



EVALUATION OF THE CAUSES AND CONSEQUENCES OF TENANT EVICTION IN EDE METROPOLIS, NIGERIA

**Ankeli Ikpeme Anthony, Dabara Ibrahim Dabara, Omotehinshe Joseph Olusegun
and Omoyosi Gabriel Adeyemi**

Federal Polytechnic Ede, Nigeria

Agidi Oladejo Michael

Umaru Waziri Federal Polytechnic, Nigeria

This paper evaluates the causes and consequences of tenant eviction in Ede metropolis, Osun state, Nigeria with a view to suggesting the most practicable ways through which arbitrary evictions can be minimized thereby making landlord and tenants to see each other as partners in progress and not enemies in the rental housing market of the economy. To achieve this aim, all the seven (7) registered Estate Surveyors and Valuers who have their presence in the rental housing market in the study area, ten (10) housing agents operating in the area and the 150 evicted tenants involved in one form of eviction cases or the other were surveyed through the use of a structured questionnaire backed up with oral interview. Out of the 167 questionnaires administered 148 questionnaires representing 88.6% was correctly filled and returned. Data collected were analyzed using descriptive statistical tools. Findings from the study among other things revealed that default as result of criminal acts; unruly behaviour and noncompliance with tenancy agreement constitute the major causes for tenant eviction in Ede. Those that bears the consequences of the eviction are basically the vulnerable groups – women, children, students and the low income groups. The paper seeks to know if the efforts of the Estate Surveyors have provides a lasting solution to the problem of bad tenancy and the resultant consequence of eviction and hence recommends a more effective and efficient rent edict in all the states of the federation and a robust national housing policy programme that will take the plight of the vulnerable groups into consideration.

Keywords: Property management, Tenant, Tenant eviction, Tenancy.

Introduction

Despite the importance of housing to man ranking second after food, investment in real property development in Nigeria in recent time has been negligible and sporadic, this, scholars has traced to the unstable economic situation in the country resulting in high cost of building and other construction materials, cost of finance, lack of enabling environment for private sector participation in housing delivery process particularly for the lower middle and low-income groups, inappropriate building and construction technologies, high cost of infrastructure among others (Aden 2014, Ankeli et al and 2015, Dabara et al). There is a wide gap between housing demand and housing availability in the country, as the

current economic recession with its negative impact on employment opportunities and deteriorating workers' conditions have also flowed into the rental housing market subsector of the economy resulting in skyrocketing property rentals and creating a scenario where landlords and tenants see themselves as enemies and not partners in business (progress).

Alagbe (2013) on the other hand attributed the causes of ever widening gap between housing demand and housing supply to include the increasing percentage of Nigerian urban dwellers which was projected to be around 10% in 1952; 38% in 1993, 50% in 2009 and hoping to rise to about 60% in 2014 and more in 2015. Regrettably, professionals in the built environment frequently discusses issues of home ownership housing with little or no reference to rental housing which is an integral part of urban housing need in Nigeria.

In reality most Nigerian urban dwellers rent apartment due to necessity while few do so by choice. Attention in finding solution to the national housing problem is more on home ownership than rental housing provision forgetting the fact that demand for housing is determined by its desirability to the purchaser and the value he places on it, while the prevailing price of the product as well as the intended buyer's degree of desperation to acquire the product are factors to be considered. The implication of the widening gap between housing demand and supply will be the creation of tenancy relationship between the prospective tenants and would be landlord as the few available housing will have to be lease to the prospective tenants with effective demand at whatever rent with total disregards to the provision of the State Rent Control Edict where they exist. Those tenants that meet the lease condition at the moment may not be able to do so few years into the commencement of the lease, thus problem of default in lease agreement and eviction ensue. To solve this problem Estate Surveyors collect information on tenants through acquaintance form as this affords the Estate Surveyor the opportunity to carry out investigation on the prospective tenants. This paper seeks to know if the efforts of the Estate Surveyors have provides a lasting solution to the problem of bad tenancy and the resultant consequence of eviction?

