CHAPTER ONE
INTRODUCTION

1.1 Background of the Study

Land is the most valuable physical possession of man. No man can live successfully without mingling with land in one capacity or the other. One can be an owner of landed property and another a seeker of same, thus creating a landlord and tenant relationship once they are at consensus ad idem.[1] There is no gainsaying the fact; therefore, that land being an essential commodity, and landlords being 'Lords' over their land may exercise their lordships to the detriment of not just their vulnerable tenants but also that of the society at large.[2] This will, in turn, by reason of its essential nature, have an adverse effect on virtually every other segment of society. In fact, laws on the landlord and tenant relationship were triggered by the inhumane and demeaning attitudes of landlords towards their tenants, especially after the Second World War.[3]

The case up till today is no different across the world. Nigeria has one of the worst housing situations in the world. Urban drift, or movement of the population from rural areas to urban centers, has created severely congested cities and a crushing demand for land and housing, which the Government has been simply unable to cope with. Landlords and Tenants have always focused on ways in which they can minimize their risk of loss and liability in a situation like this. In our current economic downturn, this focus is even more acute, as lenders' requirements in housing financing are considered cumbersome and very difficult to access.[4] As a result of the above, it is not uncommon to see most Nigerians taking up accommodations in

[1] V. Arinze., 'Understanding the Legal Disparities Among Leases, Tenancies and Other Forms of Occupation: The Convolutional Conceptions of Tenancy Laws' *International Journal of Comparative Law and Legal Philosophy (IJOCLLEP)* 2021 (3) (3) 45
[2] *ibid*
[3] *ibid*
[4] M. Francis, Nigeria: Landlord & Tenant - the Right to Shelter and Statutory Protection of Tenants. Daily independent, Lagos. (2009) <http://www.iut.nu/members/Africa/Nigeria_articleMarch4_2009.pdf> accessed 24th January, 2024

cities. This aspect of our lives as Nigerians is regulated by tenancy laws. In Nigeria, there was customary practice of communal landholding in pre-colonial times. There was a shift in colonial times to allow the colonial government to acquire land for their use. This paved the way for individual ownership of land, which had greatly impacted tenancy relationships during and after the colonial rule. In modern times, statutory enactments came in to correct certain anomalies in the common law rules of occupancy, and they now largely form the basis of tenancies.[5]

Changes in urban residential locational patterns have been the subject of several studies carried out during the 1960s and 1970s, particularly in Latin America. These studies were based on the urban ecological approach. The development of transportation, and the growth of commerce were argued to be the determinants of such changes. It was observed that through the development of transport, elites moved from centrally located colonial-style to North American ranch-style residences, the residential locational choices of elite groups are the key influence on the intra-urban relocation of the other groups. On the same basis as Hoyt's argument that households' ultimate aim is to live as close as possible to those in the highest social group, the middle income families who want to be closer to the prestigious areas follow the high income households, and the low income households occupy the dwellings left by higher income groups. The patterns of location of socio-economic groups in different cities of Puerto-Rico within the same tradition was established as the social status distance between groups increases, the spatial distance between them increases, regardless of whether the locational distribution of socio-economic groups presents a colonial or post-colonial (North American) pattern.

[5] *ibid* (n1)

The relationship between landlords and tenants in Nigeria has only come to the awareness of public opinion over the last few decades. The landlord and tenant relationship has its roots in feudalism, a system of land use and ownership that flourished in Europe between the tenth and thirteenth centuries.[6] Under feudalism land was owned and controlled by a military or political sovereign ruler. This ruler gave portions of land he or she owned to another person, called a lord. The lord, in turn, could allow another person, called a vassal, to use smaller portions of the lord's land. The vassal pledged allegiance and military or other service to the lord in exchange for the right to live and work on the land.[7]

In 1066, the Normans of France conquered England, and William the Conqueror installed himself as king. King William used the feudal framework of land control to retain political power in faraway lands. Feudalism as a means of political control became obsolete by the fourteenth century, but the hierarchical system of land use and ownership remained.[8] This practice is the legal foundation of the modern residential tenancy.[9]

The contemporary landlord and tenant relationship derives from the relationship between the lord and the vassal. However, today the landlord is the owner of the property—not, like the feudal lord, merely the manager.[10] The tenant is similar to the vassal because the tenant does not own the property but is allowed to use it for a fee.[11]

The landlord and tenant relationship usually refers to a living arrangement.[12] In this respect landlord and tenant law differs from the law regarding leases. In a landlord and tenant

[6] Lorraine Dindi, 'The Nature of the Landlord-Tenant Relationship' <https://www.legislate.tech/post/the-nature-of-the-landlord-tenant-relationship> accessed 1 December 2023
[7] *ibid*
[8] *ibid*
[9] Lorraine Dindi, 'The Nature of the Landlord-Tenant Relationship' <https://www.legislate.tech/post/the-nature-of-the-landlord-tenant-relationship> accessed 1 December 2023
[10] O. Araoluwa, 'The Legal Framework Protecting the Rights of Tenants in Lagos' (July 2, 2023) <https://propsult.com/blog/tenancy-laws-in-lagos/> accessed 1 December 2023
[11] *ibid*
[12] *ibid*

relationship, the parties are often referred to as lessor (landlord) and lessee (tenant). Indeed, a lease is a contract that creates the same relationship as exists between a landlord and tenant: the lessor owns property and allows the lessee to use it for a fee. However, the law of leases does not necessarily concern itself with living arrangements. A lease agreement may, for example, relate to the use of a good or service. Because living arrangements are vital to human existence, landlord and tenant relationships are treated differently from lease contracts.[13]

Generally, a landlord and tenant relationship exist if: the property owner consents to occupancy of the premises; the tenant acknowledges that the owner has title to the property and a future interest in the property; the owner actually has title to the property; the tenant receives a limited right to use the premises; the owner transfers possession and control of the premises to the tenant; and a contract to rent exists between the parties.[14]

Poor or no tenancy agreements between landlords and tenants contribute towards the general decline of peaceful coexistence or public housing. Properties with no formal agreements tend to collapse with time because there is nothing binding the tenant to good behavior. Thus, the need for an agreement containing the terms, conditions, covenants in a landlord and tenant relationship. This relationship is also governed by certain legal instruments and principles, which vary from state to state.[15] This research shall thus examine the relationship between landlords and tenants in Nigeria, the powers and duties owed by the landlord to the tenant and vice versa. It shall examine the various laws governing landlord and tenant relationship in Nigeria with the aim of identifying aspects which needs to be modified in order to better serve the ends of justice in light of present-day realities.

[13] Maxwell Nwinye and Ibinabo Matthew, 'Comparative Analysis of Landlord and Tenant Relationship in Tenancy Law, Nigeria' *Reiko International Journal of Social and Economic Research* (2020) (16) (1); 92.
[14] *ibid*
[15] *ibid*

Thus, this research examines the relationship between landlords and tenants in Nigeria. It further analyses the powers and duties owed by the landlord to the tenant and vice versa. It shall examine the various laws governing landlord and tenant relationship in Nigeria with the aim of identifying aspects which needs to be modified in order to better serve the ends of justice in light of present-day realities.

1.2 Statement of Research Problem

In Nigeria, the landlord-tenant relationship is a critical aspect of tenancy matters, yet there exists a lack of comprehensive understanding regarding its dynamics, challenges, and implications. Despite legal frameworks governing this relationship, issues such as arbitrary rent increments, poor property maintenance, and inadequate dispute resolution mechanisms persist, impacting both landlords and tenants. This research aims to critically appraise the landlord-tenant relationship in Nigeria, examining its complexities, identifying key challenges, and proposing solutions to foster a more equitable and sustainable tenancy environment. Tenants often clash and quarrel with their landlord when they enter agreements that are not clearly defined, ambiguous, written and lopsided which favors one party. The essence of statutes regulating the tenancy is to protect the tenants from the abusive influence of landlords.[16]

Thus, there is a need for clarification of the powers and duties of a landlord and tenant in Nigeria, as challenges such as: eviction, withholding of a right to legal habitation of a property in exchange for valuable consideration, payment of utility bills and other bills binding on the tenant by virtue of his occupation of the apartment, issues of renovation as a result of wear and tear as well as the nonpayment of rent as at when due affect the relationship between a landlord and tenant; especially in the circumstances where the terms that ought to be contained in an

[16] Gabrial Brennan, *Landlord and Tenant Law* (2nd Edition, Oxford, New York: Oxford University Press, 2002) 33.

agreement evidencing the relationship between a landlord and tenant does not exist or are not detailed or well-structured. These have made this research imperative.

The specific research questions for this study, the relationship between landlord and tenants in Nigeria: powers and duties, are as follows:

1. What is the relationship between a landlord and tenant in Nigeria?
2. Are the provisions of the law on tenancy adequate to deal with the challenges of the landlord and tenant relationship.
3. If these provisions are not adequate, what steps can be taken to further protect a tenant who is at the end stick in a landlord and tenant relationship.

1.3 Aim and Objectives

The general aim of this study is to examine the relationship that exists between a landlord and tenant in Nigeria, their powers and duties. The specific objectives of this study are:

a. To appraise and determine the normal relationship that exists between a landlord and tenant in Nigeria
b. Identify challenges faced by landlords and tenants, including issues of rent, communication, maintenance, and dispute resolution.
c. To appraise the powers and duties owed to a landlord and tenant, vice versa.
d. To examine the various types of tenancy in Nigeria and its adequacy or otherwise
e. Make recommendations for more effective protection of tenants

1.4 Scope and Limitation of the Study

The scope of this research work is to examine the relationship between a landlord and tenant in Nigeria, their powers and duties. To do this, two areas of law shall be analyzed

extensively: contract law and property law. Statutes and case laws related to the subject matter shall be referenced and their inadequacies highlighted.

