

BALANCING PROPERTY RIGHTS AND TENANT PROTECTIONS: AN ANALYSIS OF RECOVERY OF PREMISES LAWS IN NIGERIA

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Abstract

This study critically examines the legal framework governing the recovery of premises in Nigeria, highlighting how tenant protection laws, while essential, often undermine landlords' rights to own and recover immovable property. It analyzes the procedural requirements such as the issuance of statutory notices and court applications and notes that strict compliance does not guarantee possession. The study underscores the adverse economic and social impacts of prolonged litigation, the complexities introduced by judicial interpretation, and the imbalance created by excessive tenant protections. It recommends reforms including streamlined court processes, adoption of alternative dispute resolution mechanisms, stricter enforcement of court orders, updated legislation like the Rent Control Act, and the establishment of specialized tribunals to ensure a fairer and more efficient property recovery system.

Keywords: Landlord, Premises, Property, Recovery, Right, Tenancy Laws, Tenant.

1. Introduction

Property ownership is a fundamental right enshrined in section 43 of the Nigerian Constitution.¹ It serves as a crucial aspect of social and economic development, allowing individuals to invest, generate wealth, and contribute to the nation's economy. However, the law governing the recovery of premises in Nigeria has raised significant questions about the implications on landlords' rights to their property. This study argues that while the law aims to protect tenants from unlawful eviction, it inadvertently undermines landlords' property rights, creates an imbalance in landlord-tenant relationships, and hinders economic activities related to property ownership.

2. The Meaning of Recovery of Premises

Recovery of premises is a concept in property law which deals with the process of reclaiming possession of premises by an individual usually called the Landlord from the occupier of such property called the tenant.

Stanley-idun and Agaba² view Recovery of possession of premises as the procedure for letting out premises to a person where by the person retains possession for a period of time and the other recovers possession from the person the premises is let out to.

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¹ Section 43 of the Constitution of the Federal Republic of Nigeria 1999 (as amended).

² Stanley –Idum M.M, and Agaba J.A, *Civil Litigation in Nigeria* (3rd ed Renaissance Law Publishers limited 2020). 784.

3. Literature Review

Earnest *et al*³ raised the point that the difficult issue in the laws on recovery of possession of premises in Nigeria is how the courts interpret the conduct of the parties as to whether status of tenant accrues and when it subsist or has become otherwise determined or lost under various tenancy requirement. The authors note how various jurisdictions varies the required notice period. The authors drew a contradiction that a tenancy at will is leasehold such that either the landlord or the tenant may terminate the tenancy at any time by giving reasonable notice, usually in the absence of a lease or for a lease without consideration. That under the modern common law tenancy at will is rare, but it is common in family transaction.⁴ The authors input provides critical procedures to follow in recovery of premises in Nigeria, but the authors have omitted the strengths and weakness in the laws affecting the right of the Landlord to recover his possession. This research will highlight some of the strength and weakness of the law on the Landlord's right to own and enjoy his property.

Stanley-Idum and Agaba⁵ discuss the recovery process in various jurisdiction particularly in Abuja and Lagos State in chapter 19 of the book. That once there is lapse or mistake in the procedure to be taken by a landlord in attempting to evict a tenant, the tenant takes advantage of the lapses and holds on to the premises. Citing the case of, *Oketade v. Adewunmi*,⁶ it took the Landlord over 14 years to recover his premises from his tenant because of the technical nature of the procedure and the poor justice delivery system in the country which the defendant counsel capitalized on. This is a challenge on the part of the Landlord in recovery of his possession. On one side, landlords are entitled to defend their property from misuse on the other hand, tenants are afforded protections that can delay eviction processes and provide recourse against what they may perceive as unfair treatment. However this research will discuss the various laws on recovery of premise with particular reference to Abuja, Lagos State, Delta State, highlighting areas of the Laws that requires reform.

