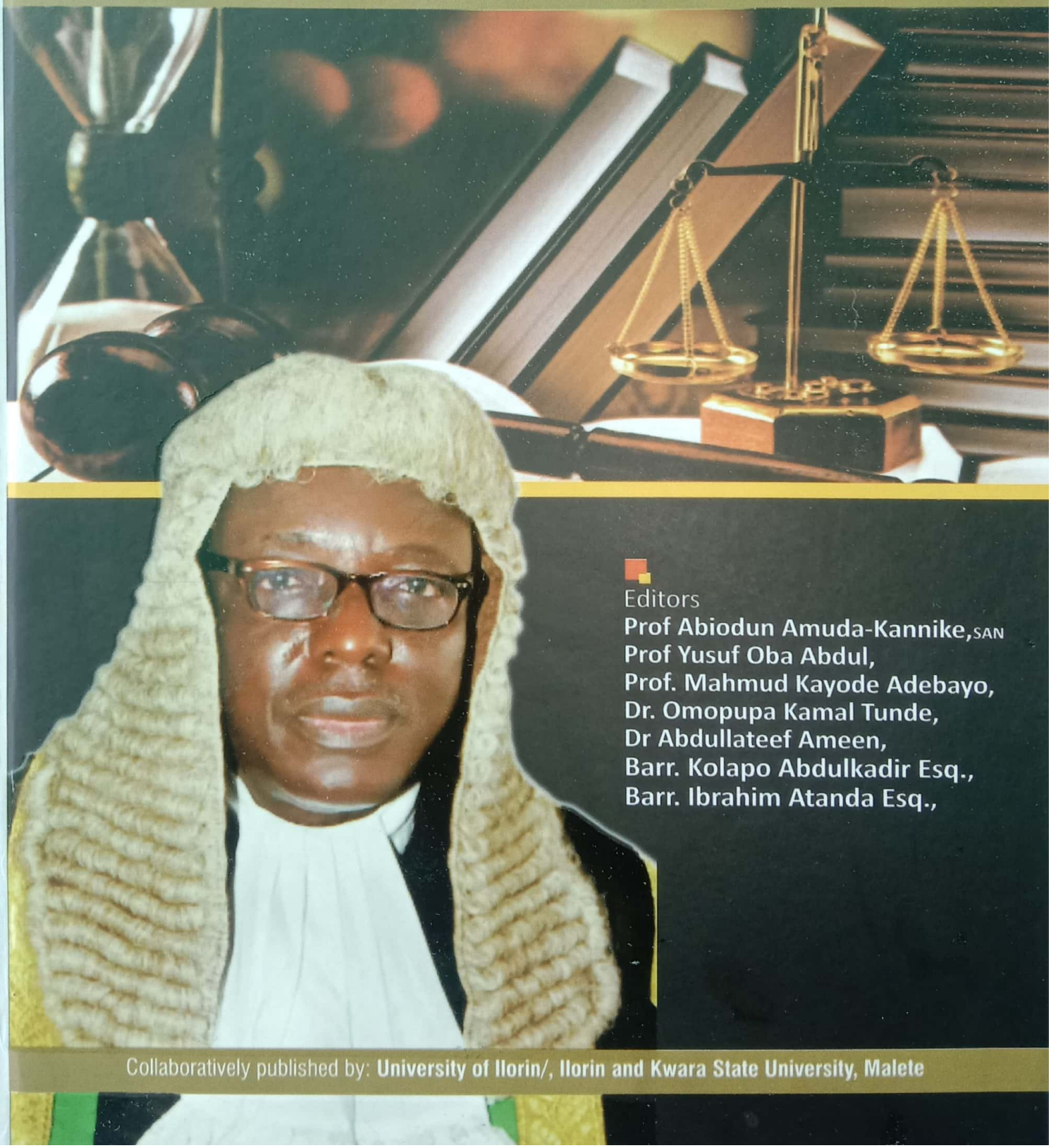
GLOBAL ISSUES AND NIGERIAN LAWS:
ESSAYS IN HONOUR OF
HON. JUSTICE SALIU SAIDU



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CHAPTER TWO

LEGAL AND SOCIO-ECONOMIC IMPLICATIONS OF FORCEFUL EJECTION OF TENANTS IN NIGERIAN URBAN CITIES: LAGOS AS CASE STUDY

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ABSTRACT

The rate of forceful ejection of tenants by landlords has become a recurring problem in Nigerian urban cities as it has now become a trend for the landlords to forcefully enter upon a leased property to eject a tenant without first obtaining the order of repossession from the court. It is observed that the landlords also use forceful ejection as a means to suppress the tenants without first allowing the tenant to obtain an alternative residence. The purpose of this study is to examine the socio-economic and legal effects of this practice on the tenants and to recommend possible solutions to address the legal problems engendered by this practice. This paper uses a case study, interviews and qualitative content analysis in this study to highlight the problems posed by the landlords and how they affect the tenants who are being forcefully ejected from their premises. This paper, thus, brings into focus the excesses of the landlords and contributes to the knowledge of legal issues. The conclusion of this research may be used as a guide for the legal reform of the relationship between landlords and tenants in Lagos in particular and Nigeria in general.

Keywords: forceful ejection, unlawful ejection, tenancy in Nigeria, Nigerian cities, tenancy in Lagos, landlord-tenant relationship in Nigeria.

INTRODUCTION

Shortly after the World War II and during the period of oil boom in 1970, industrialisation and urbanisation became the order of the day leading to the

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surge in demand for accommodation in the urban areas.[1] Many landlords then used the precarious situation of the migrants to their advantage by letting out property not fit for habitation and imposing exorbitant charges as well as imposing stringent rules and regulations on the tenants.[2] Some landlords also extort tenants by arbitrarily increasing rent, imposing unfavourable clauses as well as forcefully ejecting tenants from premises without any legal backing and leading to un-ending litigations between landlords and tenants. It is for these injustices in the landlord-tenant relationship that the Nigerian legislature then realised that tenants could not be left at the mercy of landlords who naturally would want to exercise their freedoms to the limit in the face of acute shortage of housing facilities in the cities.[3] Consequently, various statutes were enacted in most of the states of the federation to regulate the contractual relationship of both the landlords and the tenants, particularly stipulating the process for the lawful recovery of rented premises.

One of the states where the landlords commonly abuse the rights of the tenants is Lagos state. This is due to the increasing rise in the number of migrant-tenants in the state. Lagos state is unarguably the economic hub and the most cosmopolitan city in the country.[4] Due to its proximity to land and sea borders, its economic allure has attracted more people across the nation and the world than any other city in the country.[5] Therefore, one of the major issues confronting the habitants of the city like others is housing. Landlords in Lagos therefore became fond of exploiting hapless migrant-tenants. Responding to the precariousness of the situation, Lagos State government has severally enacted laws to address the problem of unlawful ejections by the landlords. Among such laws are the Rent Control and Recovery of Residential Premises Law of Lagos State, 2003 and the Tenancy Law, 2011. However, despite the existence of these laws, the situations where landlords wrongfully eject tenants remain unabated.

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[1] *I Okoronkwo, 'Recovery of Premises: An Assessment of Landlord/Tenant Law in Nigeria' <http://propertymaxng.blogspot.com.ng/2013/08/recovery-of-premises-assessment-of_7506.html?m=1> accessed on 17 January 2017; Godwin O. Ikwuyatum, 'Migration and urbanization: Exploring the Factor of the Nexus in Nigeria' (2016) 6(8) IJHSS 161-175*

[2] *U Onyekachi, 'Rights of a Tenant in Nigeria' <http://www.linkedin.com/pulse/rights-tenant-nigeria-onyekachi-umah>accessed on 06 May 2017*

[3] *E. Chianu,* Law of Landlord and Tenant *(Olic Publishers 1994) 1*

[4] *I. Nwangwu & T. Oni, "Lagos and its potentials for economic growth" www.ng.boel.org/2015/07/02/lagos-and-its-potentials-economic-growth (accessed on 22 July 2018).*

[5] *S Diop, J-P Barusseau & C. Deschamps,* The Land/Ocean Interactions in the Coastal Zone of West and Central AFRICA estuaries of the World *(Springer 2014) 66. By population, Lagos is reputed as the fourth largest populated city in the world today (see: https://en.m.wikipedia.org/wiki/List_of_cities_proper_by_population (accessed on 22 July 2018))*

Therefore, this paper examines the legal frameworks pertaining to landlord-tenant relationship in Lagos as a case study of the experiences of tenants in Nigerian urban cities. The study highlights the effects of forceful ejection on the tenants and identifies the hindrances to the enforcement of the relevant provisions of the laws. In examining these laws, this study identifies the lacunas existing in them and proceeds to advance practical reforms and recommendation that will further protect the tenants from the lack of restraint by the landlords.

