sea on March 18, 1997. As a result, the response declined to fulfil its end of the bargain between the parties. As a result, the respondent was sued by the appellant for further damages as well as the consignment's worth. The question to be answered was whether or not contracts for maritime insurance were subject to the no premium, no cover clause. The Supreme Court in this case equally emphasized on the importance of the payment of premium as provided in section 50 of the Act by stating that "the premium payment is a condition precedent to a valid contract of insurance and therefore there cannot be cover in respect of insurance risk unless or except the premium is paid in advance. One broad issued that was settled in this case is that the provisions of the Marine Insurance Act cannot be operated and interpreted independently from the Insurance Act. It was held that no liability attached to the appellant and the contract of Insurance between the appellant and the respondent was void and unenforceable because no premium was paid for the coverage before the claim.[29]

The 2003 Insurance Act has by some of its provisions, protected the insured whose positions were precarious under common law with issues of "no premium, no cover". Under section 50 where payment of premium was made a condition precedent for a valid insurance contract and claim settlement. Section 50 where payment of premium was made a condition precedent for a valid insurance contract and claim settlement. Section 41 also focuses on the remittance of premiums collected by brokers on behalf of the insurer within 30 days of such collection. It was clearly stated under Section 37 of the 1997 Insurance Decree that "no premium, no cover".

It is a requirement of insurance law that there can never be a binding contract of insurance without payment of insurance premiums. In insurance transactions, consideration is furnished by the insured in the form of payment of premium. It is a basic principle that there is no insurance cover if premium is not paid.[30] Also, in the case of Quackenbush V. Allstate Insurance Co. 1996, the Supreme Court of the United States held that an insurance policy could be cancelled due to the insured's failure to pay the premium, which resulted in the loss of coverage. Premium as consideration is an exchange element in the bargain and there is no insurance if premium is not paid. Liability to pay premium is material and fundamental to the assumption of risk under an insurance contract.

Liability to pay a premium is material and relevant to the risk. It is a fundamental term of an insurance contract. The rate of premium payable in respect of every insurance transaction is a matter within the absolute discretion of the insurer. The insurer has the right to the premium by its right under the contract once the company has undertaken to indemnify the insured for issues that may be sustained. It follows that, where the cover was granted on a credit basis, the insurer may claim the premium at any time during the subsistence of the contract or even after the expiry of the period of cover whether or not a claim was made.

Before the enactment of the 1991 insurance decree, insurance companies were allowed to issue cover on credit. However, as a result of the problem that went with issuing insurance cover on credit, the 1991 decree has abrogated the system. Under the 1991 decree, section 27 provides that "The receipt of an insurance premium shall be a condition precedent to a valid contract of insurance and there shall be no cover in respect of an insurance risk unless the premium is paid. Premium therefore is a very important factor for a valid insurance contract to exist, under which an insured will subsequently claim, there is an indisputable duty on the insured to pay all his premium up to the time the event insured occurs. The importance of premium can be drawn from the following postulations. In the case of Sun Insurance Office v. Clark[31] per Lord Atkinson was of the view that 'the premium is the consideration, which the assured in exchange for their undertaking to pay the sum insured in the event insured against'. The view that" The premium is the consideration, which the assured in exchange for their undertaking to pay the sum insured in the event assured against". A written or implicit agreement stating the amount and method of payment for a premium must be in place before it may be paid with cash or a cheque. The whole

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27 Anglia Underwater Survey Limited v. Leadway Assurance Company Limited. Unreported, delivered on 30th September 2020.

28 Leadway Assurance v J.U.C. Ltd. (2005) 5 NWLR Pt919 at P. 534.

29 - See also Chime v Unic (1972) 2 ECSLR 808 at 811and Eseimo v Claime (1992) ECSLR 508.

30 - See Charles Chime v. United Nigeria Insurance Co. Ltd (UNIC) (*Supra*) (1972) 2 ECSLR 808 at 811.