The aim of this paper is therefore to examine the causes and consequences of tenant eviction in property management practice in the study area with a view to proffer solutions that will make the tenants and landlords see themselves as partners in progress.

Review of Literature

To achieve the aim of this paper, literature relevant to the issue at hand was reviewed in line with their specific importance to the practice of real property management in the study area. In this regard, earlier studies on lease content and interpretation, recruitment and eviction of tenants, and the operation of rent covenants were examined.

Lease Content and Interpretation

A lease is a contractual agreement in a deed executed between landlord or his agent and the tenant where the landlord transfers his right to use and possession in the property to the tenant in consideration for rent. Spitzer, (2003) defined a lease as a contractual obligation between the property owner and the tenant which continue the terms and condition of rental which cannot be changed while it is in effect unless both parties agree. A breach of any of the terms contained in the lease by the tenant usually leads to sanction by the property owner following appropriate notice. A property owner may take legal step (as an inevitable last resort) to evict tenant in the case of breach of tenancy covenant.

Olayonwa (2000) on the other hand opined that a tenancy agreement is a written agreement without seal executed between a landlord and a tenant when the former transfers his rights of use and possession in a property to the latter in consideration of rental income. The basic distinction between a tenancy and a lease agreement lies in the issue of seal and duration, however their contents are the same; these are the premises, habendum, reddendum, covenants, provisio and options.

However, there may be instances where a formal lease or tenancy agreement may not be expressly created at the beginning of the purported relationship between the tenant and the landlord but could be implied by the actions or conducts of the parties or the operation of landlord and tenant laws. Such implied lease covenants on the part of the tenant include covenant to pay rent, rates and taxes, use the premises in tenant-like manner, not to deny landlord's title and not to commit waste while on the part of the landlord is covenant to allow lessee quiet enjoyment of the premises, not to derogate from the grant, fit for habitation and delivery of possession. The breach of any of the above covenant by the tenant may lead to eviction with its attendant consequences.

Selection of Tenants

It is common for prospective tenants to indicate their willingness to acquire a space within a property that is vacant and free for letting. However the willingness of most of these prospective tenants are not always back up with effective demand, hence if eventually granted a space in the premises, the risk of default or breaching the provision of lease covenants is always high. Oni (2010) opined that tenant risk can hinder success in harnessing adequate and remunerative returns on investments. He further observed that the main mitigation strategy against the risk is through careful tenant's selection process by experienced property managers.

As important as tenant selection is to the success of real property management, its policies may vary depending on the property type, the objective of the property owner, the facilities, location and demand for the property type in question. Thus most Estate Surveyors based the policies on either the rent paying capability of the tenant, suitability of the user to the location, permanency potential, tenant compatibility and point scheme criteria or the combination of all. To avoid admitting bad tenant, Oni (ibid) asserted that many tools have been developed for screening of prospective tenants; however, they are not widely used in Nigeria as selection is carried out by intuition and consideration of criteria that are subjective which has led to high cases of defaults and tenant eviction in the country.

It is also common to see some Estate Surveyors admitting tenants on the premise of the prospective tenant's immediate rent paying ability, prestige and the prevailing economic climate at the time of transaction to the neglect of the other criteria as mentioned above. The consequences of this act are always monumental and disastrous as it helps in producing bad and irresponsible tenant. To support this assertion, Akomolede (2006), is of the view that, it is better not to let a property than letting it to a difficult tenant, hence he subscribe to the adherence of Surveyors to the tenet of exhaustive tenant selection principles.

According to Bello (2008), tenant's ability to pay rent and observe other covenants in tenancy agreement is paramount considerations for judging whether they are good or bad. The study stated that corporate tenants rarely default in rent payment but was quick to add that. it is evident in practice that corporate tenants are not at all times better than individual tenants. Estate Surveyors sometimes find it tougher to deal with difficult corporate tenants especially when they default in rent payment and the need to eject them arises; they have resources to engage experienced lawyers to frustrate ejection processes. From the above, one can conclude that tenants' integrity should be place above class distinction in tenant selection exercise.