LEGAL FRAMEWORK OF THE LANDLORD AND TENANT RELATIONSHIP IN LAGOS STATE

This part analyses the extant statutory provisions pertaining to the landlord-tenant relationship in Lagos State with a view to highlighting the rights of the tenants to freedom from indiscriminate and unlawful ejection from premises they legally occupied.

The Constitution of the Federal Republic of Nigeria, 1999

The 1999 Constitution of the Federal Republic of Nigeria is the *grundnorm* and the most supreme law in the country.[6] Any law that is inconsistent with it shall be declared void to the extent of its inconsistency.[7] The Constitution is ranked high and above all other laws in the country as it has an overriding legal force and it binds everyone within its legal framework.[8] The Constitution of the Federal Republic of Nigeria is one of the major enactments which regulate the landlord-tenant relationship and place a restriction on the excesses of the landlord while it also regulates the activities of the tenant in order to ensure that the relationship which exists between the parties remains healthy. Under the Nigerian Constitution, matters bordering on landlord and tenant relationship are essentially classified under the residual list[9] thereby reposing the power to make laws on tenancy relationship in the state legislatures.[10]

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[6] *TC Hopton, 'Grundnorm and Constitution: The Legitimacy of Politics' (1978) McGill Journal 24. See also Constitution of the Federal Republic of Nigeria 1999 (as altered), s 1(1)*

[7] *See Constitution of the Federal Republic of Nigeria 1999 (as altered), s 1(3)*

[8] *JO Edobor, 'The Sharia and the Nigerian Constitution: Religion and the state' <http://www.nigeriaworld.com/feature/publication/edobor/religion_state.html> accessed on 12 April 2017*

[9] Attorney-General Lagos v Attorney-General Federation *[2003] 12 NWLR (Pt.833) 1*

[10] *See Constitution of the Federal republic of Nigeria 1999 (as altered), s 4(6) and (7)*

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Notwithstanding, the Constitution provides for a number of rights for the citizens.[11] It thus contains certain provisions, which regulate the landlord and tenant relationship in Nigeria including Lagos State.[12] It guarantees the rights of both landlords and tenants by providing for the citizens' right to privacy and family life within their homes, correspondence, telephone and telegraphic conversation as well as protection of these homes.[13] Where one person trespasses into the land or private home of another individual, such individual will be entitled to sue for trespass.[14] The Constitution also provides for the right to personal liberty.[15] The word Liberty is defined to mean: "the freedom of every law abiding citizen to think what he will, to say what he will and on his lawful occasions without let or hindrance from any other person."[16]It extends beyond mere freedom from any form of imprisonment and includes civil rights of a tenant from wrongful or false imprisonment, arrest and physical restraint without legal justification.[17] A citizen also has a right to dignity of human person,[18] which basically protects a person from being subjected to any form of degrading treatment, slavery, servitude, and any form of inhumanity.[19] This, by implication, prevents the landlord from subjecting his tenant to any undignified practise. Therefore, by implication a tenant is granted a right to the privacy of his home by virtue of being a citizen of Nigeria. He is to be free from any form of disturbance or intrusion of his privacy in his residential home as the law ensures that he lives in peace and enjoys the quiet comfort of his home. Another right enlisted in the Constitution is the right to protection against compulsory seizure or possession[20] except where such compulsory possession of property has been done in a manner and for the purposes prescribed by law.[21]The property of a tenant cannot therefore be forcefully acquired by the landlord as a means of carrying out self-help to eject his tenant.

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[11] *See Constitution of the Federal Republic of Nigeria 1999 (as altered), Chap IV*
[12] *See Constitution of the Federal Republic of Nigeria 1999 (as altered), ss 34,37,38,41-44*
[13] *See Constitution of the Federal Republic of Nigeria 1999 (as altered), s 37; see also* Ezeadukwa v Maduka *[1997] 8 NWLR (Pt. 518) 635*
[14] *E Malemi,* The Nigerian Constitutional Law *(3rd Edn, Princeton Publishing Company 2012) 298.*
[15] *See Constitution of the Federal Republic of Nigeria 1999 (as altered), s 38; see also* Madiebo v Nwankwo *[2002] 1 NWLR (Pt. 784) 426*
[16] *JR Denning,* Freedom under the Law *(Steven & Sons 1949) 5.*
[17] *E Malemi,* The Nigerian Constitutional Law *(3rd Edn, Princeton Publishing Company 2012) 290*
[18] *See section 34 of the 1999 Constitution of the Federal Republic of Nigeria (as altered); see also* Musa v State *[1993] 12 NWLR (Pt. 277) 550*
[19] *E Malemi,* The Nigerian Constitutional Law *(3rd Edn, Princeton Publishing Company 2012) 287*
[20] *See Constitution of the Federal Republic of Nigeria 1999 (as altered), s 44(1)*
[21] Mandara v A.G Fed *[1984] All NLR 219*

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The tenant is also not to be restrained from going out at any time he pleases as it will be against his right to freedom of movement guaranteed under the Constitution. In any situation where this occurs the landlord will be liable in trespass to the tenant and damages may be claimed.[22] Any agreement between the landlord and tenant which invalidates these provisions of the Constitution will be considered invalid to the extent of its inconsistency with the provisions of the Constitution.[23]

The Lagos State Tenancy Law

The Tenancy Law of Lagos State[24]was enacted in 2011 to regulate the rights and obligations under tenancy agreements and the relationship between the landlord and tenant including the procedure for the recovery of premises and for connected purposes.[25] The law was necessitated by the age long conflict between landlords and tenants causing a frosty relationship between both parties.[26] Before the enactment of the Lagos Tenancy Law, several legislations have been passed at different times to regulate the tenancy relationship in the state. Such laws include Rent Control and Recovery of Residential Premises Law, 2003, Rent Control and Recovery of Residential Premises (Amendment) Law, 2004, Rent Control and Recovery of Residential Premises (Amendment) Law, 2007, Rent Control Law (With Amendment) 2007. Each of these legislations was repealed for certain insufficiencies in rules of procedure and delay in the determination of tenancy matters but the problem continued unabated.[27]

The law is limited to and applies to all premises within Lagos state, including business and residential premises[28] although it does not apply to residential premises which are owned or operated by educational institutions for its staff and students, provided for emergency shelter, used in a care or hospice facility, in a public or private hospital or a mental health facility.[29] The reason for these

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[22] Shugaba v Minister of Internal Affairs *[1981] 2 NCLR 459*

[23] *See Constitution of the Federal Republic of Nigeria 1999 (as altered), sections 1 (3)*

[24] *Tenancy Law 2011, Chapter T1, Vol. 10, Laws of Lagos State 2015. The law was passed as Law No. 14 of 2011 and came into force on the 24th of August, 2011.*

[25] *See the Long title of the 2011Tenancy Law of Lagos State*

[26] *Adekunle, 'Lagos State Tenancy Law' Vanguard Newspaper (Nigeria 16 April 2012) <http://www.vanguardngr.com/2012/04/lagos-state-tenancy-law-simply-not-working/amp/> accessed on 17 July 2017.*

[27] *K Adams, 'Lagos Moves to Review Tenancy Laws'ThisDay Newspaper (Nigeria 20 August 2017) <https://www.thisdaylive.com/index.php/2017/07/08/lagos-moves-to-review-tenancy-laws/> accessed on 12 June 2017*

[28] *See Tenancy Law of Lagos State 2011, section 1*

[29] *See Tenancy Law of Lagos State 2011, section 1 (2)*

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exemptions could be because the exempted premises are essentially used for social welfare services, which is one of the functions of the state.[30]

The Lagos Tenancy Law has evoked considerable public interest since its enactment, some of which surround the issue of advance rent which the law frowns at.[31] The provision against advance does not, however, apply to certain areas such as Apapa, Ikeja GRA, Ikoyi, and Victoria Island and any other area or premises which the governor may, from time to time to time exempt from the application of the law.[32] These areas are located in high-brow parts of the city where the Recovery of Premises Law is in force. An informal tenancy agreement is unlikely as these places are inhabited mostly by house owners while the few tenants are enlightened enough to know their rights in the event of forceful ejection. This is not to mean that their rights need not be protected but the kind of abuse that tenants in other low-profile areas are prone to is unlikely in these environments.

The law also clearly states the rights of the landlord and the tenant in a tenancy relationship as well as the obligation imposed on the parties.[33]It also prescribes the duration of the length of notice to be given to the tenants to quit the premises depending on the kind of tenancy agreement and in a situation where there is no stipulation as to notice in the tenancy agreement.[34] For instance, a tenant at will would be entitled to a week's notice, a monthly tenant to a month's notice, a quarterly tenant to three months' notice, half-yearly tenant to three months' notice and a yearly tenant to six months' notice to quit.[35] These provisions are not essentially different from how they were under the previous laws; however, the distinctive feature of this law as against the earlier statutes is that it expands the jurisdiction of the courts that are capable of determining tenancy disputes. Contrary to what obtains under the previous laws where jurisdiction over tenancy matters was exclusively donated to the magistrate court, the Tenancy Law provides that the magistrate court and high court shall have jurisdiction to determine tenancy matters of any premises let before or after the commencement of the law.[36]This will help in reducing the clogs in the determination of tenancy matter experienced in the magistrate courts.

