

IN THE HIGH COURT OF LAGOS STATE
IN THE LAGOS JUDICIAL DIVISION (GENERAL CIVIL)
HOLDEN AT HIGH COURT NO. 27, LAGOS
BEFORE HON. JUSTICE S. A. ONIGBANJO – JUDGE
TODAY THURSDAY THE 26TH DAY OF JANUARY, 2017

SUIT NO. LD/4232MFHR/16

IN THE MATTER OF AN APPLICATION BY AKAKPO AGEMO AND OTHERS FOR AN ORDER FOR THE ENFORCEMENT OF THEIR FUNDAMENTAL RIGHTS

AND

IN THE MATTER OF THE FUNDAMENTAL RIGHTS (ENFORCEMENT PROCEDURE) RULES 2009 MADE BY THE CHIEF JUSTICE OF NIGERIA PURSUANT TO SECTION 46 (3) OF THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA, 1999.

BETWEEN:

1. AKAKPO AGEMO
2. AJEGUN FRANCIS
3. PROPHET MOSES OYINBO
(Suing for themselves and on behalf of other occupiers and residents of the area known as Ago Egun (Barlga) Community)
4. IWALOKUN JIDE
5. OLADIPUPO ARAMIDE
6. IKUESAN CECILIA
(Suing for themselves and on behalf of other occupiers and residents of the area known as Ebute-Ilaje (Bariga) Community)
7. CLEMENT AVLESSI
8. SYLVANUS ANTHONY
(Suing for themselves and on behalf of other occupiers and residents of the area known as (Sogunro) Community.
9. BALOGUN ISAIAH
10. MEHENTO APU
11. MEHENTO NICODEM
(Suing for themselves and on behalf of other occupiers and residents of the area known as Ofin (Ikorodu) Community)
12. EDAMISAN IPINSOKAN
13. ALEX ASOGBON
14. BABATUNDE JOSEPH
(Suing for themselves and on behalf of other occupiers and residents of the area known as (Itun Agan) Community)

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- APPLICANTS



15. KOJA KAMIN

(Suing for themselves and on behalf of other occupiers and residents of the area known as Mosafejo (Oworonsoki) Community)

16. IBOJO SINMIDELE

17. OMOTAYO IWAENI

18. AKINMULEYA ADEWALE

(Suing for themselves and on behalf of other occupiers and residents of the area known as Olufunke Iwaeni Majidun (IKorodu) Community)

19. OLUSUYI SEUN

20. OYEDERE RONKE OMOWUMI

21. ADELEKE OLUWASEUN

(Suing for themselves and on behalf of other occupiers and residents of the area known as (Tomaro) Community)

22. PETER ADOGUN

23. MAROT TAIWO

24. JAMIU WAHEED

(Suing for themselves and on behalf of other occupiers and residents of the area known as Bayeku (Ikorodu) Community)

25. HUNKPE JACK

26. HUNGE AGNES

(Suing for themselves and on behalf of other occupiers and residents of the area known as (Oko Agbon) Community)

27. O. B. AGBEDE

28. OJU JUDE

29. PATIENCE IBOJO

(Suing for themselves and on behalf of other occupiers and residents of the area known as (Otumara) Community)

30. DANSU HUNKPE

31. AHISU CELESTINE

32. PA WAHEED PONOR

(Suing for themselves and on behalf of other occupiers and residents of the area known as (Otodo Gbame) Community)

33. PRINCE KEHINDE MICHAEL

34. AKINDE COMFORT

35. KEHINDE MUSTAPHA

(Suing for himself and on behalf of other occupiers and residents of the area known as (Orisunmibare) Community)

**36. INCORPORATED TRUSTEES OF COMMUNITY
LEGAL SUPPORT INITIATIVE**

(Suing on behalf of other occupiers and residents of other Area falling under the current threat of eviction)

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APPLICANTS

AND

1. THE ATTORNEY GENERAL OF LAGOS STATE
2. THE COMMISSIONER OF PHYSICAL PLANNING & URBAN DEVELOPMENT, LAGOS STATE
3. THE GOVERNOR OF LAGOS STATE
4. THE COMMISSIONER OF POLICE, LAGOS STATE

RESPONDENTS

RULING

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The Applicants by Originating Summons dated 18/11/16 Brought Pursuant to Sections 33, 36, 43, 44(1) and 46 of the 1999 Constitution; articles 4, 7, 14, 16, 17(1), 18, 21(2) of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, Cap A9 LFN 2004; Order 2 Rules 1-5 of the Fundamental Rights (Enforcement Procedure) Rules 2009 and the inherent jurisdiction of the court prayed the court for a number of declaratory and injunctive reliefs against the Respondents as stated in the Statement filed in support of this application for the alleged infringement of their Fundamental Rights regarding the alleged destruction/threatened destruction of their homes and the threatened forcible eviction/actual forcible eviction therefrom by the Respondents.