31 -Sun Insurance Office v. Clark (1912) A.C 443 at 460.

premium amount must be paid. The court has ruled that insurance like this cannot prevail if it is paid in half. In conclusion, it will be unrealistic to anticipate the existence of insurance in the absence of a premium. Also, in the case of British Marine Insurance Co. v. Jenkim [32] Lord Bigham J. decided that 'any consideration sufficient to support a simple contract may constitute, the premium in a contract of insurance'. Therefore, in the assurance is required by the mutual insurance organization by contract to help cover any losses his fellow members may incur in place of or in addition to a set periodic payment, and he also has the right to have his losses covered by them. The amount he paid for his insurance because of his responsibility to his fellow members.[33]

Non-payment of premium

If a premium required by an insurance contract is not paid, the insurers may bring an action against the insured. The insurers are not responsible for any loss that may occur before the premium is paid, and the insured cannot avoid accountability for the payment. An insurer typically sues for the payment of the premium, but in cases of contract breaches, the insurer may also sue for specific or special damages. For instance, if the insurer incurs expenses in negotiating an insurance contract which was later repudiated by the insured, the insurer can sue for damages. This was also the decision in Niger Insurance Co. Ltd v. Abed Brothers Ltd & Anor[34] , where the insured was held liable for damages. In the case of premiums payable in instalments, an insurer may occasionally include a forfeiture clause in the policy if the payments are not properly paid. As a result of a breach of a contractual obligation, the insurer may impose the forfeiture clause and terminate the policy.

Refund of Premium

In situations where consideration has completely failed or when the contract was entered into due to a factual error, the premium is theoretically refundable. Examples include situations where an insurer lacked the legal capacity to enter into a specific type of insurance contract, or where the insured was never in danger because the contract's subject matter didn't exist at the time the insurance was gotten fact that was unknown to the parties-or the insurance contract was unlawful but the insured was unaware of this unlawfulness. Premium refunds can occur for non-disclosure breaches, but insurers can avoid contracts for a material term, fraud, or fundamental term breaches, as per section 55(1) of the Insurance Act 2003. This must however be read subject to section 55(4) which provides; "nothing in this section shall prevent the insurer from repudiating a contract of insurance on the ground of breach of a material term before the occurrence of the risk or loss insured against.

Reduction in Premium

In practice, there is always a reduction of 10% in premiums payable in situations where an insured is having two or more insurable assets in its fleets especially in motor insurance policies. Again, also in situations under motor insurance policies where an insured has an accident-free year, the insured granted a no claim discount of 10% reduction in premium payable.

Promise to Pay Premium

Common Law requires the liability to pay rather than the payment of the premium before there can be a binding agreement. As a result, consideration may be future, executory, or executed and prior premium payment is not necessary for the formation of a legally binding insurance contract. When a "premium to be arranged" clause is agreed upon, an insurance contract may be considered valid. The parties typically agree on the amount, method and frequency of payments and the insurer sets the rate based on a number of factors, including the history of claims, a contract may involve a promised mere to pay the premium. In support of the contention, Viscount Maughan in Wooding v. Monmouthshire and South Wales Mutual Indemnity Society Ltd[35], His Lordship said, "there is however no doubt that a contract of insurance may involve merely a promise by the assured or his broker to pay the premium and this is implicitly acknowledged in such marine insurance cases".

This Common Law position was followed by the Nigerian Supreme Court in National Insurance Corporation of Insurance V. Power and Industrial Engineering Co. Ltd.[36] In this case, on January 3, 1978, a shipment of rice was sent to the respondent from Bangkok to Lagos. The respondent sought the appellant for a marine insurance policy later that month. The parties agreed. The appellant granted a marine open cover and a certificate of insurance on February 15, 1978. Despite the fact that both met the requirements of section 24 of the Marine Insurance, the premium wasn't paid until February 24, 1978, which was after the risk had materialized. The appellant rejected liability despite the respondent providing notification of loss on the basis, among other things, that the premium was not paid prior to the accident. Obaseki, JSC, in the lead judgement and relying on Viscount Maughan's decision in Wooding's case said that; "A contract of insurance may involve merely a promise to pay the premium. It is not the law that there must be an implied in a contract of insurance of insurance a provision that the right of indemnity by the insured is conditional on his previous payment of the premium". The court in this case restated the position of the law that a contract of insurance may involve merely a promise to pay the premium.