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[30] *Constitution of the Federal Republic of Nigeria 1999, s 17(3)*
[31] *See Tenancy Law of Lagos State 2011, s 4*
[32] *See Tenancy Law of Lagos State 2011, s 1 (3)*
[33] *See Tenancy Law of Lagos State 2011, ss 5,6,7 and 8*
[34] *See Tenancy Law of Lagos State 2011, s 13(1)*
[35] *See Tenancy Law of Lagos State 2011, s 13(1)(a)–(e)*
[36] *See Tenancy Law of Lagos State 2011, s 2*

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To establish itself as an innovative and progressive statute, the law addresses certain common impediments that clog the fast resolution of litigations arising from tenancy disputes. Sections 2 and 30 of the law contain an innovation to ensure speedy resolution of the disputes. These sections pointedly address the problem of ouster clauses that has always been a bane of timely dissipation of cases from the courts' dockets. One major technical hitch employed by Nigerian lawyers to stultify the smooth progress of court proceedings is 'lack of jurisdiction', and among the legal technicalities that are commonly used to rob the court of its jurisdictions are: statutory and contractual ouster clause as well as the rule in *Scott v Avery*[37]. The ouster clause has been found to be unconstitutional in several cases[38] as it impinges on the fundamental rights of the citizens, an act that is incongruous to the spirit of the Nigerian Constitution as contained in section 6.[39]

Similarly, the *Scott v. Avery* clause that is commonly used in contractual agreement is a clause that commonly introduces the requirement that parties to the contractual instrument need to first and foremost explore the alternative dispute resolution mechanisms prescribed in the agreement before having the requisite *locus standi* to approach the court of law for resolution of the dispute between them.[40] Where a party fails to comply and approaches the court first, the courts have always declined jurisdiction to entertain such matters.[41] This judicial attitude has been abused by parties who used the presence of this clause to frustrate the other party who in some cases may abandon their claim mid way. This problem has however been resolved as section 2 (3) provides to the effect that the fact that parties to a tenancy agreement have agreed to exploring certain alternative dispute resolution mechanisms 'shall' not oust the power of the courts from adjudicating over such disputes. This provision thus gives the parties particularly the tenant (who often happens to be the weaker party) a multi-door approach to resolving the tenancy dispute. This will obviously reinstate the trust of the citizens particularly the tenants in the sacredness of the judiciary. In the same vein, the law clarifies the uncertainty that hitherto shrouds

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[37] *Scott v Avery* [1856] 10 ER 1121; or 25 LJ Ex 308; or 5 HLC 811

[38] Inakoju v Adeleke *[2007] 4 NWLR (pt.1025) 423;* Akinmade v. Ajayi *[2008] 12 NWLR (Pt 1101) 498;* A.-G., Bendel State v. A.-G., Federation *[1982] 3 NCLR 1;* Okoya v. Santilli *[1990] 2 NWLR (Pt. 131) 172*

[39] *See Constitution of the Federal Republic of Nigeria 1999, s 4(8). See also AO Sambo & BA Abdulkadir, 'Ouster Clauses, Judicial Review and Good Governance: An Expository Study of the Experience in Nigeria and Malaysia' (2012) Vol.5, No. 9* OIDA International Journal of Sustainable Development, *95-107*

[40] A.I.D.C v. Nigeria L.N.G Ltd *[2000] 4 NWLR (pt 653) 494 SC;* City Engineering Nigeria Ltd v. Federal Housing Authority *[1997] 9 NWLR (Pt 520) 22A SC*

[41] SCOA Nigeria Plc v. Sterling Bank Plc, *Appeal No: CA/L/170/2013.*

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the determination of the court with original jurisdiction over tenancy matters. Originally, the jurisdiction was reposed in the rent tribunals, and it was later vested in the magistrate court under the Rent Control Laws. Meanwhile, the magistrates have limitations over the amount of naira they can exercise jurisdiction over. This has put parties in a state of flux as they are always stuck when the amount involved in their dispute is higher than the monetary jurisdiction of the magistrate. With the introduction of section 2 (4) of the Tenancy Law, the issue of jurisdiction has been clearly addressed as it gives original jurisdiction over tenancy matters to both the magistrates' court and the high court depending on the amount of rent involved.

Another highlight of this law is that it appears to take the issue of forceful and wrongful ejection seriously. Thus, it forbids landlords from forcefully ejecting tenants from the premises, threatening, demolishing or altering the building without court approval. To underscore its seriousness, the law imposes a heavy fine of two hundred and fifty thousand Naira (N250, 000) or a maximum of six (6) months imprisonment[42] on erring landlords. This is contrary to what obtains in the previous laws where paltry fines were imposed or no punishment was imposed at all. The law also states the ground for the recovery of possession.[43] Thus, a tenant who has been ejected in a manner not in accordance with the tenancy agreement or the law will be entitled to damages. The aim of the law in subjecting the landlord to an award for damages is to make him understand that the act of forceful ejection is a discouraged tortious act.

RIGHTS OF TENANTS IN LAGOS STATE

A tenancy relationship being contractual will entail terms and conditions between the parties. The terms determine the corresponding rights of the parties to the contract. Aside the contractual terms agreed upon by the parties, the law also stipulates certain rights particularly in favour of the tenant.[44]

Foremost among the rights of the tenant in a tenancy contract is the right to be given a written contract by the landlord.[45] Upon entering into the tenancy contract, the tenant enjoys the right to peacefully and quietly occupy the premises without hindrance or disturbance from the landlord, agents, assigns or

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[42] *See Tenancy Law of Lagos State 2011, s 44*

[43] *See Tenancy Law of Lagos State 2011, s 25 (1) & (2)*

[44] *See Tenancy Law of Lagos State 2011, s 6*

[45] *Panadoc, 'Residential Landlord-Tenant Agreement Template' <http://www.panadoc.com/residential-landlord-tenant-agreement-template/> accessed on 21 June 2017*

successors-in-title.[46] This right to peaceful enjoyment which a tenant possesses is from both the other tenants in occupation of the premises, who must not constitute nuisance to other tenants and from the landlord alike.[47] There must be an undertaking by the landlord, his agent, privies and anyone claiming through him not to physically interfere in the tenant's enjoyment of the premises[48] and if the landlord breaches this undertaking, the tenant is entitled to claim damages from him.[49] It thus becomes a duty of the landlord to guarantee his tenant peaceful enjoyment of the premises together with all the facilities therein.[50]

It is imperative that any tenancy agreement which is not properly terminated will amount to a wrongful termination of such tenancy.[51] A landlord may commence an action to recover the demised premises when the tenant has not been denied his right to legal and proper termination.[52] In other words, for proper and legal ejection of a tenant, a tenant has the right to be served with adequate statutory notices which would include seven days' notice of the owner's intention to recover premises.[53]

LANDLORD'S RIGHT TO EJECT TENANT FROM PREMISES IN LAGOS STATE

The landlord owns the reversionary interest in the premises.[54] He is entitled to eject a tenant from and reclaim possession of the premises if he so desires. However, before a property can be recovered by the landlord the tenancy relationship must first have been determined either by the law or by the

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[46] *Tenancy Law of Lagos State 2011, s 6(1). See also* Praying Band of Cherubim and Seraphim Church v Udokwu *[1991] 3 NWLR (Pt.182) 719*

[47] *Ibid.*

[48] *See Tenancy Law of Lagos State 2011, s 8(i). See also M Pawlowski and J Brown,* A Casebook on Landlord and Tenant Law *(Sweet & Maxwell 1951) 121*

[49] Adolle v Adeyemi *[1966] 2 ALL NLR 96*

[50] *Ibid.*

[51] *See Tenancy Law of Lagos State 2011, s 13. See also* Odutola v Papersack & Anor *[2006] NWLR (Pt. 1012) 470*

[52] *D Awosusi, 'Recovering Residential Premises From Tenants In Lagos State' https://www.propertypro.ng/blog/recovering-residential-premises-from-tenants-in-lagos-state/ accessed on 21 June 2017.*

[53] *See Tenancy Law of Lagos State 2011, s 15(2)(a)*

[54] Sobande v Igboekwe *[2016] LPELR 40321 (CA)*

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parties.[55] Thus, a tenant may only be ejected upon the application of the landlord or his agent to the appropriate court.[56] There are certain grounds upon which a landlord may predicate his reason for initiating an action for ejecting his tenant and some of these grounds are contained in the Tenancy Law. A landlord will be permitted to bring his claim for the recovery of possession on as many grounds as possible so long he adduces evidence congruent with the claim.[57] The tenant may, therefore, be ejected for grounds such as effluxion of time,[58]breach of an express provision of the tenancy agreement,[59]failure to pay rent promptly and regularly,[60]the premises being used for illegal or immoral purpose,[61]for personal use,[62]premises being crowded as to be injurious,[63] premises requiring substantial repair,[64]tenant being guilty of nuisance[65] among others.