Afolanyan and Okorie⁷ note that the procedure for recovery of possession is very strict and a breach of the procedure may defeat the Landlord from reclaiming possession of his property. The authors recount that the tenant usually has the upper hand because any slight breach of the procedure works in favour of the tenant and this prolongs the stay of the tenant in the premise. But the law is silent on the implications of strict compliance to this procedure, which the authors did not discuss. This research will discuss the implication of the legal framework for recovery of premises in Nigeria and the right of a Landlord to own property in Nigeria.

Oluwafemi,⁸ in his article, restricting his criticism on the laws on recovery of premises in Lagos State, posits that the State choose to legislate on properties that it does not own or control, instead of providing houses that the citizens can afford. This makes enforcing the laws on recovery of premises difficult as the citizens have found the law difficult to accept. That at the commencement of the laws on tenancy in 2011, the citizens view the law as an interference with a citizens property and economic rights. In a clear and concise manner, he recounts that

³ Ojukwu E, and Ojukwu C.N, *Introduction to Civil Procedure* (3rd ed. Helen Roberts Abuja 2009) 870.

⁴ *ibid.* 871.

⁵ Stanley –Idum M.M, and Agaba J.A, *Civil Litigation in Nigeria* (3rded Renaissance Law Publishers limited 2020) 804.

⁶ (2010) 8 NWLR 9 (pt 1195).

⁷ Afolanyan A.F, and Okorie P.C, *Modern Civil Procedure Law* (Intec Printers 2009) 468.

⁸ O. Oluwafemi, Procedure, Challenges and Implications of Recovery of Premise Practice in Lagos State. 2024. *Business Day* www.businessday.ngnews> legal-business. accessed 17 March 2025.

the recovery law placed a tedious recovery procedure to recover premise in Lagos. That the Law place a limitation on the common law rights of a Landlord to summarily eject tenants and recover possession of premises. In this research solutions and recommendations are provided for property owners navigating through the complex procedure of recovery of possession of premises in Nigeria and not only in Lagos State. A legal framework that prioritizes due process, while also recognizing the fundamental rights of property owners, will encourage investment and trust in the system.

4. Conceptual Framework of Recovery of Premises in Nigeria

4.1 The Subject of Recovery of Premises

Recovery of premises is a known area in legal practice. In Nigeria recovery of premises can be a complex process involving legal procedures, and court processes, which must be strictly complied with else it becomes difficult for the Landlord to succeed in recovery of his premises.

The subjects of recovery of premises are (1) the landlord (2) the tenant (3) the courts. Others may include the law enforcement officials. The primary aim of recovery of premises is to restore the landlord's possession and control over their property. However, in this research the focus is on the landlord the tenants. The proceeding in the count shall also be referred to.

4.1.1. Who is a Landlord?

The landlord is usually an individual or an organization that owns a property. The landlord is the one that rents his property out to tenants for their use and occupation. Section 2 of the Rent Control and Recovery of Residential Premises Laws of Delta State⁹ states that "landlord in relation to any premises means the person entitled to the immediate reversion of the premises or of the property therein is held in joint tenancy or tenancy in common, any of the persons entitled to the immediate reversions and includes (a) the attorney or agent of any such landlord."¹⁰ Similar definitions exist in section 47 of the Tenancy Law of Lagos.¹¹

A landlord as it relates to recovery of possession of premises in Nigeria is one that has contractual relationship with the tenant for the use and occupation of his premise upon certain agreed terms. A Landlord can be an individual a company an institution or government.

The definition of Landlord is stated by the supreme court in the decision in *Savage v.Udeh*¹² where the court defined a landlord as "a person who lets out his property to another known as a tenant for a consideration which is usually in the form of rent" The limitation in this definition is howekver that not all tenancy relationship is based on the payment of rent as consideration for the tenancy. A landlord can give out possession of his premise without the consideration of rent.¹³

⁹ Section 2 of the Rent Control and Recovery of Residential Premises Law Delta State 2007. (Herin after reffered to as the RCRRPL 2007).