Payment of Premium as a Condition Precedent for Valid Insurance Contracts

Because premiums are a prerequisite to an insurance contract, their significance in an insurance contract cannot be overstated, as they serve as the insurance firms' primary source of funding. One of the sources of income that the insurers used to indemnify their

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32 British Marine Insurance Co. v. Jenkim (1900) I.Q.O 299 at 403.

33 Thomas v. Richard and Evans & Co. (1927) 1K.B. 33; Jones v. The South West Lancashire Coal Owners' Association Ltd (1927) 11 TC 790.

34 Niger Insurance Co. Ltd v. Abed Brothers Ltd & Anor. (1976) LPELR-1995 (SC).

35 Wooding v. Monmouthshire and South Wales Mutual Indemnity Soc. Ltd. (1939) 4 All E.R. 570.

36 National Insurance Corporation of Nigeria v. Power & Industrial Engineering Company Ltd. (1986) LLJR-SC (accessed on 24 July 2024).

clients was the total amount of money that each insured paid into a common pool. It will be irrational to assume the existence of a policy in such a situation. As a result, "no premium no cover" establishes premium as a necessary condition for the validity of an insurance contract. The primary goal of insurance, as stated in an insurance contract, must be loss prevention and security; that is, the idea is to keep someone or a group from suffering, to compensate them fairly, to return them to their pre-insured financial situation, and not to profit from the insurance.

4. The Significance of Section 50 of the Insurance Act

The receipt of an insurance premium shall be a condition precedent to a valid contract of insurance and there shall be no cover in respect of an insurance risk unless the premium is paid in advance," according to section 50(1) of the Insurance Act of 2003. The Court of Appeal discussed section 50(1) of the Insurance Act 2004 in the case of Corporate Insurance v. Ajaokuta Steel where it ruled that the principle of 'no premium, no cover' as a condition was a prerequisite to the creation of a legally binding contract of insurance. Therefore, the insurance contract was unlawful and unenforceable due to the insured's failure to pay a premium prior to the policy's beginning. This decision has now been confirmed by the Supreme Court in the case of Corporate Insurance v Ajaokuta Steel Company[37] to the effect that 'no premium, no cover' is important to the validity of an insurance contract. Subsequently, the insurance contract becomes null and void and unenforceable the moment the insured person fails to pay the premium before the inception of the policy rendered. Consequently, and since 2004, there have been issues arising from the position of the law that have culminated into several litigations in the court that are worth examining.

Furthermore, the payment of premium is permitted to be collected by an insurance broker and such will be accepted to have been paid on behalf of the insured. This has been supported statutorily in the provision of section 50(2) Insurance Act 2003 which is to the effect that the insurer will not be held liable where the premium has been purportedly paid for by an insurance broker provided the payment is acknowledged and in the custody of the insurance company. In the case of Shoreline Lifeboats v. Premium Insurance Brokers,[38] the Court of Appeal decided that where the payment of a premium was made for and on behalf of an insured person by a broker, it was good and deemed payment by the insurer himself.

Contrary to the Common Law position, advance payment of premium is a condition precedent to a valid contract of insurance. This provision was first enacted in 1991 and is now contained in section 50(1) of the Insurance Act 2003 which provides that: "The receipt of an insurance premium should be a condition precedent to a valid contract of insurance and there shall be no cover in respect of an insurance risk unless the premium is paid in advance."

Accordingly, an insurance contract is not valid until consideration is given. just like with any other contract. According to this Act, any insurance premiums that an insurance broker receives about an insurance business that is conducted through the broker are considered to have been paid to the relevant insurer. However, Section 41 of the 2003 Insurance Act focuses on the remittance of premiums collected by brokers within 30 days of such collection. Therefore, the "no premium, no cover" rule governs the position of the law regarding premiums. The decision in National Insurance Corporation of Insurance v. Power and Industrial Engineering Co. Ltd.[39] contradicts the statement of the trial judge in Esewe v. Eseimo,[40] which states that payment of premium is needed before a valid contract of insurance could come into being. In Corporate Insurance Ltd. v. Ajaokuta Steel Co., the appellant, a corporation owned by the Federal Government of Nigeria, entered into insurance contracts with the respondent concerning fine and special perils insurance cover for the blast furnace of the steel plant for the appellant. A clause in the insurance contract purported to waive the principle of no insurance no cover' by providing that the consideration for the cover was to be the agreement to pay a premium and not necessarily the actual payment of it such that the insurance policy was binding on the insurer and insured with full force as if the said premium had been paid in full. The respondents subsequently sued to claim, inter alia, the amount of premium in arrears, and one of the issues that came up before the Court of Appeal was whether there was an insurance contract, despite the non-payment of the premium. In accordance with section 50(1) of the Insurance Act 2003, the Court unanimously decided that payment of the premium in advance is a prerequisite for the validity of an insurance contract and that coverage for an insurance risk cannot be provided otherwise.