However, there is a laid down procedure for recovering the premises from the tenant in a lawfully and peacefully.[66] This involves the requisite notices to be issued to the tenants.[67] The law recognises the notice to be given to every

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[55] *Nigeria Property Centre, 'How to Recover Residential Premises from Tenants in Lagos State, Nigeria'* <http://www.nigeriapropertycentre.com/blog/renting-letting/how-to-recover-residential-premises-from-a-tenant-in-lagos-state-nigeria> *accessed on 23 March, 2017.*

[56] *See Tenancy Law of Lagos State 2011, s 16*

[57] *Findlaw, 'What does Landlord need to do to Evict the Tenant?* <http://www.realestate.findlaw.com/landlord-tenant-law/what-does-landlord-need-to-do-to-evict-the-tenant.html> *accessed on 25 June 2017.*

[58] *See Tenancy Law of Lagos State 2011, s 26(a). See also M Wilkie and G Cole,* Landlord and Tenant Law, *(The Macmillan Press Ltd 1993) 107;* Tinuola v. Okon *[1966] 2 All NLR 188*

[59] *See Tenancy Law of Lagos State 2011, section 25(1) (b). See also* S.P.D.C.N Ltd v. Amadi *[2010] 13 NWLR 101;* Kuyoro v Mawdew Ventures Ltd *[1975] 7 CCHCJ 1087; Lexology, 'Forfeiture: The Right of Re-entry'* <http://www.lexology.com/library/detail.aspx?g&3Dca8930ca-b3e9-4354-8048-6f29376e6fd1> *accessed on 25 June 2017.*

[60] *See Tenancy Law of Lagos State 2011, s 25(a). See also Chianu.Emeka,* Law of Landlord and Tenant *(Lawlords Publications 2010) 388; Onyekachi U, 'Rights of a Tenant in Nigeria';* Ilori v Oluronbi *[1977] CCHCJ 1317;* Osawura v Ezeiruka *[1978] 67 SC 135*

[61] *See Tenancy Law of Lagos State 2011, s 6(1)(d)*

[62] *E Chianu,* Law of Landlord and Tenant *(Lawlords Publications 2010) 392;* Breedy v Khaliffe *[1952] 20 NLR 91;* Oyename v Sulu *[1962] 2 All NLR 123;* Adebajo v Odunlami *[1949] 19 NLR 55;* Ibrahim v Ogunlesi *[1975] 7 CCHCJ 1255;* Duru v Oforji *[1977] 1 IMSLR 196, 201*

[63] *E Chianu,* Law of Landlord and Tenant, *(Lawlords Publications 2010) 391;* Omomeji v Okeowo *(1974) 5 CCHCJ 595*

[64] *E Chianu,* Law of Landlord and Tenant, *(Lawlords Publications 2010) 392;* Oyename v Sulu *[1962] 2 All NLR 123;* Animashaun v Oduntan *[1974] 1 CCHCJ 81*

[65] *E Chianu,* Law of Landlord and Tenant, *(Lawlords Publications 2010) 390;* Idowu v Adekanmi *[1975] 6 CCHCJ 923;* Coker v Adetayo *[1996] 6 NWLR (Pt. 454) 258;* Omole v Taylor *[1976] 4 CCHCJ 1169;* Aboaba v Kalaiwo *[1961] All NLR 726*

[66] *See Tenancy Law of Lagos State 2011, s 13*

[67] *See Tenancy Law of Lagos State 2011, s 13(e)(b). See the cases of* Cobra Ltd v Omole Estates Investment *(2000) 1 NWLR (Pt. 132) 357;* Shugaba v Ta'abu *(2000) FWLR (Pt. 17) 70 & 77*

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individual tenant depending on the type and term of tenancy in question.[68] The Lagos State Tenancy Law makes special provision for the procedure to be followed in an action for the recovery of premises. The procedure is by the issuance of statutory notices and thereafter the order of the court.[69] A landlord who seeks an order for recovery of possession must strictly comply with the procedure laid down, and failure to comply will justify the court to refuse to grant such order for recovery.[70] Once the landlord abides by the provisions of the tenancy agreement, the ejection of the tenant becomes lawful and peaceful even if the landlord has recourse to use some reasonable force to evict him.

FORCEFUL EJECTION OF TENANT BY LANDLORD IN LAGOS STATE

The act of forceful ejection has become a recurring means through which landlords in many urban cities particularly Lagos eject their tenants. This part gives an insight into the predominance of the act of forceful ejection of tenants in Lagos State and the modes through which the act is carried out.

Prevalence of Forceful Ejection in Lagos

Lagos has a number of reported cases of forceful ejection of the tenants by their landlords.[71] Landlords make the relationship seems like an unregulated affair for they give little or no regard to the law.[72] It has become a usual practice for landlords to determine the tenancy without first, taking recourse to the law or to the tenancy agreement as the case may be.[73] This practice has so dominated the city that it has become embedded in the landlord-tenant relationship so much that it has become a norm. Even the Lagos state government in the popular 'Otodo Gbame' case was accused of contempt of court in this regard and the act of the governor termed reprehensible[74]by Justice S.A Onigbanjo of the Lagos

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[68] *E Chianu,* Law of Landlord and Tenant, *(Lawlords Publications 2010) 305*

[69] Nigeria Airways Ltd v. Mahdi *[2014] 11 NWLR 35.*

[70] Hamidu v. Sahar Ventures Ltd *[2004] 7 NWLR (pt. 873) 618.*

[71] *See* Odutola v Paparsack & Anor *[2006] NWLR (Pt. 1012) 470. See also* Military Governor of Lagos State & 2 Ors v Chief Emeka Odumegwu Ojukwu & Anor *[1986] All NLR 233*

[72] *Daily post staff, 'Landlord Palava: The silent pains of Nigerians' Daily Post Newspaper (Nigeria 26 August 2012) <http://dailypost.ng/2012/08/26/landlord-palava-the-silent-pains-nigerians/> accessed on 16 July 2017*

[73] *I Okoronkwo, 'Recovery of Premises: An Assessment of Landlord/Tenant Law in Nigeria' <http://propertymaxng.blogspot.com.ng/2013/08/recovery-of-premises-assessment-of_7506.html?m=1> accessed 18 July 2017.*

[74] *D Onozure, 'OTODO GBAME: court restrains Lagos from further waterfront Communities Eviction' Vanguard Newspaper (Nigeria 22 June 2017)*

State High Court who said, 'if the governor had truly ordered the forceful eviction and demolition of the second applicant, he undermined the principles of the rule of law and the same process which put him in office in the first place'.[75] While it is elementary that only a valid notice to quit can bring the tenancy agreement to an end, landlords still fail to follow the prescribed process but resort to forced ejection of their tenants.[76]

Modes of Illegal and Forceful Ejection

Eviction has been defined to mean the dispossession by process of law; the act of depriving a person of the possession of land which he has held, in pursuance of the judgement of a court.[77] It is also defined to mean a physical expulsion of a person from a land or rental property.[78] For the purpose of discussing forceful eviction in Lagos, there are two notable ways through which tenants are being forcibly evicted from the premises in which they reside.[79]

Illegal forceful eviction (also called self-help eviction) is defined as:

> *taking an action in person or by a representative outside of the normal legal process with legal consequences, whether the action is legal or not; for example a self-help eviction may be a landlord's removing the tenant's property from an apartment and locking the door against the tenant.*[80]

It is an eviction of a tenant by a landlord which does not follow the state or city statutory requirements for eviction, but utilizes the self-help to remove the tenant from the property.[81] Self-help eviction is an individual's implementation

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<http://www.vanguardngr.com/2017/06/otodo-gbame-court-restrains-lagos-waterfront-communities-eviction/> accessed on 16 July 2017.

[75] Bounce News, 'The Lagos State High Court, Igbosere has Declined to Jail Governor Akinwunmi Ambode of Lagos State for Contempt' <http://www.bounce.ng/content/court-refuses-to-jail-ambode-over-otodo-gbame-demolition-20170412> accessed on 16 July 2017.

[76] Akinola W, '4 costly mistakes landlords make while ejecting bad tenants' < https://www.naij.com/1088915-4-costly-mistakes-landlords-ejecting-bad-tenants.html> accessed on 12 July 2017.

[77] The Law Dictionary, 'What is Eviction?' <http://thelawdictionary.org/eviction/> accessed on 15 July 2017.

[78] B Garner, Black's Law Dictionary (West Group) p.1676

[79] Ibid.

[80] B Garner, Black's Law Dictionary (West Group) p. 1690.