Grounds upon which the Applicants' reliefs are predicated are also set out in the said Statement filed in support.

The application is supported by affidavit and further affidavit both with exhibits attached and written address of the same date.

The Respondents in opposing and denying any infringement of Applicants' Fundamental Rights as alleged filed Counter-affidavit with exhibits attached as well as written address on the 5/12/16 to which the Applicants' filed Reply on Points of Law on the 9/12/16 and Respondents filed Further Written Address on the 13/12/16 and Further and Better Counter-Affidavit and Written address on the 4/1/17.

Counsel thereafter proffered brief oral argument for and against the grant of Applicants' prayers.

Upon a careful consideration of processes filed herein as well as submissions of Counsel vis-à-vis the nature and circumstances of this case and being well aware of the duty incumbent on the court as imposed by the Preamble to the Fundamental Rights (Enforcement Procedure) Rules 2009 which specifically charges the court to encourage and ensure the protection of citizens' Fundamental Rights, as provided for by the Constitution and any other statute by interpreting the provisions of such statutes expansively towards the protection of citizens' rights as provided for and never in a manner restricting same, I think that irrespective of the Respondents' stated security related and other reasons for justifying the eviction/threatened eviction of the Applicants from their homes as averred in the Counter-Affidavits filed herein, in as much as those reasons do not derogate from the fact that Applicants' are nonetheless citizens of Nigeria who are constitutionally protected from cruel and inhuman/degrading treatment by Section 34 (1a) of the 1999 Constitution of Nigeria (as amended) as follows "Every individual is entitled to respect for the dignity of his

person, and accordingly -

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(a) no person shall be subject to torture or to inhuman or degrading treatment;"

because, I find the eviction/threat of forcible eviction of any citizen from his home at short notice and without any immediate alternative accommodation or sufficient opportunity to arrange for such alternative accommodation before being evicted from his current abode totally undignifying and certainly inhuman, cruel and degrading and because I also appreciate the need for the Respondents as the responsible authority charged with the duty of ensuring the wellbeing and safety of all citizens within the state thus charged and empowered by law to take all reasonable necessary measures towards keeping us all safe, I think that in resolving the issues between the parties I should rather than immediately delivering a considered judgment on the basis of reliefs claimed by the Applicants against the Respondents in this suit defer judgment sine die so as to afford the parties the opportunity to resolve the dispute between them out of court.

Consequently and pursuant to the wide discretionary power conferred on the court by Order XI of the Fundamental Rights (Enforcement Procedure) Rules 2009 as follows "at the hearing of any application, under these rules,



the court may make such orders, issue such writs, and give such directions as it may consider just or appropriate for the purpose of enforcing or securing the enforcement of any of the Fundamental Rights provided for in the Constitution or African Charter on Human and People's Right (Ratification and Enforcement) Act to which the applicant may be entitled" parties are hereby directed to attend mediation session(s) as may be determined by the Lagos Multi-door Courthouse (LMDC) for an out of court settlement of this suit.

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Finally, parties shall maintain the status quo pending between them as at today regarding all issues in question in this suit pending the final resolution of issues between them either upon conclusion of mediation as directed by the court or the final determination of this suit.

Suit is adjourned to the 28/2/17 for report on mediation proceedings at the Lagos Multi-Door Court House as directed by the court today.

The 1st, 2nd, 5th, 12th, 14th, 26th, 27th, 30th, 31st, 32nd, 36th, 38th and 39 Applicants present.

O. Babalola (Miss) for Applicants.

A. Ladega (Mrs.) for 1st – 3rd Respondents.



HON. JUSTICE S. A. ONIGBANJO,
JUDGE,
26/01/2017

25 folios at ₦4000
per folio = ₦1,000.00

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W. O. O.
**SENIOR REGISTRAR
HIGH COURT LAGOS**

