

A Case for Summary Disposal of Arbitral Claims in Nigeria

Lessons from the Arbitration Act 2025
of England and Wales

Introduction

In February 2025, the Arbitration Act 2025 of England and Wales (AA 2025) received royal assent, establishing a new legal framework for arbitration in England and Wales and Northern Ireland. The AA 2025 introduced a new provision that allows an arbitral tribunal to determine a claim or an issue summarily. Section 39A of the AA 2025 provides that, except the parties agree otherwise, a tribunal may summarily make an award as regards a claim or an issue if it considers that the claim or issue or a defence to a claim or issue has no real prospects of succeeding. The implication is that this will allow early determination of issues.

On the other hand, the Arbitration and Mediation Act 2023 of Nigeria (AMA 2023) lacks a corresponding provision. This means that there is no express provision allowing Nigerian-constituted arbitral tribunals to summarily determine claims or issues. This paper will highlight the concept of summary disposal of disputes in civil litigation and its importance in arbitration. It will argue that while there is a need to consider codifying the concept in Nigeria, a purposive interpretation of the current arbitration legal framework could achieve the desired goal.



Summary disposal of disputes

As with other jurisdictions,¹ summary disposal of disputes is not a novel concept in Nigeria. Generally, the rules of the various courts in Nigeria empower courts to decide a claim summarily upon a party's application.² This differs from a case where the court disposes of a suit at a preliminary stage (without a hearing on the merits) because it lacks jurisdiction. The summary disposal of disputes, here, is known as summary judgment, which a court grants where there is no genuine issue of material fact between the parties.³ It is a procedural device that allows the speedy disposal of a controversy without the need for trial,⁴ with the objective of preventing delay and saving judicial time.⁵ Considering its place in civil litigation in Nigeria, summary disposal of disputes may be a 'potent power' for arbitral tribunals in Nigerian-seated arbitrations.⁶

Importance of summary disposal of disputes in arbitration

It has been the position that arbitration's key advantage over domestic litigation is that it is quicker. However, it is debatable whether this position holds true today.⁸



Prolonged Timelines & Complexity

Presently, the disputes that are resolved by arbitration have become more complex and technical. In fact, some arbitral proceedings may last **well over 24 months**.⁹



Deliberate Delay Tactics

The prolonged duration of arbitration proceedings may be exacerbated by the parties' delay tactics,¹⁰ especially where a good case is absent.



Considering that quick dispute resolution may no longer be arbitration's advantage over litigation, summary disposal of claims becomes an important feature in the proceedings."

Summary disposal of arbitral claims in Nigeria



As noted earlier, the AA 2025 introduced an important clause to facilitate summary disposal of claims in arbitration in England, Wales, and Northern Ireland. Nigeria's AMA 2023 does not contain a comparable provision. Despite this gap, the AMA 2023 can be interpreted to permit the summary disposal of arbitral claims in Nigeria. If the objective of interpretation is to discover the intention of the legislature in making the law, it means that an interpretative approach that aligns with and expresses the purpose of the law and the intention of the lawmaker should be preferred.¹¹ When given a purposive interpretation, the provisions of the AMA 2023 may allow for summary disposal of arbitral claims.



It is worth noting that under the "objectives and application" of the AMA 2023, "Parties, arbitrators, arbitral institutions, appointing authorities and the court shall do all things necessary for the proper and expeditious conduct of the arbitral proceedings."¹² This indicates that the AMA 2023's goal—and, by extension, that of the lawmakers—is to ensure swift arbitral proceedings. In addition, the AMA 2023 grants an arbitral tribunal some discretion regarding the arbitral proceedings.¹³ Further, in resolving the dispute between the parties, the AMA 2023 enjoins an arbitral tribunal to avoid unnecessary delay or expense.¹⁴ Read together from a purposive perspective, one can argue that an arbitral tribunal, in exercising its discretion and owing to the duty to avoid delay, may summarily dispose of a claim submitted to it.



In addition to a purposive interpretation of the AMA 2023, arbitration institutions in Nigeria may consider including provisions that allow arbitral tribunals to summarily dispose of claims. This has been the practice elsewhere.¹⁵ It is referred to as the early determination or dismissal provisions. Under these provisions, an arbitral tribunal may summarily dismiss a claim that is "inadmissible", "manifestly without merit", or "manifestly outside the jurisdiction of the tribunal".¹⁶ If similar provisions are added to the rules of arbitration institutions in Nigeria, it will give Nigerian-seated arbitral tribunals a stronger footing to make decisions on a summary basis.

Practical implications of summary disposal in Nigeria

Although summary disposal would be an important procedural tool in arbitration in Nigeria, it may not be available in every situation. Key practical limitations and conditions must be carefully considered:



1. Availability Conditions (Material Facts)

As with civil litigation, summary judgment is granted in cases where there is no genuine issue of material fact. Under the AA 2025, a claim or issue will be summarily disposed of only if it does not have any prospect of succeeding. It must be apparent that the material facts are **not in dispute**. Summary disposal may not be granted where facts are in issue and proving them requires the tribunal to hear evidence.