[81] Ibid.

without resorting to legal writ or consultation of a higher authority.[82] It means the taking of a legal matter into one's hands and resorting to extra-legal methods to enforce a legal right. It is also an extra-judicial remedy to enforce or protect a right.[83] This act of self-help may be carried out in three major forms.

a) Depriving the tenant from using common facilities.
b) Locking the tenant out of the property.
c) Throwing his property out.

Adoption of self-help eviction of tenants is discouraged because it tantamount to taking the law into one's hands.[84] This measure is believed to encourage unethical and illegal practices among landlords and diminishes the public respect for the law.[85]

In Nigeria, illegal eviction is frowned upon by the law[86] and may cause the landlord to be sued and made liable in damages.[87] Even when the notice to quit has been given to the tenant, the law still does not permit the landlord to carry out the eviction of the tenant. The law looks upon the action of self-help by the landlord to mean unlawful landlord harassment.[88] In *Governor of Lagos State v Ojukwu,*[89]the Supreme Court condemned the resort to self-help as an act of executive lawlessness and held that once a matter is pending before a court, no person has a right to take the matter into his own hands and take possession of the premises by the use of law enforcement agencies. Similarly, In *Iheanacho v Uzochukwu*[90]where possession was obtained through an affidavit sworn to by the landlord and endorsed for possession by a magistrate without service of adequate statutory notices or the issuance of a writ, the Supreme Court held

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[82] *Ibid.*
[83] *Ibid.*
[84] *The Free Dictionary, 'Self-Help' <http://legal-dictionary.thefreedictionary.com/Self-Help> accessed on 16 July 2017.*
[85] *Ibid.*
[86] Prof. Ajibajo Akinkugbe v Ewulum Holdings Nig Ltd & Anor *[2008] 4 SCJN 404*
[87] *See Tenancy Law of Lagos State 2011, s 44 (1). See also I Okoronkwo, 'Recovery Of Premises: An Assessment of Landlord/Tenant Law in Nigeria' <http://www.thelawyerschronicle.com/recovery-of-premises-an-assessment-of-landlordtenant-law-in-nigeria/> accessed on 16 July 2017, EH Rabin, 'Revolution in Residential Landlord-Tenant Law: Causes and Consequence' (1984) 69 Cornell Law Review 538.*
[88] *Findlaw. 'Illegal Evictions Can Get You in Trouble for Landlord Harassment' <http://realestate.findlaw.com/landlord-tenant-law/illegal-evictions-can-get-you-in-trouble-for-landlord-harassment.html> accessed on 16 July 2017.*
[89] *[1986] All NLR 233.*
[90] *[1997] 1 SCNJ 117, 284.*

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that resort to self-help by the landlord to evict a tenant who is in lawful occupation is not within the purview of the provisions of the Law and that such landlord renders himself liable to the tenant in trespass for the ejection of the tenant based on the affidavit. The courts often uphold the rights of the tenant and deprecate self-help even where there is apparent justification for the landlord to use self-help to recover possession. In *Eloichin v Mbadiwe,*[91] while a tenancy was still subsisting, the landlord entered upon the premises to forcefully eject the tenant and threw out his property. The tenant sued the landlord for unlawful entry into the premises, for trespass to his goods and claimed aggravated damages. Aniagolu JSC, held that:

> The laws of all civilized nations have always frowned at self-help if for no other reason that they engender breaches of peace. It is no doubt annoying, and more often than not frustrating for a landlord to watch helplessly his property in the hands of an intransigent tenant who is paying too little for his holding, or keeps the premises untidy, or is irregular in his payment of rents or is otherwise an unsuitable tenant for the property. The temptation is very strong for the landlord to simply walk into the property and retake immediate possession. But that is precisely what the law forbids.

Similarly, Obaseki JSC, while delivering his judgement held that:

> It is not the law of this country that a landlord has unbridled right to invade premises in the lawful occupation of a tenant and cart his belongings away even for safe keeping, more so when the intention of the landlord is to recover premises...where the landlord brushes aside the necessity to obtain an order of court for possession and jettisons the rule of law, enters the premises and takes possession, he has invaded and committed an infraction of the rights of the tenant and renders himself liable in trespass.[92]

The landlord, having commenced an action for recovery of his premises, cannot at the same time during the subsistence of a legal proceedings resort to self-help to eject the tenant. This is what the Supreme Court chastised the Lagos State

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[91] *[1986] 1 NWLR (PT.1447), 66*

[92] Adekunle v Adegboye *[1992] 2 NWLR (Pt. 223) 305*

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government for in *Governor of Lagos State v. Ojukwu*.[93] A related scenario ensued in *Duwin Pharmaceuticals v Beneks Pharmaceuticals*,[94]where Duwin sued Beneks for infringement of their registered trade mark and obtained an interim injunction against them. However, the trial court later vacated the injunction and granted an accelerated hearing of the matter. Dissatisfied with the order of the court, the appellant reported the matter to the police and still went on appeal. The Supreme Court held that the act of the appellant was contrary to the rule of law and amounted to self-help. Aloma-Mukhtar JSC (as he was then) said:

> It is disturbing that the appellant (Duwin) after obtaining the above orders should proceed to petition the police on the same matter. The order as can be understood was restraining the respondents (Beneks) from inter-alia manufacturing the product in controversy, and so should cover whatever the appellant deemed to be the respondents interference with the product in controversy, albeit adulteration of the product. The argument of learned counsel for the appellant that the report lodged to the police was on adulteration of the product does not reduce the gravity and consequence of the action of seeking police intervention and self-help. The argument is not at all persuasive. The appellant sought the court's intervention, and the court adequately intervened by giving the reliefs and orders sought, but then the appellant has proved that, that was not enough for it was not satisfied, but resorted to self-help. This action definitely was contrary to the principle that a litigant will not abuse a court's process that is already in existence by resorting to self-help, and the courts will not tolerate such action or abuse.

Thus, it is settled that even when the tenancy agreement has come to an end, the landlord cannot go into the premises to eject the tenant without first issuing a notice to quit and subsequently obtaining a court order for possession.[95] If the landlord fails, to obtain a court order, he is open to criminal prosecution.[96]

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[93] *[1986] All NLR 233*
[94] *[2008] 4 MJSC 161*
[95] Elochin Nig Ltd v Mbadiwe *[1986] 1 NSCC 42*
[96] *See Tenancy Law of Lagos State 2011, s 44(1)*

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IMPLICATIONS OF FORCEFUL EJECTION OF TENANTS BY LANDLORDS IN LAGOS

The practice of unlawful forceful ejection has so much corrupted the landlord-tenant relationship resulting in an adverse effect on the parties to the tenancy. This inhumane, extreme and unlawful act of the landlords in Lagos has increased the distrust of the people for the laws operative in Lagos State as well as in the landlord-tenant relationship in Nigeria. Employing self help measures to recover premises has been found to affect the tenants in various ways.The findings made hereunder are based on date gathered from face-to-face interviews of residents and tenants in the urban city of Lagos.

Socio-Economic Implications of Forceful Ejection on the Tenants

The tenant, being the victim of forceful ejection, faces a lot of travails after being subjected to such extreme and unlawful treatment by the landlord. He is on the receiving end of the lawless act of forceful ejection. Some of the socio-economic implications resultant from the ejection includes:

Shamefulness and Loss of Human Dignity

A tenant, who was locked out of the premises which he resides in with his family in the presence of his neighbours, will certainly face a certain form of embarrassment in the society.[97] This act of the landlord brings shame and disgrace to the tenant and to his family as he will be regarded as an irresponsible fellow in the society whereas in most cases, the affected tenants are not defaulters but only victims of gluttonous landlord who are always determined to harass their tenants with a view to making them leave in order to bring in new tenants who are willing to pay higher rents.[98] Most times, the landlords throw out the tenant's property, lock up the premises, remove the windows and nets,[99] and expose the tenant to societal ridicule. Psychologically, such situations have led some tenants into depression or even post-traumatic experiences.[100] For instance, one of the respondents to this study lamented that when the landlord locked him and his family out of their apartment, 'he felt like the ground should

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[97] *Interview with Mrs Evelyn Obiajulu, a tenant in Lagos State (Lagos 04 April 2017).*
[98] *Interview with Mr. Akin Malaolu, a tenant in Lagos State (Lagos 26 March 2017).*
[99] *Interview with Miss Ohunta Chioma Nancy, a tenant in Lagos State (Lagos 12 April 2017).*
[100] *Rice University, 'Eviction can Result in Depression, poorer health and higher stress' <http://www.sciencedaily.com/releases/20115/03/150309174831.htm> accessed on 09 July 2017.*

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swallow him to escape from the shame'.[101] This expression depicts a heightened sense of loss of dignity arising from extreme shame particularly when the victim sees himself or is being regarded in his community as a dignified fellow.