¹⁰ Okafor G.N.D, *Landlord and Tenant Law and Practice* (Philosophes Ventures) 157.

¹¹ See section 47 of the Tenancy Laws of Lagos 2011. Section 2 of the Recovery of Premises Act 1990 is similarly worded.

¹² (1998) 10 NWLR (Pt 568) 205.

¹³ See *African Petroleum v. Owodunni* [1991] 8 NWLR (P210) 391AT 412 r 1, 2. See also *Okonji v. Njokanma* (2010) 18 NWLR (Pt 568) 205.

4.1.2 Tenant

A tenant is a person occupying a premise whether on payment of rent or otherwise but does not include a person occupying premises under a bonafide claim to be the owner of the premise.¹⁴ A tenant also includes subtenants put in possession of the Landlord's premise by the tenant.¹⁵ The court defined a tenant to include all persons occupying the landlord's premises lawfully. It is lawful occupation that qualifies one to be a tenant. Once lawful occupation is established the occupier of a premise is a statutory tenant protected by law.¹⁶

4.2. Contents of Quit Notice

Under the recovery laws there exist forms set out for quit notices¹⁷. A quit notice must contain. i. name of Landlord, ii. Name of Tenant, iii. address of tenant, address of landlord, nature of tenancy, type of notice, the duration of the tenancy, the date of expiration of the tenancy.

4.2.1. Types of Quit Notices

Most cases there exist binding agreement regulating a Landlord and a tenant for the occupation and possession of the premise, in this case the relationship may be determined based on such agreed terms. Where there is no binding agreement between the parties on the determination of the tenancy recourse is had to statutory provisions. The laws clearly states where there is no express stipulation as to the notice to be given by either party to determine the tenancy the following periods of time shall be given

- a. for a tenant at will a week notice should be given
- b. for a one week tenant a week notice should be given
- c. for a monthly tenant a one month's notice
- d. for a quarterly tenancy a three months' notice be given
- e. for a half yearly tenant three months' notice be given¹⁸
- f. for a yearly tenant six months' notice be given

It also happens that in the presence of tenancy agreement the need arises for the statutes to be invoked especially where either party is proving difficult to keeping the terms of the agreement.

ii. Seven Days' Notice: This notice informs the tenant that unless the tenant gives up possession peacefully, that the landlord intends to apply to court to recover possession of the premises. This notice is a statutory requirement that must be complied with. It is called a seven days' notice of owner's intention to apply to court to recover possession. The notice must be given to last for seven days from the date of issue. A Landlord who wants to recover possession of

¹⁴ Section 2 of the Recovery of Premises Act 1990. Section 2 RCRRPL 2007. See also section 47 of Tenancy Law Lagos 2011.

¹⁵Section 47 Tenancy Laws of Lagos State 2011.

¹⁶ Oduye v. Nigeria Airway LTD (1987) 2 NWLR (Part 55) 126. See Okafo G.N.D, *Landlord and Tenant Law and Practice*. (De P hilosophes Ventures 2011)6.

¹⁷ Section 7 of the Recovery of Premises Act Abuja. The Schedule to the Act provides the notice to be in form B,C,D. In Section 16 of the Tenancy Laws of Lagos State 2011, the notice shall be in form TL2 OR TL3 as prescribed in the Schedule to the Act. Section 7 of the Delta State Recovery of Premises Law 2007 provides for notices to be in forms B, G, D, G while in the RCRRPL 2007, quit notices may be as provided in forms B,C,D,E..

¹⁸ Section 13 of Lagos Tenancy Laws 2011 provides for half yearly tenants. The Abuja Act and the Delta State Laws did not make provisions for half yearly tenants. So what happens to a half yearly tenant whom the Landlord may want to evict in the absence of any agreement? It is recommended that the laws be amended to, make room for half yearly tenancy, or so that a six months' notice be issued in any case.

his premises must issue and serve this notice else an action for recovery of possession of premises will fail.

