



# REMEDY WHERE THE COURT GETS IT WRONG

We all are Human and do ERR.



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# CAN YOU CORRECT MISTAKES IN THE JUDGEMENT, DECREES OR ORDERS OF THE COURT?

## Introduction

- (i) It is natural for human beings to make mistakes therefore the maxim to err is human. Officers of the Court are empowered by law to among other things, hear cases, analyse evidence, and finally determine matters on controversy to its finality upon which they render Judgements, Decree and or Orders. Entrusted with such power to serve number of litigants on triable and non-triable legal issues across the country, there is a likelihood for Court officials just like any other human beings without malice to records mistakes in the Court records.
- (ii) In the same breath, any party to the case who is either affected by such mistakes or rather believes that there is a perceptible presence of incorrect records in the Court entries and that some other fact(s) represent true state of affairs for future use, or the Court 'suo moto' [on its own motion] may apply for rectification of the said records especially where the amendment is intended to fill lacunas that may prompt future disputes by enlightening the true state of affairs and keep proper records of the Court that resolve conflicts among parties to its finality.
- (iii) Undoubtedly, mistakes in the Court records may be corrected through or by way of a formal application to the Court which issued the Order or Judgement subject to rectification.

# WHO MAY APPLY FOR RECTIFICATION / AMENDMENT OF COURT RECORDS?

Procedural laws provides that, mistakes in the Judgement, Decree or Orders of the Court may be corrected by the Court either of its own motion or on the application of any of the parties as per Section 96 read together with Section 95 of the Civil Procedure Code (Cap 33 R.E 2019). For purpose of clarity Section 96 read as follows;

*“Clerical or arithmetical mistakes in judgements, decrees or orders, or errors arising therein from any accidental slip or omission may, at any time, be corrected by the court either of its own motion or on the application of any of the parties”.*



## WHAT CONTENTS CAN BE CORRECTED?

[What should be the extent or latitude of the amendments]

As a matter of general rule, an application for correction of Court records should neither alter the substance of existing Court's decision nor in any way prejudice the rights of the parties. Hence, from the provision of the law cited above, rectification of judicial records is only reserved for arithmetical and clerical mistakes. An arithmetic mistake is a mistake in calculation while a clerical mistake is a mistake of writing or typing error from an accidental slip or omission or an error due to careless mistake or omission made unintentionally and unknowingly.

## WHAT ARE THE CONDITIONS FOR AMENDMENT?

From the wording of the said section 96 above, there are two conditions in which the Court can amend or rectify the judgement and decree once it is drawn up and signed.

The conditions imposed are listed as hereunder;

- i. Where the judgement, Decree or Order does not correctly state what the court decided and intended.*
- ii. Where there has been a clerical or arithmetical mistake or an error arising from an accidental slip or omission.*



## AT WHAT POINT IN TIME IS THE APPLICATION SUPPOSED TO BE DONE?

An application for amendment of Judgement and decree may be preferred at any point in time. While exercising its inherent powers conferred by statute under Section 95 of the Civil Procedure Code (Cap 33 R.E 2019), the Court may at any time amend or vary its own judgement and decree where the same does not reflect pure intention of the Court and ensure that records are kept true and present the true state of affairs.

Case Law, In JEWELS & ANTIQUES (T) LTD VERSUS NATIONAL SHIPPING AGENCIES CO. LTD [1994] TLR at page 110 the Court of Appeal cemented on the question of time when it held that;

*“On our party we are satisfied that the phrase ‘at any time means just that any time’ subject to the rights of the parties, there should be no point in limiting the time in which to correct such innocuous mistakes or errors which are merely clerical or arithmetical with absolutely no effect on the substance of the judgement”.*



## CONCLUSION

Section 95 of the Civil Procedure Code (Cap 33 R.E 2019) provides that every Court has inherent powers to vary or amend its own decree or order so that it carry out the meaning it intended. Through this, the court can exercise power to correct a mistake of its ministerial officer by whom the decree or order was drawn up. It is of paramount that the decree drawn by the Court should correctly express the intention or decision given by the Court as no party should suffer any detriment on account of a mistake or an error committed by the adjudicating authority. It would be perfectly shocking if the court could not rectify an error of its own minister.

The word 'may' in the section does not make it discretionary with the Court to order the correction but merely enlarges the power of the Court by providing that such correction can be done at any time. Hence the section emphasizes on absence of time limit that would disentitle the Court to make correction.

Correction of Court records represents a continuous quest of man to pursue both perfection and at the very core of it is the unyielding quest of the Courts to render justice even if the skies fall. The word substantial justice is often used to assert the powers of the Court to call her records with a view to effect such obvious corrections.



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