



Beyond the Signature: Supreme Court Expands the Reach of Arbitration Clauses

Introduction:

Recently, the Supreme Court of Nigeria delivered a landmark decision in *Emerging Markets Telecommunications Services Ltd (EMTS) v. Afdin Ventures Limited & 6 Ors*, clarifying two important points for commercial arbitration in Nigeria.

The Court held, first, that a company may be bound by an arbitration clause even if it did not formally sign the contract, where it claims through a signatory or is closely connected to the underlying transaction. Second, the Court confirmed that allegations of fraud do not, by themselves, remove a dispute from the reach of arbitration.

Taken together, this decision strengthens arbitration as a forum for complex commercial disputes and limits the use of technical objections to delay or derail arbitral proceedings.

Key Highlights of the Decision

- **Non-signatories may be bound**
Arbitration is not always limited to the formal signatories of a contract. A party claiming through or under a signatory, or playing a central role in the transaction, may be bound by the arbitration clause.
- **Fraud claims may be arbitrated:**
Allegations of fraud or fraudulent misrepresentation arising from a contract



may be determined by an arbitral tribunal.

- **Fraud is not an automatic exit route:** A party cannot avoid arbitration simply by framing the dispute as a fraud claim.
- **Tribunals may rule on their own jurisdiction:** The decision reaffirms the principle of kompetenz-kompetenz, under which an arbitral tribunal may determine the scope of its own authority.
- **The arbitration clause stands apart:** Even where the main contract is challenged, the arbitration clause may remain valid for resolving that challenge.
- **Alignment with the AMA 2023:** The decision is consistent with the Arbitration and Mediation Act 2023, which supports limited court intervention and stronger arbitral finality.

What This Means for Stakeholders

- **For companies and investors:** Arbitration clauses may apply more broadly than expected, especially in group-company

structures, agency relationships, assignments, guarantees, and linked commercial arrangements.

- **For contracting parties:** Allegations of fraud will not necessarily move a dispute to court. Where the dispute arises from the underlying contract, a broadly drafted arbitration clause may still govern the process.
- **For legal advisers:** Arbitration clauses should be drafted with precision, especially in group-company, agency, assignment, and nominee structures. Where related parties are intended to be covered, the clause should say so clearly.

The Road Forward

The decision reinforces a practical point: arbitration clauses will be applied in line with the substance of the transaction, not just the list of signatories. Companies should not assume that non-signature alone excludes them from arbitration, or that fraud allegations will automatically move a dispute to court.

For businesses, the priority is to review arbitration clauses in key contracts, particularly where transactions involve affiliates, intermediaries, nominees, agents, or related entities.

For guidance on arbitration clauses, dispute resolution strategy, and arbitral proceedings, contact info@scp-law.com or visit www.scp-law.com.