Before 1991, unless clearly stated in the contract, actual payment of the premium was not a fundamental condition of an insurance contract. However, the post-1991 position holds that premium payment is a requirement before a legally valid agreement can be made. Unless the insurer disputes the payments, it is primarily the insured's responsibility to provide proof of premium payment. A legitimate insurance contract requires the payment of the premium as a prerequisite, and where parties have engaged in a conditional contract, the full payment of the premium is the prerequisite before any party is obligated by the agreement. In IGI Co. Ltd v. Adagu,[41] the Court of Appeal stated clearly that; section 50 of the Insurance Act 2003 does not contemplate instalment payments of premium in an insurance contract. Non-payment of premium is a premium required by an insurance contract is not paid, the insurers may bring an action against the insured. The insurers are not responsible for any loss that may occur before the premium is paid, and the insured cannot avoid accountability for the payment. An insurer typically sues for the payment of the premium, but in cases of contract breaches, the insurer may also sue for specific or special damages. For instance, if the insurer incurs expenses in negotiating an insurance contract which was later repudiated by the insured, the insurer can sue for damages. This was also the decision in Abed Brothers v. Nigeria Insurance Co. Ltd, where the insured was held liable for damages. In the case of premiums payable in instalments, an insurer may occasionally include a forfeiture clause in the policy if the payments are not properly paid. As a result of a breach of a contractual obligation, the insurer may impose the forfeiture clause and terminate the policy.

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[37] Corporate Ideal Insurance Ltd v. Ajaokuta Steel Co. Ltd & 2 Ors. (2014) LLJR-SC Available online: http://compulaw.net/law_cases/Ajaokuta%20Steel%20Company%20Ltd%20v%20Corporate%20Insurers.html (accessed on 24 July 2024).

[38] Shoreline Liftboats Nigeria Ltd. & Ors. v. Premium Insurance Brokers Ltd. & Anor. (2012) JELR 34917 (CA).

[39] (1989) JELR 42837 (CA).

[40] (1992) ECSLR 508.

[41] (2010) 1 NWLR (Pt. 1175) 337.

5. The Effects and Importance of Premium Payment in Insurance.

The payment of the premium in insurance has several effects, both for the insured party and the insurance company. Here are the key effects:

1. Validity and Activation of Coverage: The payment of the premium is a crucial step in activating and validating the insurance coverage. Until the premium is paid, the insurance contract may not be considered legally binding, and the coverage may not be in effect. Once the premium is paid, the policyholder can expect the insurance company to fulfill its obligations as outlined in the policy.
2. Financial Protection: Insurance provides financial protection against unforeseen events or risks. By paying the premium, the insured party transfers the financial burden associated with potential losses to the insurance company. In exchange for the premium, the insurer assumes the responsibility to compensate the insured party for covered losses or provide other agreed-upon benefits.
3. Risk Pooling and Loss Sharing: Insurance operates on the principle of risk pooling, where premiums collected from a large number of policyholders are used to pay for losses incurred by a few. By paying premiums, policyholders contribute to the collective pool of funds that the insurer utilizes to cover claims and maintain the financial stability of the insurance company.
4. Insurance Company Revenue: Premium payments serve as a primary source of revenue for insurance companies. These funds are used to cover operating expenses, claims payouts, and administrative costs, and to generate profits. The payment of premiums allows insurers to sustain their business operations and fulfil their contractual obligations to policyholders.
5. Policy Continuity and Renewal: Timely payment of premiums is essential for maintaining continuous coverage. If premiums are not paid on time, it can result in a policy lapse or cancellation. Insurance companies may provide a grace period for premium payments, but failure to pay within the specified timeframe can lead to a loss of coverage. Paying premiums on time ensures the policy remains active and can be renewed as needed.
6. Premium Adjustments: In certain types of insurance, such as property and casualty insurance, the premium amount may be subject to adjustment based on changes in risk factors or other policy conditions. For example, if the insured party files claims or experiences changes in their risk profile, the insurance company may adjust the premium amount during the policy term or upon renewal.