Eviction of Tenants, Types and Causes

Eviction is to force somebody to pack out of the house they are living in usually permanently and for a stated reason. It is a lawful step taken usually by the lessor (landlord) to recover possession and the right to use his property from a defaulting tenant. Both the landlord and the tenant have some obligation to respect under tenancy agreement. Several types of evictions have been identified, this include actual, constructive, partial or retaliatory evictions. Actual eviction exists where one is removed from the property either by force or through the process of law. When it is by the process of law, it is called legal

eviction; this however require the serving of proper notice on the defaulting tenant to vacate the premises within a specified time frame and court process is used to follow up when such a tenant dishonoured the notice. The eviction becomes constructive where it is the fault of the landlord or physical condition/nature of the property that render property unfit for the purpose for which it was leased. A tenant who has been constructively evicted has a number of legal recourse; as such tenant may terminate the lease (Burke and Snow, 2008). Partial eviction exists where a tenant is deprived of portion of property. For example where a substantial modification is required on one side of the building, the landlord and the tenant may agree to a partial eviction from the property because of the disruption to be caused by the work. Retaliatory eviction occur when a landlord attempt to evict a tenant in response to some legal action taken by the tenant, though retaliatory eviction suit could be dismissed, provided the tenant can provide evidences that can prove beyond reasonable doubt and convince the court that it is Retaliatory (Aaron, 2003; RHOL, 2006).

Tenants can be evicted from premises due several reasons ranging from default in rent payment to the breaching other tenancy/ lease agreement and other grounds as identified in literature (see Aaron, 2003; Amos, 2006; Ojo, 2007; Lagos State Government, 2011; Land Registry for England and Wales, 2012; Government of Dubai, 2007; Nigeria Property Centre, 2012; e-How, 2013; Department of Commerce, 2012, Minnesota Judicial Branch, 2013; Dabara, Ankeli, Adeyanju, and Odewande, 2014). According to Oni (2010) default occurs when a tenant does not pay the rent specified in the tenancy agreement. The default can also pertain to other breach in the terms of the lease (for example, by adopting a dog when pets are not allowed). He observed that failure to pay rent is the most frequently committed breach by tenants and is the most common cause of eviction in Lagos State while this is not the case in Ede North as the rate of default in rent payments amongst the tenants in Ede North is minimal compare to other factors. In a survey of 7 Estate Surveyors and 10 Housing Agents 5 and 8 (representing 71.4% and 80%) stated that tenants usually pay their rents before the due date. In other words, the study revealed that defaults are in other areas of the covenant but not in the area of rent payment. Responses from the respondents interviewed revealed that 78% defaults are in criminal acts and unruly behaviour.

Oni (ibid) citing the Nigerian Supreme Court judgment in the case of *African Petroleum Ltd vs. Owodunni (1991) 8 NWLR pt. 210 pg.391*, asserted that Moneke (2009) stated that a statutory tenant can sue the landlord for trespass to land because he stands in the same position as if the contractual tenancy is still extant and tenants can be ejected only on valid grounds upon application to a Court of competent jurisdiction or a Rent Tribunal. The grounds are: that the rent lawfully due by virtue of the law is in arrears of three months after it became due; or that the tenant has been guilty of the breach of an express covenant or agreement of the tenancy; and that the tenant has given notice of his intention to quit as a result of which the landlord has contracted to sell or let the premises or has taken such other steps that are likely to put him in difficulty if he could not obtain possession. Other grounds are: the premises are reasonably required for any purpose which is in the public interest; that the tenant or any person residing or lodging with him or being his sub-tenant has been guilty of conduct which is nuisance or annoyance to adjoining occupiers, or has been used as a brothel, etc; that the premises are so overcrowded as to be dangerous or injurious to the health of the co-tenants; or that the premises are subject of an abatement notice issued by a public authority - such notice is given where the premises is in a dilapidated state and poses imminent danger to inhabitants; or that the premises require substantial repair on account of which it is necessary for the tenant to vacate possession -except where ejection will cause serious hardship for the tenant; or that the premises are required by the landlord for his occupation, for any of his children above 18 years, or for his parents.