This research work will be limited to Nigeria because of the very broad scope of the topic. Although many nations practice the concept of tenancy, this study is limited to the relationship between landlord and tenant in Nigeria. Furthermore, this research may face several limitations, including:

1. Access to information: Obtaining relevant and reliable information for this study may be difficult due to restrictions.
2. Lack of data: There may be a scarcity of data on the relationship between landlord and tenant in Nigeria making it difficult to draw reliable conclusions.
3. Time constraints: Conducting a comprehensive study may require significant time and resources, which may not be readily available.
4. Scope: Given the complexity of the issue, the study may need to limit its focus to specific aspects of the relationship between landlord and tenant, which may not provide a complete picture of the situation.

1.5 Significance of the Study

The relationship between a landlord and tenant is very vital in the society, thus there is need for all to know the effect of the relationship between a landlord and tenant as guaranteed under the applicable laws on the subject matter. This will ensure a peaceful co-existence between tenants and landlords in Nigeria. Thus, this study is significant because its findings provide:

1. Important information of the various tenancy laws that exist in selected states under review

2. Identify the gaps existing in the various legislations on tenancy laws.
3. Highlight the powers and duties of a tenant and landlord.
4. State the possible recourse or actions to be taken where these powers are abused and the rights of the landlord and tenant, in the circumstance, is infringed upon.

1.6 Research Methodology

Research methodology refers to the systematic and structured process of conducting research. It involves the collection of data, analysis, and interpretation of the results, and the development of conclusions and recommendations. Research methodology encompasses the techniques, tools, and strategies used to design, implement, and evaluate research projects.

There are two types of research methodology and they are the doctrinal and non-doctrinal methods. Doctrinal research methodology refers to the study and analysis of legal principles and concepts as found in statutes, case law, and other legal texts. It involves the interpretation and analysis of legal rules, principles, and concepts to understand the legal system and its application. Doctrinal research methodology is typically used in legal studies, such as in the study of jurisprudence, legal theory, and legal history. Non-doctrinal research methodology, on the other hand, refers to research methods that are not primarily focused on legal texts or principles, but instead on empirical or theoretical analysis. Non-doctrinal research methods can be used to investigate legal phenomena, such as the social, economic, or political factors that influence legal decision-making or the impact of legal reforms on society. Examples of non-doctrinal research methods include surveys, case studies, empirical analysis, and comparative legal analysis.

The research shall however adopt the doctrinal research methodology. By adopting the doctrinal research methodology, using doctrinal methods, reliance would be placed on primary sources such as the tenancy law of various states, the Land use Act, and other sources relevant

to this research. Secondary sources will include books, as well as articles, journals, statutes and judicial precedents relevant to the research. Also, electronic sources will be relied on for the most current information, since this is a contemporary issue of public interest.

1.7 Chapter Analysis

This research is structured into 5 parts:

Chapter one is the General introduction of the study/research

Chapter two deals with the literature review, wherein literary works of various authors, related to the subject matter 'relationship between landlord and tenant' shall be reviewed critically in a bid to identify the gap in knowledge which the research seeks to fill.

Chapter three deals with the types of tenancy and legal framework regulating tenancy laws in Nigeria.

Chapter four examines the rights and duties of a landlord and tenant in Nigeria, the efficacy of tenancy in Nigeria: prospects and challenges.

Chapter five is the summary of findings, observations, contribution to knowledge, recommendations and conclusion.

CHAPTER TWO
CONCEPTUAL, THEORETICAL FRAMEWORK AND LITERATURE REVIEW

2.1 Conceptual Clarification

The tenancy relationship is not an uncommon one in Nigeria, a substantial part of the Nigerian population participates in the landlord-tenant relationship. Thus, this section shall deal on clarification of conceptual framework of key terms.

A. Landlord

A landlord is a person or organization that owns a property (a building, house, apartment, or plot of land) that is rented to others (tenants).[1] This arrangement is usually under the terms and conditions of a tenancy/lease agreement or a similar legal entitlement. Across the globe, landlords include both rich and poor, individuals and companies. In Belgium, "landlords are drawn from all income categories" although there is a higher proportion of landlords in higher income groups. But most evidence suggests that the vast majority of landlords operate on a small scale and few are rich.[2]

In Africa, most landlords have similar kinds of backgrounds to that of their tenants except that they tend to have lived in the city longer and are a little better off. In Mali, homeowners tend to be "significantly wealthier than tenant households" although they are rather similar in many other respects. However, in Soweto, Johannesburg, landlords are among the poorest residents in the township. The more affluent households are either those with no backyard residents or those who accommodate only relatives or friends. In Kumasi, resident landlords tend not to be better off than their tenants and poorer than owners who do not let out

[1] CSIR Built Environment. (2006). Resource Report 6: Research into Landlords in Townships. Report produced as part of the Housing Entrepreneurs Research Project funded by the Finmark Trust, the Social Housing Foundation, Nedbank, and the National Department of Housing, South Africa
[2] *ibid*(n.1)

rooms. Admittedly in other parts of Africa, the landlord is sometimes drawn from a different more affluent class than the tenants. [3]

All landlords let property to obtain an income but the reasons they do so and the strategies that they follow in generating that income are highly diverse. Clearly, for some landlords renting is a commercial exercise. They calculate the return on their capital, take any incentives that may be on offer from the government, minimize their taxable income and employ professional agents. Many landlords would argue that the real virtue of owning property and renting it out is the security it offers for the future.[4] Landlords in African countries include companies and individuals, rich and poor persons operating both in the formal and informal sectors, private sector and public sector housing agencies, as well as government departments. Private sector landlords include: investors who build rental units on vacant land and rent them out; investors who buy developer-built houses and rent them out; and owner-occupants who provide rental units on part of their land or within their own houses. The only difference between formal and informal sector landlords is that formal sector landlords have acquired ownership and building rights within the state's regulatory framework, whereas informal sector landlords have not.[5]

Landlords can also be classified according to the scale of their operations. Some landlords with access to big capital may develop hundreds of rental units on various pieces of land, while others may be individual households or retired persons who operate on a very small scale, with one or two rental rooms inside or at the back of their own house. Small-scale landlords provide a large proportion of rental housing in African cities. Many landlords tend to gradually make

[3] UN-HABITAT, Rental Housing, an Essential Option for the Urban Poor in Developing Countries. (2006) <http://www.unhabitat.org/downloads/docs/3588_62479_655.pdf> accessed 25th January, 2024

[4] O. Onakoya , Landlords Versus Tenant: A Critical Appraisal of Conflict in Tenancy Law in Nigeria *KIU Journal of Social Sciences* (2017) (3) (1) 279-292

[5] B.O Bankole, Landlord - tenant relationship in residential property management: Case study of selected housing estates in Ikeja. Being a dissertation submitted to the Department of Estate Management, College of Science and Technology, Covenant University, Ota, Nigeria; 2011

more and more money through their rental businesses, but shift back and forth between the various categories described below, which also describe different investment scenarios.[6]

B. Tenant

A tenant is somebody who rents a building, house, apartment, plot of land, or piece of property for a fixed period of time. According to *Section 47 of the Lagos State Tenancy law* 2011;… "*a tenant includes a sub-tenant or any person lawfully in possession or occupation of premises whether by payment of rent or not."*[7]

This arrangement is usually under the terms and conditions of a tenancy agreement or a similar legal entitlement.[8] For many people, the decision to rent their housing is a deliberate, reasoned choice. One reason may be because they can't afford to buy a house, but there are other, equally important reasons why they may choose to rent: Renting lets people stay mobile and move away when work is available elsewhere, without being tied down to any particular place or to regular house payments; Renting gives people flexibility in how they manage their household budgets, moving to cheaper housing when times are hard and to better housing, when their incomes increase, or freeing up more of their earnings for more essential needs like food, education, medical care or emergencies; Renting suits people during transitory periods of their lives, when they are not yet ready to settle down in one place; Renting is convenient for households who may not want to make the long-term financial commitment that comes with buying a house, or to face the long-term costs involved in repairing and maintaining their

[6] UN-HABITAT, Rental Housing, an Essential Option for the Urban Poor in Developing Countries. (2006) <http://www.unhabitat.org/downloads/docs/3588_62479_655.pdf> accessed 25th January, 2024
[7] Resolution law firm, <https://www.resolutionlawng.com/tenancy-agreement-in-nigeria/> accessed 25th January, 2024
[8] T. Salloum *Communication: The Key to a Thriving Landlord-Tenant Relationship*. (London: The Rent Lobster; 2010) 45

own house; Renting allows people to send more of their city earnings home to relatives, or to invest in buying land or building a house or business back in the village.[9]

Many tenants needlessly suffer grave hardships for lack of knowledge of the protections which the relevant laws confer on them. Under the Rent Control and Recovery of Residential Premises law of Lagos State - similar laws exist in virtually all the States in the country - it is unlawful for a landlord to increase house rent within an interval of three years after the last increment, and such increment must not exceed twenty percent of the old rent. A tenant can therefore refuse to pay an arbitrary increase that falls short of the above requirements, and seek remedy before a Court of law or Rent Tribunal.

