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#### LEGAL QUOTES

Laws and institutions, like clocks, must occasionally be cleaned, wound up, and set to true time.

- Henry Ward Beecher (1813-1887)  
*American politician*

The good of the people is the greatest law

- Marcus Tullius Cicero (106-43 BC) *Writer, politician and great roman orator*

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### THE VIABILITY OF RENT CONTROL IN NIGERIA

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*Vivian Nwobi*

#### INTRODUCTION

In 2016, the world population review pegged the population of Nigeria as 187,525,131. This figure is however an estimate given that the last official data collected by the National

Bureau of Statistics was in 2012.<sup>1</sup> With a projected growth rate of 2.56% and a reported housing deficit of 17 million units,<sup>2</sup> the important question which should be asked is “where do people live?” This deficit portrays a housing crisis which is an irony when juxtaposed with the existence of an

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<sup>1</sup> “Nigeria Population 2016”, Available at <http://worldpopulationreview.com/countries/nigeria-population/> Accessed on January 31, 2017

<sup>2</sup> Ibiene Ogolo , “Nigeria’s housing deficit: Challenges, possibilities” <http://theeagleonline.com.ng/nigerias-housing-deficit-challenges-possibilities-by-ibiene-ogolo/> Accessed on January 31, 2017

alarming rate of unoccupied property especially in urban areas. This problem is further heightened by a teeming population which is becoming more and more skewed to urban areas, towns and cities.

As at 2010, it was reported that 85% of the urban population lives in rented accommodation, spending more than 40% of their income on rent. Of these, 90% are self-built and this is mainly due to lack of mortgage financing, and less than 5% have formal title registration. Informal housing is most prevalent as more than 80% of the population lives in settlements that are unplanned with poor living conditions.<sup>3</sup> This brings the question of affordability of available housing to the fore and it remains to be seen whether the existing legislation on the subject can provide succor to tenants and homeless persons in urban areas.

## **GOVERNMENT INTERVENTION IN RENT CONTROL**

The rationale behind rent control is to put in place measures which protect urban dwellers from being exploited or pushed off the open market in the course of securing accommodations by putting a benchmark on the maximum rent payable on all classes of residential properties. These measures include checking incessant and arbitrary increases brought about through the forces of demand and supply of residential accommodation with the demand often rising at a geometric rate while supply rises at arithmetic rate thereby causing galloping increase in rent from year to year.

Overtime, various legislations at State level have tried a regulation of rent payable by

tenants so as not to leave such tenants at the mercy of their landlords. The Federal Government has however not had much impact in this area as rent control is a residual matter under the 1999 Constitution of the Federal Republic of Nigeria. As such, rent control is usually within the purview of each State Governments which for the most part are similar to the provisions of the Rent Control Law of Lagos State.

The applicable legislation in Lagos State is the Lagos State Rent Control & Recovery of Residential Premises Law, 1997 ("Lagos Rent Control Law").

At the time of its enactment, the Lagos Rent Control Law was geared towards mandatorily regulating the rentals that can be charged for residential apartments in certain areas of Lagos State whose residences were not charging annual rental value in excess of N250,000 (Two Hundred and Fifty Thousand Naira). This Law prescribes the standard rent for each type of residential accommodation in different locations of the State with the caveat that the standard rent shall only be subject to upward review of not more than 20% every three years or at such other duration as the Governor of Lagos State may prescribe.

The Lagos Rent Control Law also makes it unlawful for the Landlord or his agent or the Tenant to demand or pay rent in excess of the standard rent. It is also unlawful for a Landlord to demand or receive the prescribed standard rent for a period in excess of six months from an incoming/new Tenant. Equally unlawful is the action of a sitting Tenant offering to and paying the standard rent in excess of a period of three months in respect of any type of residential accommodation to which the Lagos Rent Control Law applies. Any person who receives or pays rent in excess of the standard rent that is prescribed by Law is

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<sup>3</sup> "Overview of the Housing Finance Sector in Nigeria", Available at [http://www.housingfinanceafrica.org/wp-content/uploads/2010/08/A2HF\\_Nigeria.pdf](http://www.housingfinanceafrica.org/wp-content/uploads/2010/08/A2HF_Nigeria.pdf) Accessed on January 31, 2017

guilty of an offence and liable on conviction to a fine of N50,000.00 (Fifty Thousand Naira) or to a term of six months imprisonment.<sup>4</sup>

## CONCLUSION

The law on rent control has however been largely dormant as most tenants are still subject to the whims and caprices of their landlords who in the absence of any enforcement of this control continuously exploit the situation with arbitrary increase in the rent payable on their property. Although Section 37 of the Lagos State Tenancy Law 2011 (LSTL) allows a tenant to apply to court for a declaration that the increase in rent is unreasonable, and also vests the court with the power to determine whether or not the same is reasonable, taking due cognizance of the rent payable in similar apartments in the locality, this leeway is not being explored by tenants. The LSTL is also to the extent that if the court is satisfied that the increase is unreasonable, it can change it to a specific amount. The LSTL also makes it unlawful for a landlord to eject a tenant while an action is pending in court challenging the reasonability of an increase in rent.