He also stated that eviction follows four steps, which are: valid reasons for evicting the tenant, such as failure to pay rent, repeated violations or the breach of a lease clause must be established; tenant must be given adequate written notice to terminate the tenancy, following state and local eviction procedures; a lawsuit to evict the tenant if the tenant does not move or correct violations after receiving a termination notice; and, owner or agent must realize that the tenant may mount a defence against the eviction lawsuit and this may increase the time of the eviction process.

Consequences of Eviction

Developments in the rental housing subsector in Nigeria have come with its positive and negative effects. One of the areas of the negative sides of this development is in the area of breach or default in the lease or tenancy agreements leading to the tenant eviction. This failure according to Akogun and Ojo (2013) have prompted a range of research work, often practically oriented, that has tried to explain why it happens and so to produce practical recommendations as to how landlords might tackle the problem. This concern according to the duo reflects various perspectives of landlord's failure, tenant's failure or market failure. Pawson and Munro,(2007) observed that tenancy breakdown generates significant costs for landlords, as each additional property falling vacant incurs revenue costs in relation to the repair, cleaning and re-servicing of the property as well as the costs in lost rent while it remains empty and the costs of re-letting the property to another tenant. Again, social costs are imposed on the individuals and households directly experiencing tenancy breakdown, particularly to the extent that it is symptomatic of a broader failure to establish a stable, sustainable or secure lifestyle. As well as, neighborhoods subject to high rates of tenancy failure experience homelessness and other social costs. Pawson and Munro,(2007) further asserted that, the fabric of social cohesiveness in such localities is likely to be undermined by rapid turnover which means that residents may never come to know or even recognize their neighbors, far less build relationships characterized by mutual trust and respect.

In this way tenancy breakdown can undermine further neighborhoods that are already relatively disadvantaged and fragile (Pawson and Munro, 2007). Akogun and Ojo (2013) stated that Nottingham City Homes (2012) identified and classified the consequences of tenancy breakdown into three categories i.e. personal, social and financial cost. Whatever the causes of termination, the consequences can be harsh and severe. According to Crises, (2008) in Akogun and Ojo (2013), Homelessness damages people's capability through loss of skills, through an inability to think about employment whilst worrying about housing, and through their health becoming impaired whilst homeless. Homelessness also damages people's resilience, self-esteem and self-confidence. While Stroud DC, (2012) pointed out that cases involving claims for illegal eviction could potentially increase legal costs, create an entitlement to compensation and cause damage to the landlord's reputation. In Nigeria the most vulnerable group are the poor in the society, women and children.

The Study Area

Ede lies along the Osun River at a point on the railroad from Lagos, 112 miles (180 km) southwest, and at the intersection of roads from Oshogbo, Ogbomosho, and Ife. Ede is one of the older towns of the Yoruba people. It is traditionally said to have been founded about 1500 by Timi Agbale, a hunter and warlord sent by Alafin (King) Kori of Old Oyo (Katunga), capital of the Oyo empire, to establish a settlement to protect the Oyo caravan route to Benin (127 miles [204 km] to the southeast). Ede is a local trading centre for cotton, palm produce, yams, corn (maize), cassava, pumpkins, okra, and kola nuts, and it has been a major exporting point for cocoa and palm oil and kernels since the construction of the railway from Lagos in 1906. Ede is also the site of a teacher-training college.