It follows that a tenant who neglects to pay such unlawful rent will not be liable to be ejected by the landlord even after three months of default in payment. Furthermore, a landlord who forcefully ejects a tenant commits a criminal offence and is liable upon conviction to some fine or a term of imprisonment. Such a landlord will also be liable to pay damages to the tenant if the latter takes out a civil action. The law has therefore clothed a tenant with the status of iremmovability, even at the expiration of a subsisting term of tenancy, because at that point such a tenant is no more a contractual tenant but a statutory tenant. It is only by an order of court, upon proof by the landlord that one of the grounds for ejection provided by the law exists, that a statutory tenant may be ejected by the landlord.[10]

[9]UN-HABITAT, housing the poor in the city (2011) <http://www.citiesalliance.org/ca/sites/citiesalliance.org/files/Quick%20Guide%207%20-%20Rental%20Housing%20-%20A%20Much%20Neglected%20Option%20for%20the%20Urban%20Poor_0.pdf > accessed 25th January, 2024

[10]T. Segun, Reviewing the New Lagos Tenancy Law.: <http://www.perchstoneandgraeys.com/uploads/pub_files/microsoft_word_-_reviewing_the_new_lagos_tenancy_law_by _segun_talabi.pdf > accessed 25th January, 2024

C. Tenancy Agreement

Tenancy agreement is a legal document that defines the relationship between the landlord and the tenant. According to Section 47 of the Lagos State Tenancy Law 2011 it means "agreements whether written or oral, express or implied between a landlord and a tenant regarding possession of premise".[11] This formal definition of the landlord-tenant relationship clearly states the responsibilities of the tenant to the landlord and vice versa. Agreements of this nature are usually drawn up by a real estate attorney for a fee. However, there is a trend that has started to take root in Nigeria in recent years. Many landlords now desire to keep the legal fee to themselves. They collect the attorney fee from the tenant and give the tenant a free tenancy agreement from a previous transaction or something downloaded from the internet. By so doing the landlord and tenant risk having a document that will not stand up in a court of law and that put them both at unnecessary risk.[12]

According to Dabara et al., a tenancy agreement is a legal document that defines the relationship between the landlord and the tenant.[13] This formal definition of the landlord-tenant relationship clearly states the responsibilities of the tenant to the landlord and vice versa. The agreement, as they noted, is usually drafted by lawyers for a fee.[14] The tenancy agreement essentially states the landlord and tenant's rights concisely and without any ambiguity. The tenant's obligations to the landlord are the landlord rights and vice versa. Unfortunately, a lot of landlords do not treat their tenants with respect. They try to run the relationship like a boss-subordinate relationship. Resulting in unfair treatment of tenants in many instances.[15]

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[11] *ibid* (n.7)
[12] LNREA. Lagos Nigeria real estate advisor.com (2012) <http://www.lagos-nigeria-real-estate-advisor.com/lease-agreement.html> accessed 25th January, 2024
[13] I. Dabara et al., An Examination of the Tenancy Agreement as a Shield in Property Management in Nigeria *International Journal of Business Administration*(2012) (4) (3) <https://www.researchgate.net/publication/265358703> accessed 25th January , 2024
[14] *ibid*
[15] *ibid*

According to UN-HABITAT,[16] there are two kinds of leases and the laws are different for each: The periodic lease (generally a month-to-month tenancy) and the lease for a definite term (a rental agreement specifying a definite rental period, generally six month or a year). The tenancy agreement which could be either oral or written is designed to protect the interests of all parties involved in the rental housing sector and should state clearly the responsibilities of the landlord and the tenant. A written tenancy agreement is preferable and must be duly signed by all parties after reading and understanding the contents of the agreement.[17]

D. Rent

Tenancy relationships are acknowledged by payment of rent.[18] It is profit earned by the landlord, which must be certain and must have been earned from the property granted.[19] It is a payment that a tenant is bound by his contract to make to the landlord. Where rent is stated to be payable, but no date is given regarding when the rent should begin to count, the rent shall start to count from the day on which the tenancy is created.[20]

E. Lease:

The relationship of landlord and tenant is incomplete without discussing the concept of lease. Lease is defined as a document creating an interest in land for a fixed period of certain duration, usually but not necessarily in consideration of the payment of rent.[21] In other words, it is a demise of land by the lessor to the lessee for an interest less than freehold and less than that of grantor; the interest which remains in the grantor being called a reversion. The interest created by a lease is called a leasehold interest. If need be stressed that a lease is both a contract

[16] UN-HABITAT. Rental Housing, an Essential Option for the Urban Poor in Developing Countries (2006) <http://www.unhabitat.org/downloads/docs/3588_62479_655.pdf > accessed 25th January, 2024
[17] *ibid*
[18] *Dimasa Property Ltd v Yusuf [2009] LPELR – 8144 (CA)*
[19] *Olaniyan v Shokunbi[1997] 6 NWLR (Pt 509) 447*
[20] *Property Holding Co. Ltd v Clarke [1945] 1 All ER 165*
[21] D. Adams, *Urban planning and the development process* (Psychology Press, 2004) 23

because it creates exclusive possession for a determinable duration, and also, in most cases, an estate. Two parties are involved in a lease, namely, the lessor who owns the property and the lessee who takes the property.

2.2 Theoretical and Historical Framework

The theoretical and historical framework for critically appraising the landlord and tenant relationship in Nigeria encompasses various aspects. Historically, it's rooted in colonial-era land tenure systems, evolving into modern property laws. Theoretical lenses include legal, economic, and sociological perspectives, examining power dynamics, property rights, and social inequalities. Key considerations involve customary versus statutory laws, property ownership structures, urbanization trends, and the impact of globalization on housing markets. Critical appraisal involves assessing issues like rent control, eviction policies, housing affordability, and the role of government regulation in balancing landlord and tenant rights.

2.2.1 Nature of Tenancy

The nature of tenancy in modern times is amorphous because it depends on Jurisdiction. Each state in the country adopts its own law on tenancy relationships. In Abuja, there is the Recovery of Premises Act of 1990, while there is the Land Tenancy Law of 2011, and the Rent Control and Recovery of Premises Law of Lagos State, 2003. From our preceding discussions, there are two major types of tenancy: contractual and statutory tenancies.

A statutory tenancy is one that continues even when contractual tenancy expires. The tenant holds over, continues in possession by virtue of special statutory provisions, and holds the land of another contrary to the will of the other person who strongly desires to turn him out.[22] The contractual tenancy is created by agreement. What is certain is that tenancy

[22] *ibid*

relationships create rights and obligations for the parties. One is granted the right to enjoy the use of land, while the other expects payment in return for the possession granted.[23] This, therefore, makes tenancy rights possessory and not absolute. Section 2(1) of the Landlord and Tenant Law[24] has made provisions for the nature of tenancy. It stipulates that a tenancy exists where an interest in a property is created in favour of a tenant out of an interest vested in the landlord of the property. The interest created is called tenancy.

2.2.2 Tenancy Agreement as a Shield in Nigeria

In Nigeria, particularly Lagos state, the appropriate laws regulating tenancy agreements are the Rent Control and Recovery of Residential Premises Law Vol. 7, Laws of Lagos State, 2003 and the newly enacted Lagos Tenancy Law, 2011(similar laws exist in all the other states in Nigeria). The Lagos Tenancy Law has aroused considerable public interest since its enactment, much of which surrounds the issue of advanced rent which the law prohibits. Section 4 of the new Law makes it unlawful for a Landlord to demand or receive any rent in excess of one year from a sitting yearly tenant, six (6) months from a sitting monthly tenant and one year from a new or a would be tenant. It is also unlawful for new and sitting tenants to offer to pay rents in excess of one year. The penalty for violating this provision is a fine of One Hundred Thousand Naira or three (3) months imprisonment. An earlier law which was observed to have failed poses great concern as to whether the new law will succeed where the earlier law failed. [25]

The ever increasing migration of people into the major cities in the country in pursuit of greener pastures has made the quest for securing decent accommodation in these cities a

[23] I. O Smith, *Practical approach to law of Real Property in Nigeria* (2nd edition, Ecowatch Publication ltd: 2007) 287

[24] Landlord and Tenant Law, Vol 4, Cap 71 Laws of Akwa Ibom State 2000

[25] T. Segun, Reviewing the New Lagos Tenancy Law. (2011) <http://www.perchstoneandgraeys.com/uploads/pub_files/microsoft_word_-_reviewing_the_new_lagos_tenancy_law_by _segun_talabi.pdf> accessed 25th January, 2024

Herculean task, which only very few privileged individuals can afford. Many Nigerians make do with squatting with family relations or friends, while others manage squalor and unhygienic accommodations where the rents are within reach.[26] The situation is such that even those who are gainfully employed are finding it rather difficult to keep pace with the rate of rent increments, because such rents are way higher than what a medium income earner could ever afford given his meager earning - the low cadre civil servants quickly come to mind here. Landlords in major cities in the country are simply reveling in the euphoria of this era of unbridled appreciation of house rents - most of them embark on arbitrary increments of rents by unreasonable proportions at regular intervals, often using this as a strategy to eject tenants who are unable to keep up with such irregular increments, knowing full well that another person standing by would quickly jump at the apartment regardless of the unreasonable asking rate because of the dearth of accommodations.[27]

In Lagos State particularly, helpless Nigerians suffer untold hardships in the hands of some greedy and wicked landlords who employ different tactics including "self-help" to eject tenants who are unable to meet with absurd and perverse increments of rent.[28] Over the years, some African governments have tried to achieve housing affordability by forcing landlords to keep rents low. The introduction of such controls sometimes represented a genuine effort to help tenants, and some governments in newly independent African countries introduced rent controls as part of an ideological commitment to socialism.[29]

Rent control was seen to be an effective way of protecting poorer groups from exploitation by the rich. At times, governments used socialist rhetoric and mechanisms such as

[26] *ibid*
[27] *ibid*
[28] M. Francis, Nigeria: Landlord & Tenant - the Right to Shelter and Statutory Protection of Tenants. Daily independent, Lagos (2009) <http://www.iut.nu/members/Africa/Nigeria_articleMarch4_2009.pdf> accessed 25th January, 2024
[29] *ibid*

rent control as part of a strategy of winning elections. Arguably, however, many governments maintained those controls as a façade to hide the lack of an effective housing programme. Public housing construction programmes were expensive, whereas rent controls cost the state nothing, as they placed the financial burden of renting out housing units at low profit or no profit on the landlords who owned them. In addition, since tenants greatly outnumbered landlords, it was not always that easy to remove rent controls.

However, in recent years, rent controls have been discredited, as some negative effects that they have on the rental housing supply in cities have become evident. Some of the main problems with rent control are: Equity: Rent controls can operate inequitably in three ways. Firstly, they favor some tenants at the expense of others. In particular, they tend to favor those who have lived in rental housing for years against those who wish to become tenants. When rent controls apply only to sitting tenants, new tenants lose out. Secondly, there is no guarantee that those covered by rent controls are actually poor. For example, if the legislation only covers sitting tenants and these are more affluent than new tenants, the result is to give a rental advantage to those who need it least. Thirdly, tenants clearly gain at the expense of landlords and in cases where tenants are more affluent than the landlords, the effects of rent control are the reverse of what is intended. Efficiency: By distorting market values, rent control often encourages the inefficient use of housing. For example, small tenant households may occupy housing that is much larger than they require, and for which they would not be prepared to pay the market price, limiting the availability of accommodation to larger households. More importantly, by holding down profits, rent controls discourage some landlords from investing in rental property. Maintenance: Where rent control makes rental housing unprofitable, a regular complaint has been that landlords do not maintain the property. Rent controlled buildings in cities often deteriorate to slum conditions.

