

For 1004 And Eric Moore Towers Its Fight to Finish'

This Day (Lagos)

INTERVIEW

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Lagos

Last week the nation watched with disgust as civil servants were forcefully evicted from Federal Government properties in Ikoyi, Eric Moore and Bar Beach. The embattled civil servants lost many personal items and properties. This is inspite of various pending actions in court. Ray Onyegu, Associate Executive Director of Social-Economic Rights Initiative is lawyer to the residents of the properties in dispute. He told JUDE IGBANOI and AKINWALE AKINTUNDE that they are ready to fight with the last drop of blood to hold on to what they claim rightfully belongs to them.

You are in court representing some aggrieved residents of certain government properties in and around Lagos. Nigerians would like to know who you are representing in court, why you are in court and what are the issues.

Thank you. Shortly after coming into power in 1999, President Obasanjo set up a panel, now popularly known as General Rotimi Panel, to inquire and investigate where Federal Government agencies have properties in all part of Nigeria. This cover from January 1984 to May 1999 and make recommendation on what government should do with the properties. The panel submitted a report in which it stated that government should identified the properties it needed to use and then dispose off the rest.

Coming specifically to properties occupied by public servants, the panel recommended that the sitting tenants should be allowed to buy their apartments. But before then, there should be a public bid to determine the appropriate prices of the properties. But the winner of the bid in which the sitting tenants will not participate, will be regarded as the a reserved bid winner. But if the sitting tenant was unable to come up with the bid price after a certain period of time then the reserved winner could come in and pay for the property. The civil servants were happy with this without any complaints. So, the bids were carried out, of course before the bids were carried out, the government, after accepting the recommendation to sell the properties to civil servants, came up with a policy known as Monitisation Policy. The policy was more or less containing guidelines on how the civil servants will benefit. In order to carry out those policies, the government then set up an Implementation Panel to carry out the contents of the policy. So the panel conducted the public bids which I made reference to earlier. After conducting the public bid, the panel now said from their observation, the public servants living in high rise building would not be able to pay for their accommodation. But for people living in single houses in Abuja, they were allowed to buy their own houses. And for those living in Ikoyi single houses in Lagos, they are also allowed to buy their own houses. For those in Abuja, government even

arranged mortgages for the residents. So the residents insisted and still insisting that the panel cannot refuse to sell them houses because there is nothing in the policy that gives them that discretion they were exercising. So, the residents now went to court to challenge the manner of implementation of the Monetisation Policy. All they have done is to apply for Judicial Review of the administrative action which is the action of the implementation panel to see if the action conforms with the guideline and the White Paper empowering the panel to act. And if the court finds that they went outside their brief then the court should rule that the public servants are entitled to buy their properties.

We made a good case that is why the court granted us interim injunction, restraining the government from doing anything pending the final hearing of the case. And the government have being joining issues with us, their lawyers have being coming to court.

Inspite of what you have just said, we saw on TV early last week forceful eviction of residents from these said properties. People watched with sadness on TV what was happening and it has been generally criticised as government impunity as many people see it. What are your next steps, what do you plan to do now that your clients have been evicted inspite of various pending actions in court?

Let me name the estates for purposes of clarification. They are Eric Moore Towers, 1004 Towers, Morina Towers, Alagbon Towers, Awolowo Road Towers, Reeve Road Towers and Bar Beach Towers. With exception of Bar Beach Towers, I'm representing the residents of all the other towers. Then what government has done is that it has given out two estates, Bar Beach Towers and Reeve Road Towers to the military, and since been allocated to them. And the military have been going even individually to beat up the residents. And for the other estates, they have been sold to private companies and organisations.

Coming to your questions on what to do next, I'm going to activate contempt proceedings against the Ministers of Housing and Defence. Another step is that I'm also going to apply for the reinstatement of those residents and then we shall be asking for compensation. As I'm talking to you now the residents have resolved that they are not going any where!, and that is why soldiers have been beating them up. If you were there yesterday, it was horrible, because when they threw out the residents, in the night they will return because they have no place to go. But they go there in the night to beat them up while trying to evict them. So, I have asked them to as much as possible stay put because what government has done is not proper. And I was in court today to seek the reinstatement of those residents, until the court decides, we will not give up. So, these are the steps we are taking. And for those private companies that have bought these estates, what they have bought is litigation and nothing better than that, because if at the end of the day we win the cases, we will levy execution on them and we know how to do it.

But for more clarification, did you at any point publish a caveat emptor to that effect, was a notice of such filed at all? Because I can't see them just going ahead to buy when they knew that what they were buying is a faulty title.

Ignorance of the law is not an excuse!

But didn't you see it as an obligation on your part to have published a caveat emptor?