The general public and even the commissioner typically have difficulty learning when premium rates have been raised by the insurance firms, with the exception of auto insurance instances, when the table rate of premiums is publicly available and applies to all insurance companies. The Insurance Act, 2003 permits the commission to organize an ad hoc committee to handle tariff matters in the Nigerian insurance industry in order to attain a certain degree of uniformity with regard to the premiums charged by the insurers.[42] The group, dubbed the Rating Committee, is also in charge of determining and examining the insurance commissions paid to brokers and agents. The Act also places restrictions on the maximum commission that a broker or agent may be entitled to.[43] However, the commissioner must approve any changes made to the commission.[44] The maximum commission that can be paid to an agent is 50% of the commission that can be paid to a broker.[45] Any violation of the Act's requirements is subject to approval by the commissioner, however the Minister/Commissioner, who has the last say in the case, may hear an appeal from the offended insurer, agent, or broker.[46]

The printed policy lays out the terms and restrictions that apply to the transaction. However, the policy only serves as documentation of the contract that resulted from the parties' agreement, not the contract itself. The premium is due from the insured party prior to the incidence of the event insured in order to improve the agreement. The insurers operate under the premise that the total amount of premiums paid throughout the course of his business will cover all potential claims, his operating costs, plus a tiny profit. Because there is a chance that a catastrophic event will deplete the entire premium fund and result in a large backlog of claims exceeding the premium fund, insurance companies are legally obligated to preserve a certain relationship that exist between the policyholder's assets, premium income, or the liability assumed.[47]

6. The Position of the Nigerian Law on the Premium Payment.

The Nigerian Insurance Laws mandate that the insured pay the premium in order to fulfil their obligation to purchase adequate risk coverage. According to section 23 of the Insurance Act of 1961, an insurance contract is considered finalized when the insurers accept the assured's proposal and give credit coverage. But the 1991 Insurance Decree abolished the credit-based payment system due to the issue of providing insurance coverage on credit. According to section 37 of the Decree, 1997, "no premium, no cover" means that there would be no coverage for an insurance risk until the premium is paid. Receiving an insurance premium is a requirement prior to a valid insurance contract. According to section 50 (1) of the Insurance Act 2003, "there shall be no cover in respect of an insurance risk unless the premium is paid in advance. The receipt of an insurance premium shall be a condition precedent to a valid contract of insurance." The remittance of premiums received by brokers on the insurer's behalf within 30 days after such receipt is another topic of section. [41]

Paragraph 4 of 2013 NAICOM guidelines, state that all insurance coverage must be strictly no premium, no cover. It further states that coverage for which money has been received—either directly from the insurer or indirectly through a broker holding a valid license—must be recorded in the insurer's accounts as income. The guidelines were introduced with the goal of limiting insurers'

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42 Section 52(1) of the Insurance Act, 2003.

43 Ibid.

44 Ibid, Section 53(2).

45 Ibid.

46 Ibid, Section 53(4).

47 Insurance Company Act 1961, s.4. Available online: https://lawsofnigeria.placng.org/laws/I17.pdf (Accessed on13 July 2024).

exposure to responsibility for unpaid premiums and safeguarding the insurance industry's financial stability. In addition, paragraph 4 states that any insurer who provides coverage without first receiving a premium or a notice of premium receipt from the appropriate insurance broker will be subject to a N500,000 fine for each cover they provide. This could also serve as justification for the insurer's licence to be suspended.

After taking into account the aforementioned clauses, it is rather clear that paying an insurance premium is a requirement before an insurance contract may be considered enforceable. It is also undeniable that an insurance risk cannot be covered if a premium is not paid in advance. Section 50(1) of the Insurance Act makes it clear that an insurance contract can only be deemed effective if the insured party pays the amount in advance.