2.2.3 The Rationale for Tenancy Laws in Nigeria

In order to fully understand the relationship between landlord and tenant in Nigeria, the rationale for tenancy laws need to be explained, States in Nigeria have adopted their tenancy laws, Amongst such extant laws on the subject matter are the Lagos Tenancy Law, 2011, the Rent Control & Recovery of Premises Law No. 9 of 1976 of Lagos State, the Land Use Act,[30] the Rent Control and Recovery of Residential Premises Law of Delta State,[31] the Recovery of Premises Law of Rivers State,[32] the Recovery of Premises Act (Abuja), the Landlord and Tenant Law, Anambra State, etc. The most comprehensive and advanced amongst them are the Lagos State regulatory frameworks and the Federal Capital Territory regulatory frameworks for housing and tenancy. For instance, the Lagos Tenancy Law expressly excludes licensees and servants within the definition of a tenant. The too-liberal approach in defining who a tenant is by our court has been statutorily restricted.[33]

This is slightly different from other laws that define tenants within the purview of 'lawful occupation.' The rationale behind these Tenancy Laws is to preserve the reasonable expectation of a person's proprietary interest in a property and prevent the tenant from the heartlessness of the landlord who, relying upon the strict principles of contractual relationships, would scruple at throwing the tenant, possible together with his family, out of lodging, for them to face the adverse circumstances on the street.[34] It is to regulate the relationship between landlords and tenants to ensure that each party gets its due compensation for rights given up as well as perform its obligation under the relationship.

[30] Land Use Act Cap L5 Laws of the Federation of Nigeria 2004
[31] Rent Control and Recovery of Residential Premises Law of Delta State Cap R5, Laws of Delta State
[32] Recovery of Premises Law Cap 109 Laws of Rivers State of Nigeria 1999
[33] S. 1 of the Land Tenancy Law, 2011
[34] *Oduye v. Nigeria Airways Ltd (1987) 2 NWLR (pt.55) p.126*

2.3 Literature Review

A literature review is an account of what has been published on a topic by accredited scholars and researchers.[35] It discusses existing knowledge in a particular subject area, within a particular period of time in order to show that the reviewer has a comprehensive understanding of the subject area and that the researcher understands where their own research fits into and adds to the existing body of agreed knowledge.[36]It is in consideration of this background, that this study reviews the existing literature in relation to the relationship between landlord and tenant in Nigeria in order to establish the researcher's understanding of the research area and also to identify the existing gap in knowledge which this study will address.

The first decision in a rental relationship requires that both the landlord and the tenant choose each other. The wisdom of this decision will probably affect each party's satisfaction until the tenant moves out or the landlord turns over the property to someone else, and that could take a long time before this is accomplished. A problem tenant or landlord usually does not improve over time, and they are expected to do all they can to make sure of a good match.[37]According to *Thorncroft*[38], men entered partnership of landlord and tenant since the dawn of civilization where land was leased or hired out; in the early cultures of the Indus, Nile, Tigris and Euphrates valleys.[39] A further definition of a leasehold system was given as a flowering of capitalism with its heart in the rights and duties that spring from contracts.[40] The above literature is relevant to this research in that it provides the necessary sociological understanding of the relationship between landlord and tenant.

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[35]Taylor D, The Literature Review: A Few Tips on Conducting It. University of Toronto. <https://advice.writing.utoronto.ca/types-of-writing/literature-review/> accessed 26th January, 2024.
[36] *ibid*
[37] The U.S. Department of Housing and Urban Development (USHUD) (2010): What is Known About the Effects of Rent Controls: Consulting Report. US Department of Housing and Urban Development, September 2010.
[38] Thorncroft, *Principles of Estate Management*. (London: The Estate Gazette Limited, 2006)
[39] *ibid*
[40] *ibid*

The relationship between landlord and tenant created by the lease agreement had its origin in the feudal system of land tenure, under which all freehold lands, including fees, were held by a superior lord and all landholdings formed a chain of vassal ships with ownership descending from the monarch through an overlord to a vassal. This practice, known as sub-infeudation.[41] West's Encyclopedia of American Law[42] described landlord tenant relationship as an association between two individuals arising from an agreement by which one individual occupies the other's real property with permission, subject to a rental fee.[43] It referred to the term landlord as a person who owns property and allows another person to use it for a fee, the person using the property is called a tenant and the agreement between a landlord and a tenant is called a lease or rental agreement. It traced the root of landlord and tenant relationship to feudalism, a system of land use and ownership that flourished in Europe between the tenth and thirteenth centuries.[44] Under feudalism land was owned and controlled by a military or political sovereign ruler. This ruler gave portions of land he or she owned to another person, called a lord. The lord, in turn, could allow another person, called a vassal, to use smaller portions of the lord's land. The vassal pledged allegiance and military or other service to the lord in exchange for the right to live and work on the land.[45] This research agrees with the view of the above literature as it delves into the historical aspect of the relationship between landlord and tenant.

In the opinion of *Forester* and *Stitzel*,[46] the relationship between landlord and tenant should be strictly a business one. Landlords must abide by a variety of federal, state, and local laws designed to protect tenants. Breaking a law, even unintentionally, can spell big trouble to

[41] D. Scarrett, *Property asset management* (2nd edition, London: E & F. N. Spoon, Ltd, 2007) 34
[42] West's Encyclopaedia of American Law, Landlord and Tenant (2005) <https://www.encyclopedia.com/> accessed 26th January, 2024
[43] *ibid*
[44] *ibid*
[45] *ibid(*n 46)
[46] J. Forester, and D. Stitzel, Beyond Neutrality: The Possibilities of Activist Mediation in Public Sector Conflicts. *Negotiation Journal* (2009) (2) (5) 59

a landlord. He continued that rental property is too valuable to allow tenants to occupy it without the full protection of a legally binding agreement. It is therefore a mistake to let property without a proper rental agreement or lease, to do so opens a landlord to a great deal of risk, possible financial loss, and even litigation.[47] This research negates the opinion of the above scholars as they failed to properly analyze the relationship between landlord and tenant effectively.

Smith[48] stated that the relationship between landlord and tenant usually arise when the owner of an estate in land grants, by means of a contract between the parties, the right to the exclusive possession of his land or part of it to another person to hold under the grantor for a term of years.[49] In such cases the grant is called a lease, demise or tenancy, and the grantor called the landlord or lessor, while the grantee is the tenant and lessee. The period granted is called a term of years and the interest which the landlord retains including the right of possession at the end of the term granted to the tenant is called a reversion.[50]

West Encyclopedia of American Law also described the landlord and tenant relationship as a living arrangement, and stated in this respect that landlord and tenant law differs from the law regarding leases.[51] In a landlord and tenant relationship, the parties are often referred to as lessor (landlord) and lessee (tenant). Indeed, a lease is a contract that creates the same relationship as exists between a landlord and tenant: the lessor owns property and allows the lessee to use it for a fee.[52] However, it is paramount to note that the law of leases does not necessarily concern itself with living arrangements. A lease agreement may, for example, relate

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[47] *ibid*
[48] I.O Smith, *The Law of Real Property in Nigeria. Lagos:* (The law Centre Lagos State University.ISBN978-33148-, 2009) 1-5
[49] *ibid*
[50] *ibid*
[51] West's Encyclopaedia of American Law, (2005): Landlord and Tenant; <https://www.encyclopedia.com/> accessed 26th January, 2024
[52] *ibid*

to the use of a good or service. Because living arrangements are vital to human existence, landlord and tenant relationships are treated differently from lease contracts. Whilst this study agrees that the above literature analyses is well thought out and is an important contribution to existing literature, this study argues that the leasehold agreement indeed concerns itself with living arrangements.

Generally, a landlord and tenant relationship exists if: the property owner consents to occupancy of the premises; the tenant acknowledges that the owner has title to the property and a future interest in the property; the owner actually has title to the property; the tenant receives a limited right to use the premises; the owner transfers possession and control of the premises to the tenant; and a contract to rent exists between the parties.[53] A leasehold contract is the agreement of the parties on the terms and conditions that will govern their relationship. It is also the formal arrangement reduced into writing between a landlord-lessor and tenant-lessee where the former consents to the latter's occupation in consideration for a fixed rental. In an environment characterized by strong competition for leased acreage, superior relationships provide tenants with a potential source of sustainable competitive advantage.[54]

Idaho Legal Aid Services[55] opined that whether there is written contract or not, there is a presupposition that a contract exists between the tenant and the landlord. If there is a written contract, the contract will govern how the landlord and tenant should act during the tenancy, unless the contract is contrary to the law or public policy. Furthermore, if the landlord or tenant has questions regarding their rights and duties, they should first look to the lease or rental agreement for the answer, then contact an attorney if they have question.[56] *Rabin* in studying

[53]L. Moss, and B. Erven, *Managing Landlord-Tenant Relationships: A Strategic Perspective*, (Ohio: Ohio State University, FR-0004-01, 2019) <https://www.ohioline.ag.ohio.edu.state> accessed 26th January, 2024
[54] *ibid*
[55] Idaho Legal Aid Services *landlord and tenant: rights and responsibilities.* (Idaho: Aid Services, 2010) <www.housingidaho.com> accessed 26th January, 2024
[56] *ibid*

the history of leasehold in north-east of Ireland, observed that the tenants are worse off than in recent times.[57] If a landlord decides to increase rents, there would be very little the tenants could do about it; especially in view of penalties usually imposed for failure to pay the rent. When one considers the immense power of the landlords, the wide economic-gulf between them and the tenants, and the fact that they are sometimes separated along religious and tribal sentiments, it is therefore easy to see the potential for conflict between parties to a lease. [58] This study notes that *Idaho's* argument is similar to Rabin's argument but on the flip side. While Idaho espouses on the contractual obligation of Landlord and tenant, *Rabin* examines the historic aspect as regards the contractual obligation of Landlord and tenant.

