

Issues Arising from the Federal Government's Lawsuit at the High Court of Lagos State to Recover Possession of 149 Properties Located in Lagos State from their Current Unauthorized Occupiers

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Introduction

On 14 September 2017, the Federal Ministry of Justice, for and on behalf of the Federal Government of Nigeria, entered into an Agency Agreement with Nurudeen & Co. Nigeria Limited for the purposes of identifying and recovering possession of landed properties belonging to the Federal Government of Nigeria within the States of the Federation and which are currently being used and occupied by unauthorized persons who do not have the license or authority of the Federal Government of Nigeria to occupy the properties ("the Agency Agreement").

Based on the Agency Agreement, Messrs. Nurudeen & Co. Nigeria Limited ("the Agent") identified 149 (One hundred and forty-nine) properties allegedly owned by the Federal Government of Nigeria and which are being occupied by squatters. Instructively, about 95% of the identified properties are located within virtually all the major streets in the old Ikoyi axis of Lagos State.

Lawsuit for Recovery of Possession

The Agent commenced a lawsuit at the High Court of Lagos State — (Suit No. ID/2543LMW/2020: **Nurudeen & Co. Nigeria Limited v. The Occupier/Persons in Occupation**) for the recovery of possession of the identified 149 (One hundred and forty-nine) properties allegedly owned by the Federal Government of Nigeria and which are being occupied by squatters.

The lawsuit was commenced through an originating summons brought pursuant to **Order 57 of the Rules of the High Court of Lagos State (Civil Procedure) Rules 2019** and an order for substituted service of the originating summons was granted by the High Court of Lagos State on 16 March 2020. The order for substituted service permits the Claimant to serve the originating summons upon the occupants of the properties through publication in the Punch Newspapers and the Claimant has complied with this order by causing the originating summons to be published in the Punch Newspaper edition of Sunday, 26 July 2020 at pages 36-40.

Order 57 of the Civil Procedure Rules of the High Court of Lagos State permits a person who claims possession of a parcel of land which he alleges is being occupied solely by a squatter to file an originating summons before the Court and such a person would only be expected to establish the following facts to the Court through an affidavit before he would be entitled to an order for possession:

- a) he must state his interest in the parcel of land;
- b) he must state the circumstances in which the parcel of land has been occupied without licence or consent and from which his claim to possession arises; and
- c) that he does not know the name of a person occupying the land who is not named in the Summons.



The interesting aspect about order 57 of the Rules of the High Court of Lagos State is that it is a summary procedure, which does not require trial in open Court, as the lawsuit can be concluded through affidavit evidence if the Claimant is able to produce documentary evidence of his title to the Court and satisfy the other conditions stated under the Rules.

Indeed, in the case of **Okoli & Ors. V. Gaya (2014)** LPELR- 23067 (CA), the Court of Appeal confirmed that a Claimant who could establish the facts stated above through his affidavit would be entitled to an order for possession as the Court possesses no discretion to prevent the use of this summary procedure.

Steps to Take If Your Property is Listed in the Lawsuit or if a Lawsuit Based on Order 57 is Brought Against You

A lawsuit under Order 57 of the Rules of the High Court of Lagos State cannot be brought against the following persons:

- (a) a tenant;
- (b) a tenant holding over after termination of his tenancy;
- (c) a licensee of the owner or person entitled to possession;
- (d) a person who had the consent of the predecessor in title of the person who is entitled to possession.

Therefore, where the occupier of a property falls under any of the four categories mentioned above, such an occupier would be in a strong position to bring an application seeking an order of the Court to expunge the address of his/her property from the lawsuit or to strike out the lawsuit against it since order 57 is not applicable to the occupier.

Where an occupier does not fall under the four categories mentioned above and is not named as a party in the originating process, such an occupier would be expected to file an application seeking to be joined as a Defendant to the lawsuit upon being served with the originating summons or becoming aware of the lawsuit, as the joinder of such an occupier to the lawsuit, would give the occupier the opportunity to defend the lawsuit and establish its right to a continued occupation of the property.

In the unlikely event that an occupier was unable to join the lawsuit as a Defendant prior to the delivery of judgment, such an occupier can either apply that the judgment be set aside or appeal against the judgment of the Court as an interested party and file an application for stay of execution of the judgment of the trial Court. This position was affirmed by the Court of Appeal in the case of **Isiyaku Musa Jikantoro & Ors v. Alhaji Haliru Dantoro & Ors (2002)** LPELR-7111 (CA).

Conclusion

The publication of an originating Court process in a national newspaper such as the Punch would be regarded as proper service upon the occupiers of the 149 properties listed in the originating summons and it is therefore important for these occupiers to take active steps towards protecting any lawful interests they might have in the properties, as the Court would be duty-bound to act on the unchallenged evidence of a Claimant before it.

It is also important for members of the public who intend to enter into any transaction involving any of the 149 properties to take cognizance of the lawsuit, as the judgment in the lawsuit might affect their interest in the properties.



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It should be noted that this article is for general information only. It is not offered as advice, on any particular matter, whether legal, procedural or otherwise. If you have any questions about this article, please contact the authors through: foa@abdu-salaamabbasandco.com, nemmanuel@abdu-salaamabbasandco.com and tamadi@abdu-salaamabbasandco.com.



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