There has been a proposal stating that a contract between the insurer and the insured cannot override the presumption that premium payments must be made in full, as well as in advance. It has also been argued, when interpreting Section 50(1) of the Act according to the literal rule of interpretation, that although both the insurer and the insured are free to choose the scope and duration of their coverage as well as the amount of premiums that must be paid, those premiums must be paid for a specific amount of time and in advance of that coverage.

Nonetheless, it has been maintained that the beneficiaries are exempt from the Act's Section 50(1) statutory requirement. The aforementioned argument finds additional support in the settled case of Ariori v. Elemo, whereby the Supreme Court addressed the question of the degree to which an individual might relinquish legally granted rights, as per Eso, JSC. The following was said by JSC in Ariori v. Elemo, Eso:

When a right is conferred solely for the benefit of an individual there should be no problem as to the extent to which he could waive such right. The right is for his benefit. He is sui juris (of age). He is under no legal disability. He should be able to forgo the right or in other words waive it either completely or partially, depending on his free choice. The extent to which he has forgone his right would be a matter of fact and each case will depend on its peculiar facts. A simple example could be seen in a right which has been conferred by contract. A person who is a beneficiary to a contract, whereby the benefit is principally for him, has full competence to waive that right. What obtains in the case of a contract should go for benefits conferred by statute. A beneficiary under a statute should have full competence to waive those rights once the rights are solely for his benefit. The only exception I can think of is where the statute itself forbids waiver of its statutory provisions.

Insurance companies should be free to choose when and how much premiums are due because they are the ones who benefit from the requirement that premiums be paid in advance and in full. This is because beneficiaries under statutes have the ability to waive these rights, unless the statute specifically prohibits it.

Moreover, one could argue that the goal of the NAICOM Guidelines and Section 50 of the Insurance Act is to protect the insurance industry's solvency by limiting undue exposure and obligation to the insured—a benefit that is only available to the insurer. It is imperative to acknowledge that there exist two distinct categories of statutory provisions: required and directory provisions. It goes without saying that a legislative provision that is mandatory cannot be waived, but a directory provision can. According to the ruling in Raji v. Oladimeji, a statutory provision required or directory status is determined by whether it serves the interests of the state, the public at large, the person, or a class of individuals. The Court determined that insurers are not granted the ability to waive their rights under Section 50(1) of the Act in the case of Corporate Ideal Insurance Limited v. Ajaokuta Steel Company. Given this, it is sufficient to state that the Insurance Act's requirements for premium payment as a prerequisite to a legally binding insurance contract may only be mandatory and not directed, as neither the insurer nor the insured may waive them.

7. Conclusions

It is thought that in order for an insurance contract to become enforceable, the premium must be paid. The insurer is not required to offer coverage or benefits under the policy until the payment is paid. It is the policyholder's obligation to pay the premium according to the conditions specified in the insurance agreement. By requiring payment of the premium as a condition precedent, the insurance company guarantees that it has received consideration (in the form of a premium) from the insured before assuming the risk associated with the provision of insurance coverage. It establishes a mutual understanding between the parties involved and means the commitment of the insured to fulfil his obligations under the contract. If the insured does not pay the premium within the stimulated time, the insurance contract may be considered invalid or ineffective. In such cases, the insurance company is generally not obligated to cover or pay the claims. The insured may lose the benefits and protections provided by the policy until the premium is paid and the contract is reinstated or renewed. Policyholders must be aware of their premium payment obligations and make timely payments to maintain the validity of their insurance coverage. Payment of the premium is essential for activating coverage, ensuring financial protection, maintaining policy continuity, and providing revenue for insurance companies. It is a fundamental element of the insurance contract, allowing both parties to fulfil their obligations and benefit from the risk-sharing mechanism provided by insurance. Therefore, it is imperative for individuals and businesses who have negotiated insurance contracts to know that the complete premium is required to be paid before the contract for its validity and enforceability. Therefore, it is impossible to overstate the significance of premiums in insurance contracts. The money that various insured pay into a common pool as income is where insurance companies get their client indemnification. The payment of premiums is unquestionably a requirement for an insurance contract; without it, there can be no legal contract of insurance. To greatly contribute to the current state of knowledge on contentious issues surrounding the public perception of the insurance industry, it offers information on the comprehension of the fundamental idea, nature, and practice of insurance laws in Nigeria concerning the significance of premium payment.

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