According to *Hirsch*[59], a lease is a contract that gives the exclusive right of possession and use of landlord's property for a fixed or determinable period. The interest which an estate owner may grant in this way must be less than the one he holds so as to create "landlord and tenant relationship";[60] while *Kyle* opined that Landlord-tenants' interests are not mutually exclusive and the two do not need to be in constant conflict where the landlord- tenant relationship is founded on clear understanding of the rules and regulations.[61] *Hirsch* and *Joel*[62] concluded that landlord-tenant relationships are generally a matter of State and local laws which vary from one place to another. Such relationship, in the opinion of *Bierlen* and *Parsch*[63], can be enhanced if parties improve their communication skills, make communication goal-

[57] H.E Rabin the Revolution in Residential Landlord-Tenant law: Causes and consequences. Prepared for: Liberty Fund, Inc., seminar on the common law History of landlord-tenant law, held at: Law and Economics Centre, Emory University, Atlanta, Georgia on March 11, 2008
[58] ibid
[59]Z. W Hirsch,. *Landlord- Tenant Relations Law in the Economic Approach Law* (London: Butterworths, 2007) 19
[60] *ibid*
[61] R. C. Kyle, *Property management* (7th ed. Dearborn Financial Publishing, Inc: ISBN 0-7931-9175-0, 2005) 45
[62]L. Hirsch and G. Joel, The Changing landlord-Tenant Relationship in carlifornia: An Economic Analysis of the Swinging Pedulum, *Southwestern university law Review* (2003) (3) (2) 78
[63] .R., Bierlen, and L. D. Parsch, Tenant Satisfaction with Land Leases. *Review of Agricultural Economics.* (2006) (5) (3) 13

oriented, approach communication with positive and creative attitude, and work to reduce barriers. The above viewpoints are relevant to this study.

According to *Lack*, property is the primary source of emotion for the landlord especially if he is not in it for the business end and this home had been a personal residence before renting it out.[64] A home is considered a very sacred place by many religions, people can become much attached to their homes and find it hard when someone else is living there, they take it personally when the tenant does not treat the property like they hoped they would, but in the end, the landlord needs to establish clear rules before allowing a tenant to move into the property.[65] *Dewandeler* elucidated the problems between landlords and tenants as fairly predictable, landlords complain about tenants' disregard for the premises, their tardy payment of rental fees, their unruly behaviour and in general, their refusal to understand that rising costs of living affect the provision of utilities, maintenance and repairs.[66] This research negates the above viewpoints as it failed to effectively analyze the relationship between Landlord and tenant rather it emphasized more on problems of Landlord and tenant.

On the other hand, tenants complain about poor maintenance, unfair fees for utilities, unannounced rent rises, threats of eviction and failure to return deposits, they accuse landlords of randomness and exploitation, and turning hostile when rents are in arrears. Relationships are important, sometimes unappreciated and a source of risk to tenants and landlords; for the landlord, effective relationship management strategy ensures that returns or other goals for investment in a property are achieved; and for the tenant, effective management strategy is

[64] K. Lack, When a Landlord Tenant Relationship Goes South' in ezine article, (2009) <http://EzineArticles.com/?expert=Ben_Lack> accessed 26th January, 2024
[65] *ibid*
[66]K, DeWandeler, the Quick Guide on Rental Housing. Nairobi: UNESCAP/UN-Habitat, (2006) <https//:www.iut.org> accessed 26th January, 2024

fundamentally important to his security of tenure. In respect of both parties, it prevents or mitigates the costs of conflict and disagreement.[67]

In a bid to understand the relationship between Landlord and tenant, a study of rental cases in India, *Wadhva*[68] reported that twenty-two thousand (22,000) cases were pending in the lower courts of Delhi in the late 1980's. It took between Two hundred and fourteen (214) days (Tamil Nadu) and Two thousand, three hundred and fifty-five (2,355) days to resolve a rental case in the lowest level courts. To avoid legal problems, landlords either accept tenants only when they were recommended by people they know, or they actively seek to attract strangers and outsiders, because they want to avoid being too close to them. By so doing, they hope to have added leverage when they insist that tenants respect the premises and the agreed modalities and tenants are more likely to leave the premises when asked.[69]

In the opinion of *Dillahunt, Mankoff and Paulos*[70] much of the research on landlord/tenant relationships emphasizes the power that landlords have over their tenants. Based on one-year ethnography of a low-income, multi-unit dwelling, Vaughan however, argued that low-income tenants are relatively powerless in the landlord/tenant relationship.[71] He observed that tenants lack trust in landlords and feared exploitation, and in spite of tenants' fear of exploitation, they agreed to join others in organized attempt to improve their units and/or lower their rents. Nevertheless, local volunteers/organizers within the community reported difficulty in mobilizing the community to take action.[72] On the other hand, in an analysis of the relationship between landlords and tenants, *Keller* concluded that landlords hold the upper hand

[67]L.E A Moss, Transaction Cost Economics and Property Rights Theory Approach to Farmland Lease Preferences." Ph.D. thesis, University of Illinois at Urbana-Champaign. (2009)
[68] K. Wadhva, Rental Housing in India: An Overview. *NIUA Research journal* (2008) (2) (7) 45
[69] *ibid*
[70]T, Dillahunt, .J, Mankoff and E. Paulos, *Understanding Conflict between Landlords and Tenants: Implications for Energy Sensing and Feedback* (Pittsburgh: Proc Ubicomp, 2009) 255-264.
[71] T. Vaughan. The landlord-tenant relation in a low-income area. Social Problems, *JSTOR* (2019) (16) (2)208-218.
[72] *ibid*

in the landlord/tenant relationship and explained factors affecting the landlord/tenant relationship to include the status of the housing market, socio-economic status, and existing laws.[73] He argued that those who are paying less may have difficulty moving if they are unhappy with their current housing. Also, landlords renting in low income markets may not have too many problems filling vacancies, thus giving landlords more power in this relationship. Furthermore, in some markets, landlords can pick and choose the best or most suitable tenants from those that are willing to pay, and give them slight power advantage over the tenants.[74] This study negates completely to the positions taken by the above scholars as in recent time tenants now certain rights they enjoy under the tenancy law in Nigeria and the landlord does not always have the 'upper hand'.

A landlord may also be able to affect a tenant's life more than the other way around, as in the case of a landlord withholding heat having greater impact than a tenant withholding the rent. A tenant may legally withhold rent or use it to pay for fixing major problems on a property, while the landlord may assert that the tenant is late with rent and attempt an eviction. Because of this, withholding rent is therefore a risk for tenants more so than landlords. This indicates that laws may empower both landlords and tenants but the existence of pro-tenant laws may not have much impact on the overall balance of power. Although collective action such as tenant and rent strikes may aid tenants in gaining power through strength in numbers, when landlords maintain personal relationships with tenants, they may render it more difficult for tenants to collectively take action against them.[75]

[73] S. Keller, Does The Roof Have To Cave In? The Landlord/Tenant Power Relationship and the Intentional Infliction of Emotional Distress, *Cardozo Law. Rev*.(2009) (9) (1) 663.
[74] *ibid*
[75] G. Popplestone, Collective Action among Private Tenants. *British Journal of Social Work,* (2013) (2) (3):369-386.

Dillahunt, Mankoff and Paulos[76] alternatively argued that the structure of the relationship between tenants and landlord's gives landlords power over tenants. This power is also influenced by personal relationships, knowledge, and other factors affecting the power of individuals. By virtue of its nature, a conflict of interests exists in the Landlord-tenant relationship and various strategies usually initiated primarily by the landlords minimize overt conflict.[77] The relationship tends to be marked by impersonality and consequent disinterest in the housing situation, in the case where landlord is not dependent on the tenant. Also, personalization of the relationship occasions noneconomic reliance of the tenant upon the landlord, especially when owners are less independent of the tenants.[78] In attempting to prevent or minimize conflict, the conditions that underlie conflict of interests are not relieved and such efforts tend to contribute to the situation that they find problematic.[79] This study however, attempts to fill the gaps in above literature by making reference to frameworks that deal on tenancy laws in Nigeria. The literature is nonetheless very relevant and useful in the preparation of this research as it touches on some basic points this researcher would dwell on.

2.4 Discussion on the Gaps

The literature review on the relationship between landlords and tenants in Nigeria reveals several significant gaps, indicating areas ripe for further investigation. One notable gap lies in the scarcity of empirical studies that delve deeply into the day-to-day interactions, challenges, and strategies employed by landlords and tenants. While theoretical discussions and legal analyses abound, empirical research providing insights into lived experiences are lacking.

[76] T. Dillahunt, J. Mankoff , and E. Paulos, *Understanding Conflict between Landlords and Tenants: Implications for Energy Sensing and Feedback* (Pittsburgh: Proc Ubicomp 2009) 255-264
[77] *ibid*
[78] *ibid*
[79] *ibid* (n 75)

Moreover, the literature often fails to adequately address regional and socio-economic disparities, overlooking the diverse cultural practices, legal interpretations, and socio-economic conditions present across different regions of Nigeria. This generalized understanding may overlook complexities prevalent in various parts of the country and among different socio-economic groups.

Gender dynamics within landlord-tenant relationships also receive insufficient attention. The literature overlooks how gender influences power dynamics, decision-making processes, and experiences of vulnerability or discrimination among landlords and tenants in Nigeria.

Furthermore, there is a notable gap in the literature regarding informal housing arrangements. While much attention is given to formal rental agreements, informal housing arrangements, such as subletting and undocumented agreements, are often overlooked. Understanding the dynamics within the informal housing sector is crucial for a comprehensive understanding of the housing landscape in Nigeria.

The impact and effectiveness of legal reforms governing tenancy relationships in Nigeria are also underexplored. While there is discussion about the legal framework, there is a lack of literature evaluating its actual impact, accessibility of legal remedies, and protection of rights for both landlords and tenants. Tenant vulnerability, particularly among marginalized groups, is another area that requires deeper exploration. The literature often overlooks the socio-economic factors contributing to tenant vulnerability and strategies for enhancing tenant rights and protections.