It is essential to note that a quit notice must be properly served on the tenant, and the landlord must follow the procedures outlined in the Recovery of Premises Act to ensure that the notice is valid and effective.

5. Legal Framework for Recovery of Premises in Nigeria

Recovery of possession of premises law was uniform throughout Nigeria, however after the replacement of the Laws of Federation which were made before 1960, the 1990 laws of the Federation which was made, did not provide and omitted the recovery of Premises Act¹⁹ and Rent Restriction Act.²⁰ Thus at the establishment of the 1990 Laws of the Federation there no longer exist any uniform laws for the recovery of possessions of premises in Nigeria. This led to every State having its own laws to regulate the recovery of premises. The Recovery of Premises Act²¹ was enacted to be applied in Abuja (Federal Capital Territory). This act though made by the National Assembly its application is limited to the Federal Capital Territory alone and for recovery of premises matters only.²²

The Tenancy Law no 14 of 2011 was enacted to be applied in Lagos State. In Delta State the law applicable to recovery of premises is the Recovery of Premises Law²³ which is applicable to commercial or non-residential premises and The Rent Control and Recovery of Residential Premises Law 2007 Delta State which is applicable to residential premises. Although every state in the federation may have its own laws but its procedures are similar in nature. In this research reference will be made to the procedure for recovery of premises enacted in Lagos State Abuja and Delta States.

6. The Implication of the Legal Framework for Recovery of Premises in Nigeria and the right of a Landlord to Own Property in Nigeria.

The right to own property is a fundamental human right enshrined in the Constitution of the Federal Republic of Nigeria. The interplay between constitutional rights and property law raises significant questions about the balance of interests between landlords' rights to their property and tenants' rights to secure possession.

Section 43 of the CFRN 1999 articulates the right to own property in unequivocal terms, ensuring that individuals have the legal authority to own, possess, use, and transfer property as they desire. The provision posits that the right to property is not only a legal entitlement but also a shield against unlawful deprivation of right to own a property. This foundational principle anchors the legal discussions surrounding property ownership and tenancy, suggesting that owners have intrinsic rights that must be respected by the State and their tenants.

However, like many constitutional provisions, Section 43 is not absolute. It operates within the contextual framework of laws aimed at regulating property relations, particularly in the housing

¹⁹ Cap 176 LFN 1958.

²⁰ Cap 1 LFN 1958.

²¹ Cap 544 LFN.

²² Stanley –Idum M.M, and Agaba J.A, *Civil Litigation in Nigeria* (3rded Renaissance Law Publishers limited 2020). 46-47.

²³ Cap C 142 of 1976 no 3.

sector. The Recovery of Premises Laws is one such Statute that guides the relationship between landlords and tenants, including processes for eviction and recovery of property in Nigeria.

6.1 Protection of Landlords and Tenants.

The Recovery of Premises Laws aim to provide a regulatory framework for landlords and tenants, detailing the procedures for landlords to reclaim possession of their property when tenants fail to meet their obligations. The Law stipulates various grounds for eviction, including non-payment of rent, breach of lease agreements, and illegal use of the premises.²⁴ One notable aspect of this Law is its intention to protect tenants from wrongful eviction while simultaneously upholding landlords' rights to recover possession when justified. This seems to reflect a dual mandate to safeguard property rights and to address the housing needs of individuals. Particularly in Nigeria with a significant population of vulnerable tenants, this balance is critical to maintaining a fair housing market.

The rights conferred upon landlords by Section 43 of the Constitution²⁵ interact in complex ways with the protections offered to tenants under the Recovery of Premises Laws. On one side, landlords are entitled to defend their property from misuse and have the right to receive rental payments. On the other, tenants are afforded protections that can delay eviction processes and provide recourse against what they may perceive as unfair treatment.

6.2 Socio-economic Effect

This interplay in ensuring that the landlords property is secured and tenants' right is protected raises some key questions. For instance how do we define fair eviction processes? What level of protection should tenants have to secure their housing? How can the law evolve to meet the needs of both parties in a changing economic landscape?