Further, some tenants who have hitherto lived in high-brow elite class neighbourhood are forced to hurriedly relocate to lower-class neighbourhoods. This is also considered shameful in the Nigerian social strata.[102] These areas considered, slums, will be difficult for them to adapt to. This affects their self-esteem in situations when they are required to find alternative accommodation in less developed areas.

i. Financial and Economic Strain and Imbalance

The tenants were evicted from the premises let to them by their landlords will be faced with the urgent and impromptu need to seek for alternative accommodation. The suddenness of this situation affects the tenant's monetary resources, especially when he has made plans for these resources, which he now has to use to secure a new apartment.[103] He might have made a budget for the funds to be directed to a separate use other than the payment and negotiation for a new rental agreement.[104] This will affect the social and economic lifestyles of the tenant in that the tenant may not have sufficient funds to cater for his other immediate needs. For instance, he may be unable to pay for his child's school fees, he may face some difficulties in providing for feeding as well as medical bills or any uprising necessity, as the case may be.

ii. Homelessness

As a result of the unforeseen ejection, most of the affected tenants become homeless. Due to unabated influx of migrants from all over Nigeria and other parts of the world, Lagos has always battled shortage of housing facilities; and mostly it takes a prolonged period of between six months and one year to get a suitable apartment. Most times, the ejection comes as a surprise to the tenants leaving them with very little time to immediately seek a new residence.[105] The effect of this is that the tenant will live on the streets and may be subjected to

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[101] *Interview with Mr Beegfitch Solomon, a tenant in Lagos State (Lagos 19 March 2017).*

[102] *Interview with Mr Bukola Oyebanji, Assistant Sheriff of the Lagos State High Court (Igbosere 22 March 2017).*

[103] *Interview with Mrs Evelyn Obiajulu, a tenant in Lagos State.*

[104] *Ibid.*

[105] *Interview with Mr Akin Malaolu, a tenant in Lagos.*

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unfavourable and harsh treatment on the streets.[106] Such tenants are often left to roam the streets and may even sometimes be mistakenly arrested as vagabonds or perpetrators of crime in the society.[107] Such a tenant may also be exposed to the hazards of day and night on the streets where all form of inhumane conditions are bred.[108]

iii. Loss and Destruction of Property

Parties who involve themselves in self-help are often reckless and nonchalant in the manner of approach to eviction. The usual manner in which landlords throw out the personal property of their tenants, most times, results in the loss of such property. Their aim is to get the tenant and his property out of the premises without caring what happens to it thereafter. The property is sometimes left in the open without supervision and care particularly in cases where the tenants are on journey.[109] The tenant's property may also be stolen or lost during this process. While throwing out the tenant's property it may also be mishandled in the process and destroyed.[110] Although, this gives rise to the tenant's right to sue for trespass to his personal property making the landlord liable in damages for any such loss that has resulted during the process of self-help,[111] however, the tenants are often too embarrassed and distraught to approach the Court for the redress. Moreover, they will prefer to use whatever financial resources they had at the time to quickly secure another accommodation than deploying them to litigation that often takes long time to prosecute.

iv. Physical, Psychological and Sexual Violence

Most tenants are harassed even after being ejected from the premises through self-help.[112] This situation often arises when the tenant is in arrears of rent and the landlord is still trying to recover the sum owed in arrears. The tenants are subjected to embarrassing and belittling treatments by the landlords who may lock the tenants up in one room like prisoners,[113] lock the door without notice on

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[106] *A Dedeigbo, 'Landlord tests Lagos Tenancy Law, Ejects 18 Tenants' PM News (Nigeria 11 September 2011) <http://www.pmnewsnigeria.com/2011/09/07/landlord-tests-lagos-tenancy-law-ejects-18-tenants/> accessed on 27 July 2017.*

[107] *Interview with Mrs Evelyn Obiajulu.*

[108] *Interview with Mr Innocent Usigbe.*

[109] *Interview with Mr Thomas Egenuka, a tenant in Lagos State (Lagos 16 April 2017).*

[110] *Ibid.*

[111] Iheanacho v Uzochukwu *[1997] 2 NWLR (Pt. 487) 257*

[112] *STU, 'Harrassment by Landlord' <http://www.sftu.org/harass/> accessed on 19 July 2017.*

[113] *Interview with Mr Etuk Abasiono, a tenant in Lagos State (Lagos 17 March 2017).*

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the day of expiration,[114] while some female tenants may also be subjected to sexual harassment by the landlords. Landlords are also reported to lock the tenant's phone inside the residence or even change the lock.[115]

Also, when the landlord denies the tenant access to common facilities such as toilets, laundries, kitchens, etc., it causes inconvenience and lack of comfort for the tenant when the tenant is no longer able to do things which he would ordinarily do without disturbance or difficulties.[116]

6.2 Legal Implications of Forceful Ejection in Lagos State

The act of forceful ejection also has certain legal implications on the parties as well as on the society. It is clear that the act of forceful ejection is frowned upon by the tenant laws of various states in Nigeria including Lagos State. The law has put in place certain implication and punishments accruable to landlords who are found to have been involved in forceful ejection.

a) Trespass

Trespass is an act of unlawfully entering upon the land of another.[117] It is an unlawful intrusion that interferes with a person or his property.[118] In *Ogunbiyi v Adewunmi,*[119]trespass was defined to consist of any unjustifiable intrusion by one person upon the land of another. A tenant is in exclusive possession of the premises and can maintain an action in trespass against the landlord, or a grant of injunction to restrain the landlord from ejecting him in an unlawful manner.[120]A landlord is ordinarily permitted and regulated by statute, to enter into the premises he has leased to a tenant before the expiration of such tenancy to inspect the property or make repairs with the permission of the tenant.[121] When the tenant is in occupation of the premises, he has all rights over the premises to treat it as his own and the landlord cannot enter upon the land

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[114] *Interview with Mr Saliu Tolani Bello, a tenant in Lagos State (Lagos 19 March 2017).*
[115] *Interview with Mr Promise Adebayo, a tenant in Lagos State (Lagos 22 March 2017).*
[116] *Interview with Mr Innocent Usigbe, a tenant in Lagos State (Lagos 19 March 2017).*
[117] *Merriam Webster, 'Definition of Trespass' <http://www.merriam-webster/dictionary/trespass> accessed on 12 July 2017.*
[118] *Farlex, 'Trespass' <http://legal-dictionary.thefreedictionary.com/trespass> accessed on 12 July 2017.*
[119] *[1988] 3 NSCC 268*
[120] *Ufeli E, 'Understanding your Rights and Obligations as a Tenant' <http://wwwconnectnigeria.com/articles> accessed on 13 July 2017.*
[121] *See Tenancy Law of Lagos State 2011, s6(1)(c)&11(b)*

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except the tenant lets him in.[122] The courts frown at any act of self-help and will readily award a tenant damages for illegal removal.[123] In *Sandra Ogoh v. Chimere Ikenga & 4 ors,*[124]where the landlord had unlawfully forced his way into the said premises, destroyed the gate and other properties of the defendant-tenant, the court held the landlord liable in trespass. A claim for damages for trespass by the landlord can be maintained only by a person in possession or who has a legal right to the possession of the property.[125] Where the landlord fails to follow the appropriate means for removal of a tenant, and issues an invalid notice to quit, he will still be held liable in trespass for entry into the land. In *Iheanacho v. Uzochukwu*[126] possession obtained through an affidavit sworn to by the Magistrate without services of statutory notices or the issuance of a writ was held to be an invalid means of recovery of premises and the landlord was held liable in trespass. The court held that:

> It must also be stressed that resort to self-help by a landlord in a bid to recover the premises occupied by his tenant who is in lawful occupation does not come within the purview of the provisions of the law. Where a landlord fails or ignores to obtain an appropriate order of court for possession after due hearing or enters the premises and takes same without the said order of court, the landlord has invaded and committed an infraction of the rights of the tenant and renders himself liable in trespass.

Thus, by the provision of the law and the plethora of cases decided by the court, it is apparent that the law frowns at any and every act of forceful ejection that will lead to trespass by the landlord.

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[122] *Onyekachi U, 'Rights of a Tenant in Nigeria' <http://www.learnnigerianlaws.com> accessed on 12 July 2017.*

[123] *Findlaw, 'Illegal Eviction can get you in Trouble for Landlord Harassment' <http://www.realestate.findlaw.com/landlord> accessed on 13 July 2017.*

[124] *Unreported:Suit No FCT/HC/CV/359/2010 High Court Abuja in 2010.*

[125] Iwenofu v Iwenofu *[1975] 9-11 SC*

[126] *[1997] 2 N.W.L.R. (PT. 487) 257*

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b) Imprisonment/Fine

The provision of the Lagos Tenancy Law is to the effect that any landlord who forcibly ejects a tenant from his premises is guilty of an offence.[127] Section 44 of the 2011 Tenancy Law of Lagos State provides that:

> Subject to the provisions of any law, (a) any person who demolishes, alters or modifies a building to which this law applies with a view to ejecting a tenant without the approval of the court or (b) any person who in respect of any premises (i) attempts to forcibly eject or forcibly ejects a tenant, (ii) threatens or molests a tenant by actions of words, with a view to ejecting such tenant or (iii)wilfully damages any premises shall be guilty of an offence and is liable to a fine not exceeding Two hundred and Fifty Thousand Naira (250,000.00) or a maximum of six (6) months imprisonment and any other non-custodial disposition.