Finally, while some literature touches upon dispute resolution mechanisms, there is insufficient analysis of their accessibility, efficiency, and effectiveness. Research exploring

alternative dispute resolution mechanisms, including traditional and community-based approaches, is necessary to complement existing legal frameworks. Addressing these gaps through further research endeavors can enrich our understanding of landlord-tenant relationships in Nigeria, inform policy formulation, and contribute to the development of more effective strategies for promoting harmonious and equitable housing arrangements.

CHAPTER THREE
THE RELATIONSHIP BETWEEN LANDLORD AND TENANT

3.1 Relationship between Landlord and tenant

The relationship between the landlord and the tenant is based on an agreement. While their relationship is usually reasonable, some common problems are experienced in African cities: The landlords complain that their tenants don't take good care of the rental housing, pay their rent late, misbehave in general and don't understand that rising costs of utilities, maintenance and repairs make it necessary to raise the rent.[1] The tenants complain that their landlords fail to maintain the housing properly, don't repair things when they break, charge unfairly high fees for utilities, increase the rent without warning, turn hostile when the rent is paid a little late, threaten eviction or fail to return security deposits when they move out.[2]

It is observed that the relationship between landlord and tenants in Nigeria, in most cases is not cordial.[3] Many rental agreements between landlords and tenants in Nigeria are personal and informal in nature, concluded outside of any government regulatory framework or formal legal system. This informality and lack of official documentation makes going to court an extremely impractical way of dealing with landlord-tenant conflicts.[4] In some cases, landlords will try to avoid problems by only accepting tenants who have been recommended by people they know. But in other cases, landlords use a different strategy and actively seek to attract strangers and outsiders, because they want to avoid being too close to their tenants to maintain a more business-like relationship, in the hopes that the tenants will take care of their rental unit, respect the rental conditions and leave when they are asked to.[5] There can also be a "dark side"

[1] AO Oni, MO Ajibola and SA Oloyede. Rent Control and Residential Property Values in Lagos State Nigeria. *Journal of Land Use and Development Studies*. (2007) 3 (1) 78- 94.
[2] *ibid*
[3] S Kumar *Social Relations, Rental Housing Markets and the Poor in Urban India*. (London: London School of Economics and Political Sciences, 2017) 32
[4] *ibid*
[5] *ibid*

to the informal agreements between tenants and small-scale landlords, where a landlord takes advantage of the lack of a written contract to constantly raise the rent, squeeze more and more tenants into limited space, let the building deteriorate into slum conditions, or in other ways disregard the needs of tenants and the terms of their agreement. Where there is a serious shortage of low-income housing in a city, unscrupulous landlords will know that tenants have little option but to put up with exploitative and often illegal rental conditions, because they lack the resources to find better housing or challenge the landlord's actions using the legal system.[6] Consequently, the following section of this chapter will address the different types of tenancy in light of this context.

3.1.1 The Law on Landlord and Tenant Relationship at Common Law

At common law, the relationship between the landlord and tenant is mainly dependent on the terms agreed between the parties, usually contained in written agreement and therefore similar to a commercial lease. In other words, the relationship is strictly contractual as opposed to landlord and tenant relationship that is regulated by statute. Under the common law, the landlord is entitled to possession at the end of the fixed-term agreed in the tenancy agreement. In theory, the landlord is not required to serve a notice to quit to bringing the tenancy to an end as the tenancy ends at the agreed date, but in practice the landlord usually serves a notice if he wishes the tenant to vacate.[7]

Also, if there are problems during the tenancy, the landlord can bring the common law tenancy to an end where there has been a breach of any of the specified terms in the tenancy agreement. Common law tenancy may either be periodic or a tenancy at will. A tenancy at will arises where a tenant occupies premises with the consent of the Landlord for an unspecified

[6] *ibid*
[7] *Mansfield v. Botchin (1970) 2 Q.B., 612*

period. Either party can bring the tenancy to an end at any time. It may be created either expressly or impliedly. An implied tenancy at will may be created when a tenant holds over with the consent of the Landlord after the termination of the tenancy.[8] An implied tenancy at will may also arise where the Tenant enters possession pending the grant of a formal lease.[9]

It is a general rule at common law that a Tenant who holds over with the consent of the Landlord is a tenant at will but when he begins to pay periodic rents, whether weekly, monthly, quarterly and yearly, he becomes a periodic tenant and possession cannot be taken from him without serving the appropriate notice to quit. But then this principle is not absolute as the courts may look at the facts of the case to see if the parties intended to create a periodic tenancy or something else. This common law position has been decided in a long line of English cases, with some of the authorities dating as far back as the 19th Century through the 20th.[10] Thus, in *Javad v. Aqil*,[11] Nicholls, L.J., succinctly elucidated the nature of common law tenancy as follows;

> …a tenancy springs from a consensual arrangement between two parties: one person grants to another the right to possession of land for a lesser term than he, the grantor, has in the land. The extent of the right thus granted and accepted depends primarily upon the intention of the parties. Where parties are negotiating the terms of a proposed lease, and the prospective tenant is let into possession or permitted to remain in possession in advance of, and in anticipation of, terms being agreed, the fact that the parties have not yet agreed terms will be a factor to be taken into

[8] *Pan Asian African Co. Ltd. V. National insurance Corporation (NlG.) LTD. (1982) ALL NLR, at P. 242*
[9] *ibid*
[10] *London Baggage Company LTD. VA Railtrack PLC. (2000) L. & T.R. 439*
[11] *Javad v Aqil [1991] 1 WLR 100*

> account in ascertaining their intention. It will often be a weighty factor. Frequently in such cases a sum called 'rent' is paid at once in accordance with the terms of the proposed lease: for example, quarterly in advance. But, depending on all the circumstances, parties are not to be supposed thereby to have agreed that the prospective tenant shall be a quarterly tenant. They cannot sensibly be taken to have agreed that he shall have a periodic tenancy, with all the consequences flowing from that, at a time when they are still not agreed about the terms on which the prospective tenant shall have possession under the proposed lease and when he has been permitted to go into possession or remain in possession merely as an interim measure in the expectation that all will be regulated and regularized in due course when terms are agreed and a formal lease granted.[12]

The nature of periodic tenancy is that it does not expire at the end of the term granted but automatically renews itself at the end of each period of the tenancy. Neither the landlord nor the tenant need take any positive action. Such tenancies endure for a certain period, and continue for subsequent successive periods of the same length, unless terminated by an appropriate notice to quit.[13] Since it is a persisting relationship, each successive period is treated as a continuation of the original grant.[14] The term grows from period to period as a single term springing from the original grant. A periodic tenancy is thus 'founded on the continuing will of both the landlord and tenant that the tenancy shall persist,"[15] and by failure

[12] *ibid*
[13] This common law rule of tenancy was laid in the ancient case of *Grandy v. Jubber (1255) 9 B. & s. 15*
[14] *Re midland Railway Co.'s Agreement (1971) Ch 725 at 732F, per Russel U*
[15] *Hammersmith and Fulham LBC v. Monk (1992) 1 AC, 478 at 492A, Per Lord Browne~Wilkinson*

to give notice to quit, 'each patty signifies the necessary positive assent to the extension of the term for a further period'.[16]

In a strict sense, a periodic tenancy has no fixed maximum duration, as one cannot be sure how long it will last until either of the parties serves a notice to terminate. This is why the courts, over the years, have found it difficult to reconcile the unfettered growth potential of periodic tenancies with the long-established legal principle that every lease must have a certain maximum duration. In *Re Midland Railway Co. Agreement*,[17] the English court of Appeal took cognizance of this difficulty and concluded that the requirement of certainty of term had no direct relevance to periodic tenancies.

The House of Lords however overruled Re Midland in the case of *Prudential Assurance Ltd. v. London Residuary Bod*[18] and held that certainty of duration is applicable to all leases and tenancy agreements and that a periodic tenancy is saved from being uncertain because each party has power by notice to terminate it at the end of any period of the tenancy; the relevant term continues until determined as if both parties made a new agreement at the end of each period for a new term for the ensuing period. Perhaps, the clearest picture of the nature of periodic tenancies can be found in the case of *Commonwealth Life (Amalgamated) Assurance Co. v. Anderson*,[19] where the court stated thus:

"Whether the tenancy be from year to year, quarter to quarter, month to month, or week to week it is a tenancy for a definite term of a year, quarter, a month, or a week, as the case may be, with the superadded provision that it is to continue for another definite term of the same period unless, by proper notice to quit, is terminated".[20]

[16] ibid at P. 490-491A, Per Lord Bridge of Harwich
[17] Supra at P. 732, paras F — G, per Russel U
[18] (1992) 2 AC, 386, at 394, paras E - F
[19] (1945) 46 5R (NSW) 57, 60
[20] the case of *Dockrill v. Cavanagh (1944) 45, SR (NSW), 78*

What emerges from the foregoing is that the law of landlord and tenant at common law, particularly with regards to terminating same and recovering possession, is full of uncertainties. These uncertainties include the difficulty in determining the intention of patties in periodic tenancy where the tenant holds over possession. For instance, in the case of *London Baggage Company Ltd v. Railtrack Plc*[21] the English court held that;

"There is no rule that where a tenant holds over after the previous tenancy has been determined, the tender and acceptance of rent raises a presumption of a periodic tenancy. In deciding whether a periodic tenancy has come into existence, in such a case, the court must look at the intention of the parties and all the surrounding circumstances."

The consequences of these uncertainties have been overcome in Nigeria where the law of landlord and tenant is now wholly governed by statutes. Every State in Nigeria now has its own law on recovery of premises. Some of these laws include: the Recovery of Premises Act,[22] the Rent Control and Recovery of Residential Premises Law[23] and the Lagos Tenancy Law, 2011.