In addressing these questions, it becomes paramount to acknowledge the social context in which these laws operate. Property ownership and rental markets can reflect broader socio-economic inequalities, where tenants may be more vulnerable and less informed about their rights. Therefore, while landlords possess constitutional rights to their property, the state must ensure that these rights do not come at the expense of tenants' security and dignity.

6.3 Judicial Response and the Right to Own Property.

Judicial interpretation plays a vital role in giving life to Section 43 and the accompanying property laws. Courts often grapple with the intent behind legislative provisions and the real-world implications of eviction actions. For instance, landmark cases have illustrated the interplay between constitutional rights and rental agreements, shaping landlord-tenant jurisprudence.

One notable case is the case of *African Petroleum Ltd v. Owodunni*²⁶ where a court gave judgment in favour of a tenant who argued that the procedure for recovery of premises was not complied with. Such judicial decisions emphasize the significance of procedural fairness in eviction actions and reinforce tenants' rights to contest evictions based on technicalities, thereby curbing potential abuses by landlords.

²⁴ Section 25 Tenancy Law 2011. See also section 25 RCRRPL 2007.

²⁵ Section 43 of the Constitution of the Federal Republic of Nigeria 1999 (as amended).

²⁶ [1991] 8 NWLR (P210) 391 at 412 r 1, 2

Conversely, there have also been instances where courts have upheld landlords' rights to reclaim possession swiftly when tenants have taken undue advantage of the Landlord and the technical nature of the procedure for recovery of possession.²⁷ This application of the law ensures that landlords can manage their investments while minimizing losses resulting from non-compliant tenants who capitalize on failure to comply with due process to recover possession. However, the insistence on processing through the courts can lead to protracted legal struggles, often disadvantaging landlords seeking swift resolutions.

6.4. Economic Implications.

The interplay of Section 43 of the CFRN 1999 with the Recovery of Premises Law is also crucial from an economic standpoint. Housing markets fluctuate based on numerous factors, including rental demand, vacancy rates, and macroeconomic conditions. When eviction processes are perceived to be excessively burdensome for landlords, it may lead to hesitancy in property investment, ultimately constraining the housing supply.

The economic impact of recovery laws has been the subject of extensive discussion. For example, the incidents suggest that stricter tenant protections may unintentionally lead to discouragement of Landlords, as landlords either convert properties to other uses or exit the rental market altogether. This can exacerbate housing shortages. Nwune, Ekoja and Dawap²⁸ see this dynamic as a legal bias. While the tenant is relaxed, the Landlord must do everything necessary to enjoy legal support. Must serve relevant statutory notices which must not fall short of the required days. The slow process weakens the strength of the Landlord to invest in property. Most cases the notion exist that when a tenant is given notice to quit they do not pay rent.

Conversely, if tenants feel that they have insufficient protections, market dynamics can shift, leading to increased negotiation power for landlords and potential exploitation of vulnerable tenants. By understanding these economic implications, policymakers can better frame legislation that considers the complexities of the housing market while protecting fundamental rights.

Investment in properties contributes significantly to economic growth, job creation, and infrastructure development. If prospective investors view the recovery of premises as fraught with complications, they may turn their attention towards other countries with more robust legal protections for private property rights. This situation creates a ripple effect that stifles economic development and workforce expansion in Nigeria. It is essential for the government to consider the relationship between property rights and economic growth to avoid economic degradation.

Additionally, the Tenancy Laws can restrict the amount of rent that landlords are permitted to charge, thereby further straining their ability to manage properties profitably. For instance, in certain states, the minimum notice period for rent increment is defined by law, often favouring tenants. This imbalance raises questions about the viability of property investments in such environments.

²⁷ Oketade v. Adewunmi (2010) 8 NWLR (Part 1195) 63.

²⁸ O.M Nwune, GO Ekoja, P.M Dawap, 'Recovery of Premise in Nigeria: A law for Justice or Legalised Bias Against the Landlord' *Achievers University Law Journal*. (2021) (1) 232.