At the time of the bids it was clear that the public servants were going to be the owners of the properties. That's why Mobolaji Oshomo was thrown out because it is interesting to know that most of these companies when you lift the veil of Incorporation and see the faces of those behind the companies you will know that they are faces in government. So they all clearly knew that this was what they are going into. And the Monitisation Policy is a public document and not a private document, they all had lawyers who knew or ought to have known. But shortly after the bid had taken place and before anybody took possession we took steps to take the matter to court. Besides, as a lawyer you know that once you buy properties that is in possession of another person, that you buy subject to all existing interests, that part of the obligation of searches in buying properties is that you go and find out either from the Registry or whoever is in possession the nature of his interest. The civil servants started complaining from the outset and having got to this position, we have been joining the so called purchasers as parties to the cases we have in court, because they are to be affected by the outcome of the cases. And they had never come out to say they never knew about this before they went to buy because we had several meetings both in Lagos and in the office of Minister of Housing. What the Minister of Housing was saying is, government has changed its mind, and those people will come and plead with us and even offered alternative accommodations. We have considered everything because when you look at the accommodation and what each unit is costing, 1004, if you divide what UACN Properties offered by the number of unit there, you come to about N3 million per apartment and these are duplexes and the residents says they want to buy them, that they can afford it. But the alternative accommodation being offered to them is for more than N3 million and the property is not as good as the 1004. So, it's so surprising. They took them to Odunla, asking them to pay N3.7 million for 3 bedroom apartment, when duplexes were sold to UAC at N3 million per apartment. These are some of the frauds that we have to confront with. The companies are not complaining that they did not know, but they are also subject to constructive notice because know or under equity they ought to have known that, but they have not taken that as defence.

In this whole transaction between the government and the purported buyers of these estates was there any time the issue of transparency was called into question?

The issue of transparency has always run through the whole gamut of the transaction.

So you wouldn't say there was transparency?

There has never been transparency. We have actually asked the government to published the amount each of these companies paid, because from our investigations we know what they paid. We also know that the so called bid

winners are not the actual purchasers. You have for example, Eric More Towers, Salvador who is the so called bid winner has no money to pay and goes around looking for somebody to buy from him. And that was why when we were in court we said Salvador did not pay any money, contrary to even the bid conditions that they should pay within thirty days, within that thirty days they did not pay. We know that a company paid for but that company is not the bid winner. It will interest you to know that apart from those on the top of the civil services, virtually 90%/95% of civil servants are affected by what is going on. So, everything that is happening in this office are happening to their own knowledge. We have never had problem getting information about what is going on.

Given the track record of Nigerian government with their lack of respect for judicial orders and given the record of government impunity, do you see any success or possible change of attitude of the government in this your struggle for the residents? Because this government is not known to respect court orders.

As far as we are concerned even the civil servants, they feel we have achieved a lot of success in the sense that when the government came up to say they have change their mind, they never knew that the civil servants could go to this point. Today, they know that before you do anything like this again, you must think twice. The civil servants know that particularly when they started isolating the military from them that it's not going to be easy. Yesterday we had a meeting to decide on the way forward, I asked them, "in view of the fact that you have been evicted from these places what do you intend to do?" They said they are going on. When you visit the estates, you will see that most of them are still in their houses, they don't want move. The Red Cross has offered us tents, so those who are being thrown out by these soldiers are going to sleep in the tents, it is fight to finish. So, they will be there until either the government put them back into possession or give them adequate compensation. We are not fighting on the presumption that the government will give up or will just give in to our demands, but we are fighting because we have a right and that right we are insisting on it. There is an adage that says if you are holding something that belongs to a child and you are raising up your hand, when you are tired, you will bring down your hand and the child we collect what belongs to him. At least we are letting the whole world know that what is going on is impunity and it is not acceptable, we regard it as success. Besides, this government ought to know particularly those relatives of government officials who have bought several properties that we know their names and we have records of what they purchased. And since we have got into a new regime of fight against corruption will not have any limit or end, at the end of the day those who were fighting excluding themselves and relatives the torch light will be beamed on them and they will also be affected. So if this government also leaves, the new government will come and implement it because properties are life time assets. If you buy today and you live in it, when the new government comes and we have a court judgment we would have to levy execution.

Given your experience in this struggle so far, what would you say is government obligation in respect of housing to its citizens?

Firstly, Section 16(2)(d) gives government obligations to provide accommodation for its citizens. It states, "the state shall within the context of the ideals and objectives for which provisions are made in this Constitution direct its policy towards ensuring that suitable and adequate shelter are provided for all citizens" This was lifted from the United Nation Covenant on Economic, Social and Cultural Rights. And the Committee on Economic, Social and Cultural Rights has provided clarification on the contents of this provision which is also on Article 11(1) of the Covenant on Economic, Social and Cultural Rights, to say that government has three obligations in the area of housing:

Obligation to Respect. This is to ensure that people who already have houses are not de-housed or evicted from their houses, i.e., Legal Security of Tenure. So, to that extent government has violated this one.

Obligation to Fulfill. This is in two ways. First, there are people who on account of difficulties are not able to provide accommodation at all for themselves, i.e. destitute, victims of natural disasters, like the Ikeja bomb blast, government has obligations to fulfill the right to housing by providing accommodation for them. Secondly, government has to take measures and policies that would promote home ownership and by so doing they are expected to have some budgetary allocation to give people mortgage finance loans to enable people own houses, that is an obligation the government is supposed to do. Having failed to do this then government is in breach of its international obligations. Under Chapter 4 of the Constitution, government is under obligation not to invade anybody's privacy or home. So, government has obligation not to do what is doing, government has obligation to ensure that all everybody has a roof over his head, not necessarily a mansion. These are the obligations of the government but they are not doing it.

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What is your assessment of the legal regime governing housing rights in Nigeria?

There are enough laws but the implementation is very poor. We had the National Housing Fund Decree No. 5 of 1991 under which civil servants contributed 2.5% of their income to enable them assess housing finance loans, particularly government was supposed to provide counterpart funding to enable them own their houses. Up till today, the Federal Mortgage Bank says it has over N20 billion in its account, so even the contributors cannot assess those finances. So, the laws are there to promote home ownership but the implementation process is poor.

