

Summary Judgement Procedures and the Attainment of Justice Under the Rules of Court

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INTRODUCTION

The well worn axiom of the legal profession is "Justice delayed is justice denied". Where a litigant is unable, for whatever reason, to conclude a simple case of debt within a reasonable time, it is doubtful whether such a litigant would ever agree that justice is not denied to him.

The best example of along delay was in the notorious case of **Ariori v. Muriano Elemo**¹ where the case was fought from 15th October, 1960 and ended its first phase at the Supreme Court in 1983 only for a re-trial to be ordered hardly gives confidence to an "impatient" litigant.

The law has therefore designed certain summary procedures, to ensure that where a defendant to an action has no defence to the claim or where the defence to the claim is a sham or where the defendant fails to neglects to take prompt procedural steps, the plaintiff can be given judgement summarily, if he asks for it.

It is trite that rules of procedure are meant as hand made of justice and it is with this, in view that rules of procedure are enacted to aid the attainment of justice in an orderly way.

It is equally trite that where the rules will result in injustice, absurdity, or a travesty of its purpose, the court will not insist on its strict observance.

Before the advent of the uniform High Court Civil Procedure Rules, the different High Court Procedure Rules, made provisions for different

methods of obtaining summary judgements.²

In a world now ruled by large scale commercial and industrial transactions, with the attendant super-sonic speed of achieving set targets, the courts cannot afford to be left behind in the human race for faster realization of social and economic goals.

It is a truism, that time is the soul of business and it behoves the courts to fashion appropriate rules that will cut down on the time that it takes to obtain judgement especially in causes that have their root in commercial dealings and transactions.

The principle of *ex abundanti cautela* is well illustrated in the various modes of summary judgements in our rules of court. Thus, a defendant that does not take the requisite step to defend and action is deemed by implication to have admitted the claim.