7. Creation of Tenancy Relationship

The relation between a Landlord and a Tenant creates tenancy relationship.

Tenancy relationship is founded on a contractual agreement between both parties. Tenancy relationship refers to a legal relationship existing between a landlord and a tenant. Here the Landlord has specific duties ranging from making the premises habitable for the tenant, to allowing the tenant enjoy his possessory right without unnecessary interference. In turn the tenants is to abide by the agreements and use the property as rented for the specific term as agreed by the parties and more importantly pay rents when necessary.

Types of tenancy relationship include:

I. Fixed Term Tenancy. This is a type of tenancy that exist between a Landlord and a tenant where by the Landlord lets his premise out for a certain term, this should not be confused with a yearly tenancy or monthly tenancy. Here at the expiration of the agreed term the tenancy expires and the possessory rights reverts back to the Landlord.

2. Periodic tenancy. A tenancy agreement that occurs for a period of time, here tenancy is granted for a recurring period, for instance month to month or year to year. This arrangement can be established between the Landlord and the tenant through the terms contained in the agreement. It can also be established through the continuous stay of the tenant in the property. A distinguishing characteristic of periodic tenancy is its automatic renewal process which occurs at the end of each period unless terminated by either party.

8. Method of Recovery of Possession

The recovery of possession of premises is an important aspect of property law in Nigeria. The recovery of possession of premises is often a complex and contentious issue, with both landlords and tenants having clashing competing interests. A landlord or property owner often has to face serious rudiments to reclaim possession of their property from a tenant or occupant who has failed to vacate the premises after the expiration of their tenancy agreement.

In Nigeria, the recovery of premises is governed by various State laws, including the Recovery of Premises Act, the Tenancy Law of various states, and the Nigerian Constitution. These laws provide a framework for the recovery of premises, outlining the procedures, requirements, and remedies available to landlords and tenants.

The service of quit notice is one requirement and a condition precedent for the commencement of proceedings for recovery of possession of premise in Nigeria.

A quit notice is a formal notification or warning given by a landlord to a tenant, informing them that they must vacate the rented premises by a specified date. The quit notice is usually served on the tenant when the landlord intends to recover possession of the property, either due to the expiration of the tenancy agreement, non-payment of rent, or other breaches of the tenancy terms. The purpose of the quit notice is to determine the tenancy in a situation where the tenancy still exists. Where a tenancy is terminated by effluxion of time or there is an expiration of the rent period or the tenant has breached a covenant, or the tenant is in arrears of rent, notice to quit is not required.

Cases involving recovery of possession often experience significant delays in court due to noncompliance with legal procedures which tenants may exploit to their advantage. A Landlord who is determined to regain possession of his premises must serve duly and properly the proper quit notice as the circumstance requires. Worthy of note is the supreme court decision in *Pillars Nigerian Limited v. William Kojo Desbordes & Anor* (2021) 12 NWLR (Part 1789) 122, when the court decided on when a tenant should not be allowed to take advantage of Faculty Notice to quit, the minute the writ of summons for possession is served on a tenant it serves as adequate notice on the tenant to give up possession. The implication of this judgment is that the mandatory issuance of statutory quit notice can be dispensed with, especially where there is irregularity. However, it is argued that this decision is not applicable to a landlord who serves a notice and immediately before the completion of the days in the notice files a claim.

9. Procedure for Recovery of Premises in the Court

After the expiration of the 7days' notice of owners intention to apply to court to recover possession, the next stage is for the Landlord to apply to court for the issuance of a summons²⁹ or a writ against the tenant. The issuance and service of the statutory notices is not a guarantee for recovery of possession. For A Landlord to succeed in recovery of his premises he must apply to court for the matter to be fixed down for trial. In *Ihenacho v Izuchukwu*³⁰ the respondents brought a suit at the high court in Pleatue State against the appellants for wrongful and forcible ejection, the appellants who deposed to an affidavits endorsed by a Chief Magistrate who lacked jurisdiction broke into the 1st respondent premise in a bid to carry out ejection and packed all his goods in the store. The Supreme Court dismissing the appeal held that "where a landlord fails or ignores to obtain an appropriate order of court for possession after due hearing or enters the premises and takes the 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" In this case the appellant failed to apply to court for a summons to eject the tenant rather he acted on the affidavit he obtained from the Chief Magistrate. An affidavit cannot be used to recover possession.