The implication of this provision is that a landlord may not eject or threaten to eject his tenant from his premises unless he has first issued a statutory notice to quit and obtained the order of the court to eject such tenant. He must not damage, destroy or alter the building otherwise he will be liable in trespass for any of the aforementioned act to the person and property of the tenant. The punishment prescribed by the law for the erring landlord may come in form of imprisonment or a fine. In *Military Governor of Lagos State & 2 ors. v Chief Emeka Odumegwu Ojukwu & anor*[128] the court held that:

> The law is common place that a claim for damages for trespass is at the instance of a person in lawful possession of the land such as in the instant case where the occupation of the premises by the respondent has the backing of the law. Therefore, the act of forceful entry in to the premises and the subsequent eviction of the occupants together with their property is one clear case of trespass for which damages ought to be paid by the appellants to the respondents.

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[127] *See Tenancy Law of Lagos State 2011, s 44*

[128] *[1986] All NLR 233.*

This implies that, for every act of trespass in a bid to forcefully eject the tenant, the landlord will be liable in damages.

c) Abuse of Court Process and rule of law

Every person has a right to institute an action before a court of law when he has a right to claim.[129] This is not with the exemption of landlords as the Tenancy Law of Lagos State[130]permits a landlord to recover his building from a tenant after the issuance of a valid notice to quit. However, a landlord who has in the first instance decided to institute an action in court and while litigation is pending resorted to self-help has abused the court process.[131]This is because the law frowns upon a landlord who resorts to self-help as a means of ejecting his tenant. In *Duwin Pharmaceuticals v Beneks Pharmaceuticals*,[132] the act of forceful ejection was held by the court to amount to abuse of court process. The term, abuse of court process, has been described in the case of *Ntuks v. Nigerian Ports Authority*[133] generally means that a party in litigation takes a most irregular, unusual and precipitate action in the judicial process. It is also used where the process of the court is used *mala fide* to overreach the adversary to the direct annoyance of the court. Findings have shown that many landlords employ unconventional means to forcefully eject their tenants and some of these means involve direct abuse of the processes of the court. One of such means involve a practice described in Lagos local parlance as *jankara* practice.[134] By this practice, the landlord sues his tenant but rather than serve the real tenant whose name appears on the writ, he brings in a shadow defendant who appears in the place of the real tenant and admits the claim of the landlord. The court on that basis will deliver judgment in favour of the landlord who then serves the real tenant with the enrolled judgement. One of the cases where the facts bother on abuse of court processes include *Iheanacho v Uzochukwu,*[135]where possession was obtained through an affidavit sworn to by the landlord and endorsed for possession by a magistrate without service of adequate statutory notices or the issuance of a writ. The Supreme Court nullified the landlord's action.

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[129] *See Constitution of the Federal Republic of Nigeria 1999 (as altered), s 36*

[130] *See Tenancy Law of Lagos State 2011, s 24*

[131] Duwin Pharmaceuticals v Beneks Pharmaceuticals *[2008] 4 NWLR (Pt.1077) 376.*

[132] *[2008] 4 NWLR (Pt.1077) 376*

[133] *S.C. 190/2003; [2007] All FWLR (Pt. 387). See also* Nigeria Deposit Insurance Corporation v. Union Bank of Nigeria Plc. & Anor., *LN-e-LR/2015/12 (CA).*

[134] *Although the origin and etymology of this word is unknown to the author at the time of this study, its use generally suggests dubiousness.*

[135] *[1997] 1 SCNJ 117, 284*

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d) Derogation of fundamental rights

Forceful ejection is an affront to the fundamental rights of the tenants. The actions of the landlords in many cases derogate the tenants' rights to dignity of human persons, right to personal liberty and right to private and family life enshrined in the Constitution of the Federal Republic of Nigeria 1999.[136] The right to dignity of human person as provided in section 34 of the Nigerian Constitution presupposes that every individual has an inherent right to be treated with respect and dignity. This right is absolute and does not accommodate any exception unlike most other fundamental rights that can still be constitutionally derogated by virtue of section 45 of the Constitution of the Federal Republic of Nigeria 1999.[137] Implicatively, under no circumstance should a person treat another in a manner that denies the latter his dignity as a person such as torture, ill-treatment, slavery, servitude, forced labour or any other inhuman or degrading treatment.[138] Though, the Constitution does not explain what amounts to these kinds of treatment, scholars have identified inhuman and degrading treatment to include when a person makes another undergo physical or mental pain, raping an individual, beating, confining a person against his/her will. Evidence abound of the practice of many landlords in urban cities who hire hoodlums to attack, harass and molest tenants physically and sexually (where the tenant is a female).[139]

In the same vein, section 35 accords every individual the right to personal liberty which has been explained to mean "the right not to be subjected to imprisonment, arrest and any other physical coercion in any manner that does not admit of legal justification."[140] This description is underlined by section 35 (1)

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[136] *See Constitution of the Federal Republic of Nigeria 1999, ss 34,35 and 37 respectively*

[137] *O Aguda,* Understanding the Nigerian Constitution of 1999 *(MIJ Professional Publishers Ltd 2000), 66*

[138] *B Maigari, "Violation of Sections 34 & 35 of the 1999 Constitution by Law Enforcement Agencies in Nigeria" http://www.academia.edu/7513862/Violation_of_Sections_34_and_35_of_the_1999_Constitution_by_Law_Enforcement_Agencies_in_Nigeria (26 October 2018).*

[139] *Interview with Mr James Ajayi, a landlord in Isheri Lagos State (Lagos 12 April 2017); Interview with Mr Biodun Olaoye, a landlord in Gbagada Lagos State (Lagos 17 April 2017); Interview with Mrs Limota Iyabo Saidu, a landlord in Ketu Lagos State (Lagos 29 March 2017); Interview with Mr Promise Adebayo, a tenant in Lagos State (Lagos 22 March 2017); Erin Eberlin, 'Is your landlord guilty of harassment-the balance' <http://www.thebalance.com/is-your-landlord-guilty-of-harrassment-4125876> accessed on 21 July 2017.*

[140] Odogar v. A. G. of the Federation *[1996] 6 NWLR (pt. 456) 508 SC. See also Jadesola A. Akande,* Akande: Introduction to the Constitution of the Federal Republic of Nigeria 1999 *(MIJ Professional Publishers 2000), p.78; AV Dicey,* Introduction to the Study of the Law of Constitution, *(9th Edn., Macmillan 1950) pp.207-208.*

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which even though allows a person to be deprived of this right under certain constitutionally recognised circumstances but insists that the deprivation must be in accordance with procedures permitted by law. The circumstances under which a person may be denied his right to personal liberty are clearly stated in section 35 (1) (a) to (f), however, the landlord enjoys no such power. But there are reported cases where landlords lock-in their tenants or barricade the premises preventing the tenants to exit with the main aim of making the tenant uncomfortable and force him to do the landlord's bidding.[141]

Forceful ejection also breaches the tenants' right to privacy as protected in section 37 of the Constitution of the Federal Republic of Nigeria 1999. A focused description of this right was rendered by Brandeis, J, as "[t]he right of the individual to be protected against intrusion into his personal life or affairs, or those of his family, by direct physical means or by publication of information."[142] A key component of the right to privacy according to Prosser is the prohibition of intrusion upon a person's seclusion or solitude.[143] In other words, it is the right to be left alone.[144]This right has connects with the right to dignity and autonomy of human beings, thus, the primary aim of this right is to protect the dignitary interest and self-worth of the individuals.[145] The law, therefore, protects the individual from embarrassment and anguish.[146] Contrary to what the law suggests, many landlords in the urban cities forcefully reenter the tenants' premises without prior notice and in some cases, they are reported to lock the tenant's phone inside the residence or even change the lock.[147] It is also usual practice in the urban cites for landlords to throw out the personal property of their tenants with the aim of getting the tenant and his property out of the premises without caring what happens to it thereafter.[148] Although these actions bother on tort of trespass,[149] they are nonetheless breaches of fundamental rights of the tenants.

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[141] *Interview with Mr Saliu Tolani Bello, a tenant in Lagos State (Lagos 19 March 2017).*

[142] *Olmstead v United States*, 277 US 438 478. This definition was adopted in the *Report of the Committee on Privacy and Related Matters* 1990 Cmnd. 1102, London: HMSO at 7

[143] Prosser, "Privacy " 48 California Law Review 383 at 389. This definition has been adopted by the *Restatement (Second) of Torts*. See also *Zacchini v Scipps-Howard Broadcasting* Co 433 US 562, 571-3.