3.1.2 Law on Landlord and Tenant Relationship under Statutes

With the daily increase in population and urbanization, there is a concurrent need for adequate accommodation, particularly in capital and commercial cities across Nigeria. In addition to the efforts of governments at reducing the housing deficits, individuals and corporate entities are making big business in the housing market by building high, middle and low-income apartment for rent. This has brought the need to regulate the relationship between landlords and tenants so as to avoid arbitrary increments in rents, wrongful eviction and illegal

[21] (2000) L & T.R. 439
[22] Cap. 544 Laws of the Federation of Nigeria, 1990 applicable in Abuja, the Federal Capital Territory
[23] Vol. 7, Laws of Lagos State, 2003

holding over of premises. The law of landlord and tenant and the procedure for recovery of premises is largely regulated by statutes[24]

Tenancy or any matters incidental to it been unitemised in Part I and Part II of the Second Schedule to the 1999 Constitution of the Federal Republic of Nigeria (CFRN), (as amended),[25] its regulation automatically form part of the Residual list and thus within the exclusive jurisdiction of State Houses of Assembly. This principle of jurisdictional determination has been reasonably settled in the provisions of Section 4 (7) (a) and (b) of the 1999 Constitution of the Federal Republic of Nigeria which (for the avoidance of doubt), reads:

> "(7) The House of Assembly of a State shall have power to make laws for the peace, order and good government of the State or any part thereof with respect to the following matters, that is to say:
>
> (a) any matter not included in the Exclusive Legislative List set out in Part I of the Second Schedule to this Constitution.
>
> (b) any matter included in the Concurrent Legislative List set out in the first column of Part II of the Second Schedule to this Constitution to the extent prescribed in the second column opposite thereto;"

Additionally, it has also being given corroborating judicial affirmation by the Supreme Court where it reemphasized the exclusive jurisdiction of State Houses of Assembly on issue not itemized in Part I and Part II of the Second Schedule to the CFRN in *Attorney General Abia*

[24] Tenancy Law, 2011
[25] 1999 Constitution of the Federal Republic of Nigeria, Cap C 23 Laws of the Federation of Nigeria 2004

State & Ors v Attorney General of the Federation & Ors.[26] Due to the exclusive exercise of jurisdiction by State Houses of Assembly on the subject matter, an impressive number of legislations has been evolved to this effect and yet have to a large extent lacked comprehensiveness. Perhaps the most comprehensive and advanced amongst them are the Lagos State legal frameworks and the Federal Capital Territory legal frameworks for tenancy.

Nevertheless, amongst such extant laws on the subjects matter are the Lagos Tenancy Law, 2011, the Rent Control & Recovery of Premises Law No. 9 of 1976 of Lagos State, the Land Use Act,[27] the Rent Control and Recovery of Residential Premises Law of Delta State,[28] the Recovery of Premises Law of Rivers State,[29] the Recovery of Premises Act (Abuja), the Landlord and Tenant Law, Anambra State, etc.

It is important to note that in Lagos State, the commercial nerve center of Nigeria, the law that applies to tenancy matters is the Tenancy Law 2011, the law applies to all premises within Lagos State including business and residential premises but excluding properties in Ikoyi, Victoria Island, Ikeja GRA and Apapa. Also, residential premises operated by educational institutes for their staff and students; residential premises provided for emergency shelters and residential premises providing rehabilitative or therapeutic treatment are exempted from the Law as well. Section 3 of the Tenancy Law provides that a tenancy agreement exists where premises are granted by the landlord to a person for value whether or not it is express or implied; oral or written, or partly oral or partly written, or for a fixed period.

[26] Attorney General Abia State & Ors v Attorney General of the Federation & Ors (SC 99/2005, SC 121/2005, SC 216/2005 Consolidated) [2006] NGSC 36 (7 JULY 2006) (2006) 2 All N.L.R. 24
[27] Land Use Act Cap L5 Laws of the Federation of Nigeria 2004.
[28] Rent Control and Recovery of Residential Premises Law of Delta State Cap R5, Laws of Delta State
[29] Recovery of Premises Law Cap 109 Laws of Rivers State of Nigeria 1999

3.2 Types of Tenancy

There is judicial uncertainty as to the types of tenancy that exist in Nigeria. In *Bocas Nigeria Ltd v Wemabod Estate Ltd*,[30] the Court of Appeal held that ... there are three types of tenancy: tenancy at will, periodic tenancy, and fixed term (or term certain). However, *in Dickson & Anor v Assamudo*,[31] it was held that there are two categories of tenancies: a contractual tenancy and a statutory tenancy. Yet again, in *Olojede & Anor v Olaleye & Anor*,[32] the Court of Appeal stated that:

> I wish to state that there are various types of tenancy under our laws, and they include (1) contractual tenancy, (2) statutory tenancy, and (3) tenancy at sufferance. Contractual tenancy is the usual or common one that involves an agreement between the landlord and tenant, written or oral, on the terms and conditions of the tenancy. A statutory tenancy is a creation of statute for the benefit of the tenant and does not depend on the will or acceptance of the landlord or on the existence of a contractual tenancy or license given by the owner or person entitled to the of Occupancy of premises and owners when the tenancy or license expires, and the tenant or licensee holds over possession.[33]

Even amongst scholars and textbook authors on land law in Nigeria, there seems to be this controversy and uncertainty as to the types of tenancy. In my opinion, it is conceivable to have these controversies given the disparity in the land tenure laws in Nigeria. One can classify

[30] [2016] LPELR – 40193(CA)
[31] *Dickson & Anor v Assamudo [2013] LPELR-20416(CA)*
[32] *Olojede& Anor v Olaleye& Anor[2012] LPELR-9845(CA)*
[33] Per Denton-West, JCA

tenancy in Nigeria into two categories: Contractual tenancy (comprising periodic tenancy and fixed tenancy) and statutory tenancy. A periodic tenancy is sub-divided by the respective tenancy laws in Nigeria into a weekly tenancy, monthly tenancy, quarterly tenancy, half-yearly tenancy, yearly tenancy, and other types of periodic tenancy that may be recognized by law or created by the landlord and the tenant, such as tenancy at will.[34] To some authors, there could also be tenancy by estoppel.

1. Statutory Tenancy: Statutory tenancy, as a type of tenancy or concept, is not directly provided for or recognized in any of the rent control and recovery of premises laws of the respective States in Nigeria. The concept of statutory tenancy in Nigeria is a judicial coinage rather than an unequivocal legislative nomenclature. It is a terminology created by the courts, drawn principally from the incidents of the obligations vested on the landlord by the different rent control and recovery of premises laws. In *Pan Asian African Co Ltd v NICON*,[35] the court defining the term statutory tenant held: …

> The expression statutory tenancy has also been defined as a compendious expression to describe the right of a protected person to remain in possession of those premises, notwithstanding the determination of his contractual interest, until such time as either he voluntarily gives up possession, or the Court, on cause shown, makes an order against him to deliver up possession. Statutory tenancy thus creates tenure only within the ambit of the enabling statute. For the purpose of determining the length of

[34] O. Igwenagu et al., Examination of Causes of Tenancy Disruption and Its Effects on Property Investment in Anambra State, Nigeria. *IRE Journals* (2019) 3 (3) 23
[35] *Pan Asian African Co. v. NICON (1982) 13 NSCCP: 293*

notice such a tenant is entitled to, reference will be made to the nature of his contractual tenancy.

2. Contractual Tenancy: In *Farajoye v Hassan*,[36] the court defined a contractual tenancy as 'the usual or common one that involves an agreement between the landlord and the tenant, written or oral, on the terms and conditions of the tenancy. A contractual tenancy is a deliberate effort by the landlord and the tenant. It involves all the elements of a valid contract, such as offer, acceptance, consideration, and intention to create a legal relationship. It is strictly a contract between the landlord and the tenant. In *A. P Ltd v Owodunni*,[37] the Supreme Court held that *...a tenant who enters upon premises by reason of a contract with the landlord is a contractual tenant. Such a tenant holds an estate which is subject to the terms and conditions of the grant*.

A tenancy contract could be written or oral. If it is written, it usually contains the terms and conditions of the tenancy, together with the rights and obligations of both the landlord and the tenant.[38] It is settled law that parties to an agreement or contract are bound by the terms and conditions of the contract they signed and cannot operate outside its terms and conditions.[39] It should be noted that the sanctity of covenants in a contract is not only applicable to a written agreement signed by the landlord and the tenant. It will also apply to contracts orally entered into by the parties,[40] especially when the terms were expressly verbalized. The Court of Appeal has emphasized this when it held that 'it is in the public interest that the sanctity of tenancy agreements like all contracts be protected.[41]

[36] [2006]16 NWLR (Pt. 1006) 487
[37] *African Petroleum Ltd. v Owodunni[1991] 8 NWLR (Pt. 210) 391*
[38] S. Bolaji Ramos, Understanding the essential principles of landlord and tenant laws in Nigeria through judicial decisions, Commonwealth Law Bulletin, (2020) 46:1, 151-173, DOI:10.1080/03050718.2020.1714456
[39] *Isheno v Julius Berger (Nigeria) Plc [2008] All FWLR (Pt 415) 1633 at 1653*
[40] *Robinet Nigeria Limited v Shell Nigeria Gas Limited [2013] LPELR22144(CA)*
[41] *Amakeze v Onwudiwe[2013] LPELR -20350 (CA)*

There are different types of Contractual Tenancy which includes:

(i) Fixed Tenancy: A fixed tenancy is one with a specified commencement and termination date. The tenant is expected to vacate the premises on the termination date spelled out in the agreement. Since the tenancy's end date is already set out in the agreement between the parties, there is generally no need for a notice to vacate. A fixed tenancy terminates by effluxion of time. The tenancy relationship between the tenant and his landlord ends automatically on the date stated in the agreement. The tenant is also not expected to pay another rent without a new agreement. However, where the agreement had an 'option for renewal' clause, the parties can renew the relationship before the expiration date of the current fixed term by fulfilling the prescribed conditions in accordance with the renewal clause embedded in the agreement. A fixed tenancy does not enjoy the presumption of automatic renewal like a periodic tenancy.

The certainty of the term is known to and agreed on by both parties right from the commencement of the tenancy. It could be for a week, months, or years. What is paramount is that once a tenancy is for a term certain, it is always construed as a fixed tenancy, even if the term is for one week, months, or one or more years. A fixed tenancy, after its effluxion, can be converted to a periodic tenancy where the tenant enters into a new periodic tenancy agreement with the landlord. It can also be converted to a statutory tenancy where the tenant holds over without the consent of the landlord. It can be converted to a tenancy at will, where the tenant holds over with the consent of the landlord on the condition that either of the parties may terminate the tenancy at their pleasure. For a fixed tenancy, at the expiration of the tenancy, the tenant is entitled to a notice of the owner's intention to recover possession, which spans for just seven days.