2. Enforceability Concerns & Fair Hearing

The enforceability of an arbitral award may deter the use of summary disposal in Nigeria. Generally, arbitral tribunals are mandated by law to ensure that **"each party is given the opportunity of presenting its case"**.¹⁷ This mandate is rooted in the principle of fair hearing, guaranteed by the Nigerian constitution,¹⁸ to the effect that parties are not to be prevented from presenting their respective cases.¹⁹ Considering that summary disposal obviates the need for trial, a party is more likely to feel denied the opportunity to present its case. And an award may not be enforced if a party was unable to present its case.²⁰ An arbitral tribunal may rarely summarily dispose of a claim to avoid its award from being challenged.

Conclusion

Summary disposal of claims is an important procedural tool in civil litigation in Nigeria. The Arbitration Act 2025 of England, Wales, and Northern Ireland has introduced a provision for the summary disposal of arbitral claims, enhancing the prospects for efficient arbitration proceedings within the jurisdiction. The efficiency of Nigerian-seated arbitrations can be improved by amending Nigeria's arbitration law, the Arbitration and Mediation Act 2023, and introducing similar provisions. Additionally, arbitration institutions in Nigeria should include early determination provisions in their respective rules. This will position Nigeria as a regional arbitration hub.



1. For instance, Part 24 of the English Civil Procedure Rules empowers English courts to make summary judgments. See <https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part24> accessed on August 4, 2025.
2. For instance, see Order 13 Rules 5(2), 11 of the High Court of Rivers State (Civil Procedure) Rules 2023; Order 11 Rules 5(2), 10 of the High Court of Imo State (Civil Procedure) Rules, 2017.
3. *Nnabude v G.N.G. (WA) Ltd* [2010] 15 NWLR (Pt. 1216) 365, 379 F.
4. *Gwarzo v Funtua* [2018] LPELR-44793 (CA) 9.
5. *Sakamori Constr. (Nig.) Ltd v L.S.W.C.* [2022] 5 NWLR (Pt. 1823) 339, 405-406 H-A.
6. Simon Maynard and Caspian Heeler, 'Summary Disposal in English-seated arbitrations: a potent power'.
https://www.kslaw.com/attachments/000/012/720/original/Summary_disposal_in_English-seated_arbitrations_a_potent_power.pdf?1744665415 accessed March 3, 2026 (Simon Maynard and Caspian Heeler, 'Summary Disposal').
7. The reason for this contention is that arbitrators are usually more knowledgeable in the dispute area, allowing them to resolve the issues in dispute more quickly. See Paul Oboarenegbe Idornigie, 'Commercial Arbitration Law and Practice in Nigeria' (Lawlords Publications 2015) 25.
8. *Ibid* 23 (noting that the arbitration has fallen into the same pitfalls of litigation which it was meant to remedy).
9. The report showed that the duration of an arbitration with over 100 million dollars in dispute is 29 months. <https://www.acerislaw.com/the-duration-of-arbitration/#:~:text=the%20median%20total%20duration%20of,arbitrators%20it%20was%2015.8%20months> accessed on March 3, 2026.
10. *C A Candide-Johnson, SAN, and Olasupo Shasore, SAN, 'Commercial Arbitration Law and International Practice in Nigeria'* (LexisNexis 2012) 9 (noting that 'most delays occur when a party or counsel initiates the interference of the court system in the hopes of...gaining a pre-emptive advantage').
11. *Nnaduaka v Anunobi* [2025] 9 NWLR (Pt. 1994) 65, 120-121 F-D (noting at 120 H that "Courts must interpret statutes by implication to give effect to the true intention of the law makers").
12. Section 1(5) Arbitration and Mediation Act 2023.
13. Section 31 (3) Arbitration and Mediation Act 2023 (arbitral tribunals are conferred with the powers to determine the admissibility, relevance, materiality, and weight of evidence).
14. Section 30 (b) Arbitration and Mediation Act 2023.
15. London Court of Arbitration (LCIA) Arbitration Rules 2020; Singapore International Arbitration Centre (SAIC) Arbitration Rules 2025; and Hong Kong International Arbitration Centre (HKIAC) Arbitration Rules 2024. See also the Nigeria Very Young Arbitration Practitioners (Nigeria VYAP) Guidelines on Expedited Arbitration Proceedings 2025. Available on <https://lnkd.in/dYCuqFnC> accessed March 3, 2026.
16. Article 22.1 (viii) LCIA Arbitration Rules 2020; Article 47 SAIC Arbitration Rules 2025; Article 43 HKIAC Arbitration Rules 2024; Article 12 Nigeria VYAP Guidelines on Expedited Arbitration Proceedings.
17. Section 30 (a) Arbitration and Mediation Act 2023.
18. Section 36 Constitution of the Federal Republic of Nigeria, 1999.
19. *Tunbi v Opawole* [2000] 2 NWLR (Pt. 644) 275.
20. Section 58 (2)(a)(iii) of the Arbitration and Mediation Act 2023.

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