[144] *Brandeis in* Olmstead v United States, *277 US 438 478.*

[145] *Nwauche, E.S "The Right to Privacy in Nigeria" (2007) Vol. 1, no. 1,* CALS Review of Nigerian Law and Practice, *64-65.*

[146] *Nwauche, Ibid.*

[147] *Interview with Mr Promise Adebayo, a tenant in Lagos State (Lagos 22 March 2017).*

[148] *Interview with Mr Thomas Egenuka, a tenant in Lagos State (Lagos 16 April 2017).*

[149] *Akande, op. cit., 85*

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to provide sufficient housing for the citizens has made the government lost the moral ground to effectively implement the provisions of the law against unlawful ejection. Even the provisions against collection of advance rents[158] are being flouted with impunity without response from the law enforcers.[159] More so, there is no government agency saddled with the responsibility of ensuring compliance with the provisions of the Tenancy Law; and being a private contractual agreement, it is outside the purview of the duty of the Nigerian police.

The law also clearly states the rights of the landlord and the tenant in a tenancy relationship as well as the obligation imposed on the parties.[160]It also prescribes the duration of the length of notice to be given to the tenants to quit the premises depending on the kind of tenancy agreement and in a situation where there is no stipulation as to notice in the tenancy agreement.[161] Leaving the determination of the length of notice to be given at the discretion of the parties has given the landlords the power to reduce the statutory period of notice in their agreements. They include one month notice for a yearly tenancy.

Another impediment to the implementation of the law against forceful ejection arises from the bloated bureaucracy and cumbersome process required to seek redress in the court. The process of redress is often a long one which makes tenants resort to alternative, sometimes unhealthy, ways of seeking redress outside the court.[162] Although, if going through the hard and challenging legal path is the price the tenant will have to pay to ensure that the law is implemented, then it is worth it.[163] In the case of *Uzoma Okere v Rear Admiral Arogundade & 5 ors*[164] the applicant was brutalised by the naval rating assigned to the 1st defendant even after a tenuous court process. The incident that led to the case occurred in November 2008. On the fateful date, the naval officers took the law into their hands by brutalising and molesting the claimant/plaintiff who filed a civil suit against the officers and the Nigerian Navy. Judgment was delivered in year 2010 meaning that the civil suit lasted for two (2) years at the

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[158] *Tenancy Law 2011, s 4*

[159] *Castle Lifestyle, "Has the 2011 Tenancy Law made any impact?" [May 24, 2017] http://castles.com.ng/articles/the -lagos-tenancy-law-2011/ (Accessed on 27 June 2018).*

[160] *See Tenancy Law of Lagos State 2011, ss 5,6,7 and 8*

[161] *See Tenancy Law of Lagos State 2011, s13(1).*

[162] *I Balogun, E Sessou and E Anozie, 'Is Tenancy Law Effective in Lagos?' Vanguard Newspaper (Nigeria 28 April 2012).*

[163] *T Ogunbiyi, 'Implementing the Lagos Tenancy Law' <http://www.pmnewsnigeria.com/2011/09/07/implementing-the-lagos-tenancy-law--tayo-ogunbiyi/> accessed on 17 July 2017.*

[164] *Unreported: Suit No. m/615/08, High Court of Justice Lagos state on 27/01/2010.*

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trial High Court. As at year 2011, the judgment had been appealed to the Court of Appeal where on the average, the case may last between 3 and 5 years minimum. This means that the suit may take between 5 and 8 years or more to settle.[165]Thus, even after a long and strenuous court process, a beneficial judgment may be reached in favour of the tenant. Most tenants are however unwilling to be subjected to this tenuous process to effect the law.[166]

Notably, another matter arising from implementation of the law is the moral impediment that requires voluntary compliance rather than strict enforcement from the government.[167] Landlords who have morals and respect the law should ordinarily have a resolve to follow the law at all times. Contrary to this, the landlords have found leakages in the law and have used this to their own benefit by increasing rent unilaterally and arbitrarily.[168] This is a way of ejecting tenants, when the landlord is aware that rent cannot be paid by the sitting tenant in a bid to get new tenants who will satisfy their desire for advanced rent.[169]

CONCLUSION

Housing in Lagos State is found to be majorly an economic factor used by private individuals to make money. The Government of Lagos State does not particularly involve itself in the housing scheme and sector leaving individuals to be mostly involved in housing. There has been an increase in the population of people in Lagos State over time. This has caused there to be more people in Lagos State than there are available houses. The effect of this is that there is a shortage of housing. Most individuals who do not own their own houses need to rent from landlords and are, therefore, often left at the mercy of the landlords.

The arrangement between the landlord and tenant is faced with various challenges. One of the prominent challenges is the issue of forceful ejection. Despite the existence of the tenancy laws of various states including the Tenancy

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[165] *see I Anaba, "Uzoma Okere: Navy, Arogundade appeal judgment"* Vanguard *(7 March 2011) https://www.vanguardngr.com/2011/03/uzoma-okere-navy-arogundade-appeal-judgment/).*

[166] *I Balogun, E Sessou and E Anozie, 'Is Tenancy Law Effective in Lagos?' Vanguard Newspaper (Nigeria 28 April 2012).*

[167] *Ibid.*

[168] *Njide Njoku, 'No Landlord has right to Lock out Tenant for non-payment of service charge' Vanguard Newspaper (Nigeria 18 December 2017) <http://www.vanguardnnngr.com/2012/12/no-landlord-has-right-to-lock-out-tenant-for-non-payment-of-service-charge/> accessed on 12 July 2017.*

[169] *F Atoyebi, 'The Lagos State Tenancy Law (A Critique)' <http://femisblogspot.wordpress.com/2014/05/30/the-lagos-state-tenancy-lawa-critique/amp/> accessed on 18 July 2017*

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Law of Lagos State 2011, the incidents of unlawful forceful ejection continue to increase in the city of Lagos. The problem being faced by this relationship, perhaps, arises from the very nature of the legal framework and implementation of the laws. The practice of forcefully ejecting tenants without due recourse to legal procedure has skyrocketed over the years that it now calls for the deliberate intervention of the government. This act is done through various means such as changing of locks, throwing the tenant's property out or even through the deprivation of the use of common facilities. Tenants suffer untold hardship in the hands of their landlords. The many social and economic implications arising from the act of forceful ejection affects the everyday life of the tenant. Tenants who have been forcefully evicted start to face various difficulties. They may become an object of ridicule or even be subject of harsh conditions in the society. Although, the law makes provision for the punishment of landlords who forcefully eject their tenants in unlawful manner, its provisions still seem insufficient as the practise is unceasing. Perhaps, the leak in the law comes from the ineffective implementation of the law against the parties.

Recommendations

1. The government should utilise the local government structures for quick and less tenuous dispensation of matters relating to landlord and tenant relationship. This can be done when the government sets arbitrators and enable them to set appropriate timelines that are fair and just when issuing orders of possession. The essence of this is to prevent multiple cases arising at one time in the High Court or Magistrate Court. This will also enable tenants to have a proper channel to lodge their numerous complaints.
2. One imperative amendment to the tenancy law is a provision requiring the landlords to give tenants prior written warning about their problems and issues arising from the Tenancy agreement which might necessitate him to evict the tenant. This notice is to be given at a time when the tenant can still correct or rectify the issue. The reason for this is that both parties should endeavour to reach a form of agreement and settle any form of problem which might have arisen in the course of occupying the premises. This should be done at any time before the process of evicting the tenant starts.
3. The law should also be amended to incorporate the rules of alternative disputes settlement such as arbitration, mediation, conciliation among others. To be more effective, there is need to involve traditional rulers within the locale of the premises in this process. This will certainly unclog the courts' dockets and develop mutual trust between the landlord and

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tenants. This process should be made a *sine qua non* to litigation so much that the court will not entertain a tenancy suit unless the plaintiff shows evidence of satisfying the ADR option.

4. The law should also be amended to cater for and provide alternative accommodation for tenants who are entitled to less than 6 months' notice after being evicted from the premises. Tenants who have been evicted from their premises should have a place where they can go to after such eviction and not to be left on the streets.
5. It is understandable that the Tenant Law mainly protects the interests and rights of the tenants against overbearing landlords. Findings in this study have shown that there are also some cantankerous tenants who flout their agreements flagrantly and even challenge the landlords to go to court. The law needs to be revisited and empower the courts to *suo motu* impose some fines on tenants who are found to deliberately usurp the landlord's right of enjoyment of his property.
6. The Tenancy Law should create an enforcement/inspectorate agency to which parties must report and which would do on-the-spot assessment of the problem and write a report, which must be among the evidence to be tendered before the courts grant order of eviction. This will reduce the brazenness of the landlords.
7. The governments should, in conjunction with private individuals/sector make more and adequate provisions for accommodation of tenants in urban cities. Housing in urban cities should be a social responsibility handled by the government and not mostly individuals as individuals make it an economic factor and use this opportunity to demand for higher rent.

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