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Nigeria: Landlord & Tenant - the Right to Shelter And Statutory Protection of Tenants

By Francis Moneke
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OPINION

The ever increasing migration of people into the major cities in the country in pursuit of greener pastures has made the quest for securing decent accommodation in these cities a Herculean task, which only very few privileged individuals can afford.

Many Nigerians make do with squatting with family relations or friends, while others manage squalor and unhygienic accommodations where the rents are within reach. Many who hitherto have been living in relatively decent accommodations are packing into the streets or into very humble and hazardous apartments or vicinities because they can no longer afford the exorbitant rents being demanded by their landlords, and have been thrown out as a consequence by such merciless landlords - often forcefully.

The situation is such that even those who are gainfully employed are finding it rather difficult to keep pace with the rate of rent increments, because such rents are way higher than what a medium income earner could ever afford given his meager earning - the low cadre civil servants quickly come to mind here. Landlords in major cities in the country are simply reveling in the euphoria of this era of unbridled appreciation of house rents - most of them embark on arbitrary increments of rents by unreasonable proportions at regular intervals, often using this as a strategy to eject tenants who are unable to keep up with such irregular increments, knowing full well that that another person standing by would quickly jump at the apartment regardless of the unreasonable asking rate because of the dearth of accommodations.

In Lagos State particularly, hapless Nigerians suffer untold hardships in the hands of some greedy and wicked landlords who employ different tactics including self-help to eject tenants who are unable to meet with absurd and perverse increments of rent. Many tenants needlessly suffer grave hardships for lack of knowledge of the protections which the relevant laws confer on them.

Under the Rent Control and Recovery of Residential Premises law of Lagos State - similar laws exist in virtually all the States in the country - it is unlawful for a landlord to increase house rent within an interval of three years after the last increment, and such increment must not exceed twenty percent of the old rent. A tenant can therefore refuse to pay an arbitrary increase that falls short of the above requirements, and seek remedy before a Court of law or Rent Tribunal. It follows that a tenant who neglects to pay such unlawful rent will not be liable to be ejected by the landlord even after three months of default in payment.

Furthermore, a landlord who forcefully ejects a tenant commits a criminal offence and is liable upon conviction to some fine or a term of imprisonment. Such a landlord will also be liable to pay damages to the tenant if the latter takes out a civil action. The law has therefore clothed a tenant with the status of irremovability, even at the expiration of a subsisting term of tenancy, because at that point such a tenant is no more a contractual tenant but a statutory tenant. It is only by an order of court, upon proof by the landlord that one of the grounds for ejection provided by the law exists, that a statutory tenant may be ejected by the landlord. In view of the concept of statutory tenancy, the Supreme Court has held in the case of *African Petroleum Ltd vs. Owodunni* (1991) 8 NWLR pt. 210 pg.391 that a statutory tenant can sue the landlord for trespass to land because he stands in the same position as if the contractual tenancy is still extant.

The only valid grounds upon which a landlord may successfully eject a tenant upon application to a Court of competent jurisdiction or a Rent Tribunal are as follows:

- a. that the rent lawfully due by virtue of the law is in arrears of three months after it became due; or
- b. that the tenant has been guilty of the breach of an express covenant or agreement of the tenancy; or
- c. that the tenant has given notice of his intention to quit as a result of which the landlord has contracted to sell or let the premises or has taken such other steps that are likely to put him in difficulty if he could not obtain possession; or
- d. the premises are reasonably required for any purpose which is in the public interest; or
- e. that the tenant or any person residing or lodging with him or being his sub-tenant has been guilty of conduct which is nuisance or annoyance to adjoining occupiers, or has been used as a brothel, etc; or
- f. that the premises are so overcrowded as to be dangerous or injurious to the health of the inmates; or
- g. that the premises are subject of an abatement notice issued by a public authority - such notice is given where the premises is in a dilapidated state and poses imminent danger to inhabitants; or
- h. that the premises require substantial repair on account of which it is necessary for the tenant to vacate possession - except where ejection will cause serious hardship for the tenant; or
- i. that the premises are required by the landlord for his occupation, for any of his children above 18 years, or for his parents.

It is not enough for the landlord to merely aver any of the above as ground in support of his intention to eject a tenant, he must go ahead to prove that such ground actually exist. Many tenants suffer in silence, instead consulting legal practitioners for proper counseling on what to do when confronted with threats of imminent unfair ejection - some even abandon themselves at the mercy of merciless landlords, and cowardly surrender possession in the face of such threats oblivious of the enormous protection which the law has conferred on them. On the other hand, some landlords, ignorant of the strict requirements of the law for ejecting a tenant, still prefer to do it their own way rather than seek legal advice - thus they invariably end up in one legal logjam or the other.

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