After the summons is served on the defendant the case will be fixed for hearing. The due process for hearing must be complied with. The general belief exist that cases on recovery of possession are simple cases which can be easily won in court. There are technicalities which must be complied with else a lawyer may disappoint his client. For instance where the notices are not properly served, the case for recovery of premises is most likely to fail. Below are some instances where the case for recovery of premises will fail in court:

- i. issuance of notices. Where the wrong notice was served, where quit notice was not served, where notices was served short of the days before hearing, a Landlord seeking recovery of his premise from a tenant may not succeed in his pursuit.
- ii. where the case for recovery of premises was filed in court or tribunal that lacks jurisdiction. A critical requirement for recovery of possession is for the Landlord to establish jurisdiction. The courts vest with jurisdiction to trial matters bothering on recovery of premises in Nigeria is Magistrate Court, High court and the Customary court. In practice recovery of premises is faster in courts of summary jurisdiction that is in Customary courts and Magistrate courts. In

²⁹ The summons are usually set out in forms, for instance in Lagos under the Tenancy Law 2011, summons for claim is in Form TL6, while in Abuja ,the Recovery of Premises Act summons is usually issued in Form F. In The Recovery of Premises Law in Delta State Summons is filed in form F and J.

³⁰ *Ihenacho v. Uzochukwu* [1997] 2 NWLR (PT 487) 257.

Abuja the jurisdiction to entertain tenancy matters generally lies with the Magistrate court which sits as a District court.³¹ In Lagos State the jurisdiction to determine tenancy matters is vested in the Magistrate Courts and in the High Court.³² In filing a matter for recovery of premises in Lagos State and Abuja it is expedient to consider the rental value of the claim to see that it falls within the monetary value of which the court can grant. Again in Abuja and Lagos the first court to file a claim for recovery of premises is the Magistrate Court.³³ Where except the value of rent claimed exceeds the amount of which the Magistrate court can grant, then the claimant can bring the action for recovery of his premises at the High Court at first instance.³⁴ In Delta State the High Court, the Magistrate court, and customary court is vested with jurisdiction to hear tenancy matters. Section 21 of the Delta State CUSTOMARY Court Law 2019 vest jurisdiction to try tenancy matters on the Area Customary Court and the District Court. It provides that

- (1) the Jurisdiction and powers formerly conferred on the rent Tribunals³⁵ in the State are hereby transferred to and shall be exercised by the Area Customary Court and District Customary Court in the State.
- (2) An Area Customary Court and District Customary Court shall have jurisdiction to try causes and matters arising from the recovery of Premises Law.

After the Landlord gets judgment he does not just go and take possession automatically. He must follow strictly the process for taking back possession. This is another cumbersome and expensive process which discourages the Landlord. Most times the Landlord grapples with the exorbitant sum of money that he has to pay to his lawyer and court officials, considering the sum of money already spent for litigation. The Landlord will apply to the court for a writ of possession.³⁶ A writ of possession is a court order directing bailiff or sheriff to deliver possession of the property to the Landlord.³⁷ This process can again be hindered where the Tenant files a stay of execution.

10. Recommendations

In light of the identified challenges, reforms to the current legal framework that governs recovery of premises are crucial for fostering a more balanced landlord-tenant relationship.