There have been arguments that the attempt to regulate rental values for properties in Nigeria has reduced the interest to invest in real estate in Nigeria. Nonetheless, Housing is a basic need and as such the Government needs to strike a balance between providing affordable housing and creating an enabling environment for real returns on property investments.

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<sup>4</sup> "Real Estate Investments & Rent Control Laws in Nigeria", Available at <http://www.oseroghoassociates.com/articles/73-legal-alert-real-estate-investments-rent-control-law-in-nigeria?print=1&download=0> Accessed on February 2, 2017

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## INTESTACY: PRIORITY OF ENTITLEMENT TO LETTERS OF ADMINISTRATION

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*Kenneth Jim*

## INTRODUCTION

One of the main arguments for making a Will is that it affords the testator the opportunity to appoint personal representatives who will carry out his wishes upon his demise. However, in cases where a person dies without leaving a Will, he loses the opportunity to appoint representatives of his choice and the administration of his estate will be left to administrators that will be appointed based on certain rules that govern intestacy<sup>5</sup>. The aim of this article is to examine the rules governing the appointment of administrators of a deceased person's estate in order to identify who the courts prioritize in issuing letters of administration.

## PERSONS ENTITLED TO LETTERS OF ADMINISTRATION

In Probate, letters of administration come into play where a person dies without a Will or where although there is a Will, it does not expressly or impliedly appoint personal representatives over the estate. Three systems of law govern intestate succession in Nigeria. They are:

- i. Common Law;
- ii. Laws of Administration of Estate in various states; and
- iii. Customary Laws

What will determine which of these systems will apply in a given case is the type of marriage contracted by the intestate person,

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<sup>5</sup> Intestacy is the condition of the estate of a person who dies without having made a valid will or other binding declaration.

or the law/religion he was practicing in his lifetime. Where a person who contracted a statutory marriage dies intestate, his real and personal estate will be distributed according to the provisions of any local enactment relating to administration of estate, and where none exist, the common law intestacy rules will apply. See the case of *Zaidan v. Mohsons* (1973) All N.L.R. 86. Thus, where the intestate contracted marriage under the Marriage Act, the law which will govern his intestate succession is the Administration of Estate Law of the state which he was residing when he died and not his custom.<sup>6</sup> The Supreme Court in *Obusez v. Obusez*<sup>7</sup> affirmed this position when it held that succession to the estate of a person married under the Marriage Act will be regulated by the provisions of the Administration of Estate Law notwithstanding any native law and custom of the deceased.

Section 49(1) of the Administration of Estates Law of Lagos State provides some guidance on the order of priority of persons who could be granted letters of administration. The choice among several next-of-kin follows certain rules of priority – lineal descendants rank before lineal ascendants. Where the next-of-kin are of equal degree and their interests are almost equal, the Court has discretion to accept one or more of them.<sup>8</sup> Under that Section, the persons are listed as follows –

1. Husband or wife of the deceased

2. Children of the deceased or the surviving issue of a child who died in the lifetime of the deceased
3. Father or mother of the deceased
4. Brothers or sisters of the deceased of full blood and the children of such brothers or sisters who died in the lifetime of the deceased
5. Brothers or sisters of half blood of the deceased or the children of any such half brother or sister who died in the lifetime of the deceased
6. Grandfather or grandmother of the deceased
7. Uncles and aunts of full blood or their children
8. Creditors of the deceased
9. Administrator General (where all preceding fail)

The Court of Appeal in interpreting Section 49(1) of the Administration of Estates Law of Lagos State, stated that “from the deductive conclusion, it is clear that the surviving spouse and children of a deceased person take priority and exclusive right to the estate of the deceased.”<sup>9</sup> Hence even the Solicitor to the family cannot apply to be a co-administrator along with a surviving spouse or child.

In conclusion, it is pertinent to note that although the law has clearly made provisions as to persons who are entitled to letters of administration, there are some restrictions on persons that can be appointed as administrators – mentally challenged persons, infants and in some cases native laws and customs make some restrictions.

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<sup>6</sup> Akintunde Esan, *Who is entitled to the Letter of Administration of Estate in Nigeria* (Published on April 4, 2016) Available online at <https://akintundeesan.blogspot.com.ng/2015/04/who-is-entitled-to-letter-of.html> accessed on January 29, 2017

<sup>7</sup> (2007) All FWLR (Pt 374) P. 227

<sup>8</sup> Y.Y.D. Dadem: *Property Law Practice in Nigeria* published by Jos University Press (2009), Page 282

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<sup>9</sup> Williams v. Ogundipe (2006) All FWLR (Pt 327) P. 540 at 552

## JOKES



confidence in the market, institutions and regulators.”

According to petitions to the regulators, the N10 billion quoted involved a series of transactions on behalf of various clients in which the Chairman and Chief Executive Officer of Partnership Securities, Victor Ogiemwonyi, is identified as the chief protagonist.