Materials and Methods

The focus group for the research work was the Estate Surveyors and Valuers, House Agents and the Tenants that were evicted from residential properties in the study area. The Estate Surveyors are custodians of properties and are often involved in management of landed properties. A sample of estate surveyors and house agents in Ede metropolis was taken and interview conducted to determine the causes and consequences of tenant eviction. There are 7 registered firms of Estate Surveyors and Valuers and 10 house agents operating in Ede metropolis. Since this number is a manageable size, all the Registered Estate Firms and the House Agents are used as sample size for the study.

The responses of the respondents revealed that there were 780 cases of tenant eviction between 2010 and 2015; 40% (312) evicted tenants were selected by stratified method using property types as criterion to ensure that all categories of residential properties are fairly represented in the study. Well-structured questionnaires backed up with oral interview were used to solicit information from the respondents on the subject under consideration. As adopted by Akogun and Ojo (2013) each respondent was asked to complete a questionnaire by answering questions concerning their socioeconomic status and the effects the eviction had on them or their tenant. However, in all only 148 questionnaires representing 88.6% was correctly filled and returned. Data collected were analyzed and presented in frequency distribution tables and percentages.

Results

Our findings concerning the sample characteristics of the respondents and the impacts of eviction from the perspectives of the Estate Surveyors, Housing Agents and the affected tenants are presented in the table below.

Table 1. Sample characteristics for Estate Surveyors

Estate Surveyors (7)		
Age	Less than 35 Years	0.00%
	36 – 46 Years	42.86%
	Over 47 Years	57.14%
Positions in their firms	Principal	14.29%
	Branch Manager	42.86%
	Estate Surveyor	42.85%
Years of experience	3 – 5 Years	00.00%
	6 – 10 Years	57.14%
	11-15 Years	14.29%
	Over 16 Years	28.57%
Academic and Professional Qualifications	B.Sc/HND	57.14%
	M.Sc / MBA	28.57%
	Probationer	0.00%
	ANIVS/RSV	14.29%
Professional Services	Property valuation	100%
	Property management	100%
	Estate Agency	100%
	Property development	100%

Source: Author's field survey, 2016

Sample Characteristics of Estate Surveyors

The same sample characteristics as used by Akogun and Ojo (2010) was adopted and use to see if the same result will be replicated in the study area. However, for the seven registered practising firms of Estate Surveyors and Valuers that were surveyed are shown in Table 1, all the seven firms in Ede were used as sample for the study and all questionnaires administered were duly completed and returned giving 100% response rate. The study revealed that all the respondents were over 35 years of age with 57.14 % of the respondents were over 47 years of age and the remaining 42.86% are within the ages of 36 to 46 years,. 28.57% and 14.29% have Masters Degrees and ANIVS/RSV respectively. It also shows that all firms (100%) engaged in property valuation, management, estate agency and property development.

Table 2. Sample Characteristics for Evicted Tenants

Evicted Tenants (312)		
Age	20 – 35 years	44.92%
	36 – 55years	40.03%
	Above 56years	15.05%
Marital Status	Married	20.95%
	Single	79.05%
	Widowed	0.00%
	Divorced	0.00%
Education Level	Primary School	03.23%
	Secondary School	30.70%
	Tertiary Institutions	66.07%
Occupation	Private sector	13.50%
	Civil servant	10.50%
	Student	56.00%
	Retired	0.00%
	Unemployed	20.00%
Income Level per month	Below N18, 000	75.00%
	N19, 000 – N29, 000	12.50%
	N30, 000 – N49, 000	10.50%
	Above N50, 000	02.00%
Property Types Occupied	Tenement	70.54%
	Flat	15.16%
	Bungalow	14.30%
	Duplex	0.00%
Tenancy Type	Monthly	1.00%
	Quarterly	0.00%
	Half Yearly	0.00%
	Yearly	99.00%
Rent Paid Per Annum	Below N 12,000	0.00%
	N 12,001 – N 36,000	42.98%
	N36,100 – N 60,000	66.00%
	More than N100,000	2.63%