1. Firstly, legislative amendments that streamline eviction processes while still protecting tenant rights would significantly alleviate the protracted legal proceedings presently experienced by landlords. Regulations could be designed to ensure swift resolution of disputes without compromising on tenant protections. A legal framework that prioritizes due process, while also recognizing the fundamental rights of property owners, will encourage investment and trust in the system. For instance section 18 of the Tenancy Law³⁸ which provides for service

³¹ Stanley –Idum M.M, and Agaba J.A, *Civil Litigation in Nigeria* (3rded Renaissance Law Publishers limited 2020) 804.

³² Section 2(1) and section (4) Tenancy Law 2011.

³³ Section 2(4) Tenancy Law 2011 and section 4 of the Recovery of Premises Act 1990. ³³ Stanley –Idum and Agaba 802.

³⁴ Section 2(4) Tenancy Law 2011.

³⁵ Before the customary Courts Edict of 1997, the Area Customary court when hearing entertaining rent matters sit as rent Tribunals. See Okafor G.N.D, *Landlord and Tenant Law and Practice* (Philosophes Ventures 2011) 54

³⁶ Section 26 Rent Control and Recovery of Residential Premises Law Delta State 2007.

³⁷ In this case the bailiff may change the locks, pack out the tenant's belonging, takes possession of the property and handover to the Landlord.

³⁸ Section 6 Tenancy Laws 2011.

of notices should be amended to include the service by electronic means, like watsapp message or email or placing a call across to the tenant. This should be included as personal service. Again section 32 of the RCRRPL³⁹ should be amended to reflect that service can be done on a tenant by leaving the notice on any adult person found in the premises just like it operates in Lagos State Tenancy Law. Also the law should include service by electronic means as a personal and proper mode of service.⁴⁰

2. Furthermore, fostering dialogue between landlords, tenants, could lead to more nuanced understandings of the challenges faced by both parties. To this regard the inclusion of Alternate Dispute Resolution (ADR) to the tenancy laws will ensure that the Landlord right to enjoy his property is protected and the tenant is protected against abuse. In this regard the tenancy Laws should be amended to introduce ADR.

3. The jurisdictional provision currently applicable to landlord-tenant disputes must be strictly adhered to. There should be established a special court to handle Landlord and Tenant matters only, in Nigeria. Such courts will streamline the trial process, ensure quick resolution to disputes, reduce expenses for Landlord, allow swifter hearing of cases and allow quick access to justice for the landlords and tenants.

4. Strengthen the enforcement of court orders, increase the penalties for non-compliance, and impose stricter penalties on tenants who fail to comply with court orders or refuse to vacate properties. Review and update outdated laws such as the Rent Control Act 1990,⁴¹ to ensure they are fair, effective, and reflect current market conditions.

11. Conclusion

The law on the recovery of premises in Nigeria is a complex interplay of rights and restrictions that influences the broader narrative of property ownership. Although designed to protect tenant rights, existing laws often impede landlords' rights to reclaim and effectively manage their properties. The historical context, legal framework, judicial interpretations, economic implications, and social dynamics all contribute to a challenging environment for landlords. Through comprehensive reforms and increased dialogue, it is not only feasible but necessary to create an equitable landscape where property rights are respected while still safeguarding tenants. Only then can a true sense of ownership and investment flourish.

³⁹ Section 32 RCRRPL 2007.

⁴⁰ Section 28 of the Recovery of Premises Act 1990, applicable in Abuja, provides that service may be personal, except where the defendant cannot be found then the mode of personal service can be dispensed with by placing the notice in a conspicuous part of the premise. The law did not make provision for leave of court to be obtained before substituted service is done. Again in Delta State similar provision exist, however the law in section 32 which provides for service of process did make provision for substituted service by pasting the process on a conspicuous part of the premises. But it is advisable for Landlords who wish to effect service by substituted means to obtain the leave of the court through motion ex parte. This is however has being the practice for a long time. See section 32 of the RCRRPL 2007.

⁴¹ For instance there are still some archaic and provisions in the law which does not meet with current market reality. For instance sections 6 of the RCRRPL 2007 which provides for the court to have jurisdiction to fix Standard rent. This does not meet the current market value system.