Read more at:  
<https://guardian.ng/news/stockbrokers-n10-billion-scandal-rocks-stock-market/>

## NEWS UPDATE

### Stockbroker's N10 billion scandal rocks stock market

Industry regulators are currently struggling to restore investors' confidence in the capital market, following what stakeholders described as poor handling of infractions and enforcement of discipline among operators.

The development came as a stock broking firm, Partnership Securities Limited (PSL), and its sister companies – Partnership Investment Company Plc; Life Care Partners Limited; and SBDC Microfinance Bank Limited are embroiled in alleged N10 billion scandal, based on official estimates, relating to diversion and misappropriation of funds. Given the level of the infraction by some operators, analysts are puzzled as to why the regulators, the Securities and Exchange Commission (SEC); the Nigerian Stock Exchange (NSE); and the Central Security Clearing System (CSCS), are unable to effectively deal with such sharp practices.

According to those who spoke with The Guardian, which has been investigating the scandal, “Nigeria's efforts to grow its capital market are dependent upon having

### How Justice Ademola requested N25m bribe to grant me bail – Witness

ABUJA – Former Director in Office of the Accountant General of the Federation, Dr. Sani Teidi, on Tuesday, narrated before an Abuja High Court at Maitama, how Justice Ademola Adeniyi who is facing corruption charges, kept him in prison custody for a year and two months, following his inability to pay N25 million bribe.

The witness told the court that Justice Ademola approached his wife through an agent simply identified as Mr. Kingsley O. He said the agent gave his wife two different account numbers where the N25 million should be paid into. Meanwhile, Justice Ademola, through his legal team led by Dr. Onyechi Ikpeazu, SAN, dismissed the allegation, stressing that the witness who was docked before his court by the Economic and Financial Crimes Commission, EFCC, had attempted to use forged documents to get bail.

Ikpeazu, SAN, maintained that there was no evidence to show that the embattled Judge, at any time, had personal contact with the witness. Teidi was on trial before Justice

Ademola following his alleged complicity in the illegal diversion of over N4.6billion pension fund. Testifying as the 6<sup>th</sup> prosecution witness, PW-6, in the ongoing trial of Justice Ademola, the witness narrated how his ordeal commenced, saying it took intervention of a panel of Justices of the Court of Appeal to eventually secure his release from Kuje prison

Read [more](http://www.vanguardngr.com/2017/01/justice-ademola-requested-n25m-bribe-grant-bail-witness/) at:  
<http://www.vanguardngr.com/2017/01/justice-ademola-requested-n25m-bribe-grant-bail-witness/>

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### Foreign reserve now \$27.4bn

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Nigeria's foreign reserve has recorded 18.2% accretion since its recent uptrend, standing at \$27.4 billion with the latest figures from the Central Bank of Nigeria (CBN) for January 2017. The uptrend which began October 20, 2016 had persisted with minor pullbacks recorded on November 1, 2016 and December 14, 2016, reversing the over one-year persistent decline which bottomed out at \$23.2bn on October 19, 2016.

In the 12 weeks upward trend, the reserve added \$4.2 billion as against \$8.6 billion it had lost since President Muhammadu Buhari came into power in 2015. The latest figure of the reserve is also on 10 months high over the last one year while indications are that accretion would continue on the back of improved oil revenue. The month-on-month trend shows an increasing tempo in the month of January 2017 when it garnered \$2.002 billion, a huge 7.9% rise. December 2016 accretion was \$1.025 billion, about 4.2 per cent rise while November recorded accretion of \$840 million, about 3.6% rise. The uptrend was largely as a result of the rises in the international oil price (Nigeria's

major foreign exchange earner) in the recent month especially in January when it settled above \$55 per barrel, as against last year's average of \$43 and 2015 average of \$38.

Read [more](http://www.vanguardngr.com/2017/02/foreign-reserve-now-27-4bn/) at:  
<http://www.vanguardngr.com/2017/02/foreign-reserve-now-27-4bn/>

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### FG approves new national tax policy, sets up panel on rising food prices

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The Federal Executive Council (FEC) has approved a new National Tax Policy for the country. The policy is expected to guide the operation and review of the nation's tax system and provide the basis for future tax legislation and administration.

The council has also set up an inter ministerial task force to urgently consider measures that would ensure a steady flow of produce to the market and reverse the rising food prices across Nigeria.

Members of the task force include the Ministers of Agriculture & Rural Development, Audu Ogbah, Finance: Kemi Adeosun, Industry, Trade & Development: Okey Enelamah, Transportation: Rotimi Amaechi, Water Resources: Suleiman Adamu, Labour and Employment: Dr. Chris Ngige. The offices of the Chief of Staff to the President and the Senior Special Assistant to the President on Sustainable Development Goals, SDGs, would also be on the task force.

Adeosun, who briefed State House Correspondents after the FEC meeting presided by Acting President Yemi Osinbajo yesterday, said the implementation of the policy would effect an increment in Value Added Tax (VAT) on all luxury goods.

**This Newsletter and/or its contents is not intended as and does not constitute legal advice. It is only a source of information**



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