Source: Author's Field Survey, 2016

Sample Characteristics for Evicted Tenants

The table above shows the sample characteristics for the evicted tenants that participated in the study. A total number of 150 evicted tenants were sampled by questionnaires but 131 usable questionnaires were retrieved representing 87.3% response rate. About 54.92% of the evicted tenants are between 20 to 35 years, 30.03% and 15.05% are between 36 to 55 years and 56 years and above respectively. About 79.05% are single and 20.95% are married, 03.23% attained primary education, 30.70% secondary education while 66.07% had tertiary education. Majority of the evicted tenants are students of the Federal Polytechnic Ede (56%) 10.50% are civil servants while about 13.50% worked in private sector and 20% are unemployed. Most of the respondents (75%) earned below the national minimum wage of N18, 000 monthly. This is because majority of the affected tenants are students and every low income earners. Typical of tenants in this kind of income group, 70.54% of the respondents occupied tenement property with yearly tenancy arrangement with 66% of sampled population paying annual rent of between N36,100 – N 60,000. The study revealed that the incidence of eviction is more on lower rental properties, as the majority of the evicted tenants were students and low income earners holding yearly tenancies.

The Consequences of Eviction

It is important to note that the same variables used by Akogun and Ojo (2010) were adopted and tested to see if the same result can be achieved. Our study of Ede Metropolis revealed slight variation in the results obtained. The responses of the respondents on problem of eviction are as presented in the table below.

Table 3. Estate surveyors = 7; evicted tenants = 131.

Estate Surveyors' Problems with eviction	Enmity	25.00%
	Loss of income	10.20%
	Time loss	10.13%
	Repairs	20.05%
	Disgrace	20.30%
	Void	05.00%
	Delayed execution	02.00%
	Intimidation	05.30%
	Re-letting	02.02%
Evicted Tenants Problems with eviction	Enmity	25.00%
	High cost of resettlement	25.00%
	Disgrace	18.00%
	Resettlement problems	15.00%
	Loss of personal properties	15.00%
	Dislocation of family members	02.00%
Estate Surveyors: Benefits derived from Eviction	Opportunity to select better tenants	35.05%
	Opportunity to fix higher rent	45.05%
	Experience	10.09%
	Rest of mind	09.81%

Table 3 shows that the main problems suffered were enmity (25.00%), loss of income (10.20%), time loss (10.30%), repairs (20.05%), disgrace (20.30%), and void (05.00%). Other problems are delayed execution (02.00%), intimidation (05.30%) and re-letting of premises after eviction (02.02%). The Table also shows that the responding evicted tenants are affected from such problems as enmity (25%), high

cost of resettlement (25%), disgrace (18%), resettlement problems (15%), and loss of personal properties (15%), and (02%) also suffered dislocation of family members after eviction. The surveyors were also asked about the benefits if any, derived from tenant eviction. Their responses shown in table 3 revealed that the benefits are the opportunity to select better tenants (35.05%), the opportunity to fix higher rents (45.05%), experience (10.09%); and rest of mind especially when a bad tenant is evicted (09.81%).

Conclusion

Tenant evictions do more harm than good to both the Estate Surveyors and Valuers and the evicted tenants. Literatures have shown that tenant eviction has resulted into the death of so many and the cause of poverty, homelessness, problem in many homes, lead to enmity, loss of income and time wastage for litigation and it may also earn bad reputation for the manager especially where the case is lost. Legal practitioners in the country these days use eviction cases to test their legal competence which most often prolong the eviction process and lead to large income losses and high expenses for small property owners as well as promote dysfunctional environments in rental properties where bad tenants are allowed to remain. It in this light that this paper recommends a more effective and efficient rent edict in all the states of the federation and a robust national housing policy programme that will take the plight of the vulnerable groups into consideration, development national property database where valuable and detailed information on causes and consequences of tenant evictions will be stored. The national mandatory continuous professional development of the Nigerian Institution of Estate Surveyors and Valuers should focus more on practical issues as this.

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