(ii) Periodic Tenancy A periodic tenancy allows the tenant to remain within the property for an undetermined period. The tenancy has no determinate date. It is not for a term certain, as neither the landlord nor tenant knows when the tenancy will eventually end. Periodic tenancy renews itself automatically at the end of each term. It continues until the landlord or tenant terminates the tenancy relationship. Upon the expiration of the term created, it automatically continues for another definite time of the same period of the tenancy and so on until it is determined by a valid notice to quit. A periodic yearly tenant who is to be evicted is entitled to two statutory notices.

3.Tenancy at Sufferance: In *African Petroleum Ltd. v Owodunni*,[42] the court defined the term tenancy by sufferance as one in which the original grant by the landlord to the tenant has expired, usually by effluxion of time, but the tenant holds over the premises. In such a case, the tenant's right to occupation of the premises to which he had come in upon a lawful title by grant is at an end; although he has no more title as such, he continues in possession of the land or premises without any further grant or agreement by the landlord on whom the right to the reversion resides.

One necessary pre-condition of such a tenancy is that the tenant must have come upon the land or premises lawfully. Though he no longer, strictly, has an estate, the law will deem his right to possession to have continued on the same terms and conditions as the original grant till possession has been duly and properly wrested from him by the landlord or reversioner. It is a form of tenancy which, as it were, depends upon the law and not the agreement of the parties and can only be determined either by the landlord's lawful act or by a proper action for ejectment after due notices as prescribed by law.

[42] *African Petroleum Ltd. v Owodunni[1991] 8 NWLR (Pt. 210) 391*

4. Tenancy-at-will: Construing the nature of a tenancy-at-will, the Court of Appeal in the case of *Oyegbesan v Oyegbesan*,[43] held as follows, 'a tenancy at will is built on the mutual understanding that both the tenant and the landlord can terminate the tenancy when any of them likes or at any time convenient to any of them". Section 60 of Tenancy Law[44]provides that a landlord may demand possession of the property held by a tenant at will at any time he pleases. Tenancy at will may be created expressly or by operation of law.[45] It is created by operation of law when a tenant whose lease has expired holds over with the landlord's permission, even though he has yet to pay rent.[46] A tenant who holds over can be classified as a tenant at will. In the case of *Alhaji J.A. Odutola v Paper Sack*,[47] the Supreme Court held that a party whose yearly tenancy has expired and is in arrears of rent is no longer a yearly tenant but a tenant at will and is only entitled to seven days owner's intention to recover possession.

5. Tenancy by Estoppel: Where a person grants possession of property in respect of which he has no title or interest, a tenancy by estoppel is created.[48] Both parties are precluded from denying the existence of landlord and tenant relationship.[49] A tenancy by estoppel has all the attributes of a true tenancy, and both parties are bound by it. It becomes a true tenancy where the grantor subsequently acquires the title of the property.[50]

6. Customary Tenancy: This tenancy has no equivalent in English law. It is a system of landholding indigenous to Nigeria. It is not a leasehold interest, a tenancy at will, or a yearly tenancy.[51] The principal incident of customary tenure is the payment of annual tributes, not

[43] *Oyegbesan v Oyegbesan [2014] LPELR – 23358 (CA)*
[44] Tenancy law 2011
[45] *ibid*
[46] *Meye v Electric Transmission Ltd [1942] CH 290*
[47] *Odutola& Anor v Papersack Nigeria Ltd [2006] LPELR-2259(SC)*
[48] I Smith, *Practical Approach to Law of Property in Nigeria* (2nd edn Ecowatch Publications Ltd 2007) 313
[49] *Agbomeji v Olivant 16 NLR 92*
[50] Burn, Edward Hector, and John Cartwright. *Cheshire and Burn's Modern Law of Real Property*. (18th edn Oxford University Press, USA, 2011).
[51] Ilori & Adebayo: Customary Land Tenure System and the Land Use Act: A Comparative Analysis. (2019) *IRLJ* 1 (2)

rents, by the customary tenant to its overlord.[52] In essence, the customary tenant is not a lessee or borrower; he is a grantee of land under customary tenure and holds a determinable interest in the land, which may be enjoyed in perpetuity subject to good behavior on the part of the tenant.[53] It relates to family and inheritance systems based on the concept of group ownership of absolute rights in land with individuals' acquiring 'usufructuary' (i.e., legal rights accorded to a person or party that confers temporary rights to use or derive income or benefits from someone else's property).[54] Basically, a customary tenancy arises when a customary landowner grants to another person at customary law the right of occupation and use of the land in return for the grantee's recognition of the title of the grantor and the payment of tribute.[55]

3.2.1 Difference between Tenancy at Sufferance, Tenancy at Will, and Statutory Tenancy

The Supreme Court succinctly captures the distinction between tenancy at sufferance and statutory tenancy in; *African Petroleum Limited v Owodunni*[56], as follows:

> ..Although a statutory tenant no longer has an estate, the statute has brought him at par with a contractual tenant as far as his right to possession goes: he is a protected tenant within the meaning of the law. *Roe v. Rusell* (1928) 2 KB. 117. It is because his tenancy derives its right and authority from the statute in question that he is called a statutory tenant. See on this: *Thynne v. Salmon* {1948) 1 KB. 482, p. 484, *Moddie v. Hosegood* (1952) AC. 61. Pp.72-74, Such a tenant is merely given protection by the relevant statute. See *Hiller v. United Dairies (London) Ltd*. (1934)

[52] *Abudu Lasisi v. Oladapo Tubi, 12 Sup. Ct. Rep. 71 (Nig., Dec. 1974).*
[53] *Chief Etim v. Chief Eke, (1941) 16 NLR 43*
[54] *Josiah Aghenghen and Others v. Maduku Waghoreghor and Others, (1974)1 Sup. Ct. Rep. 18*
[55] *Mohammed Ojomu v. Salawu Ajao, (1983) 9 Sup. Ct. Rep. 2:2*
[56] *ibid*

> 1 KB. 57. He differs materially from a tenant at sufferance only in the sense that whereas a tenancy at sufferance is a concept of the common law in areas where there are no statutes designed to protect tenants who are holding over after their contractual tenancies have come to an end, the statute, where such exists, performs the same function in the case of a statutory tenant."[57]

From the above, two significant features differentiate a tenancy at will from a tenancy at sufferance. A tenancy at sufferance is a common law concept. It is no longer known to be applicable in any tenancy relationship in Nigeria. Tenancy-at-will, on the other hand, is recognized under our statutes. Secondly, even though a tenant in a tenancy-at-sufferance holds over, just like a tenant in a tenancy-at-will, the former holds over without the landlord's consent. A tenancy at sufferance can also be differentiated from a statutory tenancy, even though both have one prominent feature in common: holding over without the consent of the landlord.

3.3 Statutory Notices Required for the Eviction of a Tenant in Nigeria

The law frowns at the use of force or self-help in the ejection of a tenant by a landlord, possession can only be forcefully obtained from a tenant if the court makes an order for possession against him after the due notices required by the law have been served on the such tenant.

A landlord desiring to recover the possession of premises let to his tenant shall:

1. Firstly, unless the tenancy has already expired, determine the tenancy by service his tenant an appropriate notice to quit.

[57] Per Nnaemeka-Agu, JSC

2. On the determination of the tenancy, he shall serve the tenant with the statutory 7 days' notice of his intention to apply to the court to recover possession of the premises.

3. Thereafter, the landlord shall file his action in court, and may only proceed to recover possession of the premises according to the law in terms of the judgment of the court in the action.[58]

1. Quit Notice

The Black's law dictionary defines a quit notice as a written notice given by a landlord to his tenant, stating that the former desires to repossess himself of the demised premises, and that the latter is required to quit and remove from the same at a time designated, either at the expiration of the term if the tenant is in under a lease, or immediately if the tenancy is at will or by sufferance. The origin of statutory notice to quit is dated back to 1945 in Nigeria when the Recovery of Premises Act, No.45 of 1945 was enacted. The requirements of notice contained in the 1945 Rent Control Act were adopted by the defunct Eastern, Northern and Western Regions of Nigeria and later adopted by the states carved into those regions.[59]Subsequent to this, several laws regulating the recovery of premises have now been enacted in Nigeria such as the 2011 Tenancy law of Lagos state, the Recovery of premises Act Abuja, the Rent Control and Recovery of Premises law of Cross River state, the Rent Control Law of Edo state, and the recovery of premises laws of the various states in Nigeria.

The object of a notice to quit is to terminate the tenancy so that the possession of the premises may go back to the landlord. [60]A notice to quit constitutes a formal expression of an intention by either the landlord to the tenant or vice versa to terminate or rather determine a periodic tenancy on a given future date as may be indicated in that notice. The notice to quit is

[58] O Ige, *a Compendium of Practice Notes* (Crown Goldmine Communications Limited 2013), 409
[59] Adewale Taiwo, *The Nigerian Land Law* (Princeton & Associates Publishing co. Limited 2016) 92
[60] *ibid*

the regular method of terminating a periodic tenancy. However, it may equally be employed to bring a fixed tenancy to an end where such tenancy contains a provision to that effect. [61]

Generally, the length of a notice to quit may be agreed by the parties (landlord and tenant) expressly in their agreement, and where there is such a stipulation in the tenancy agreement, the parties will be bound by the stipulation. However, in the absence of such stipulation section 16 of the Rent Control and Recovery of Residential Premises Law 1976 provides that the following will apply to a notice to quit:

1. The length of notice shall be one week in the case of tenancy at will.
2. One week for a weekly tenant.
3. One month for a monthly tenant.
4. Half a year for a yearly tenant.[62]

Section 13(1) of the Tenancy Law of Lagos state 2011[63]provides the length of:

1. A week's notice for a tenant at will.
2. One month's notice for a monthly tenant.
3. Three months' notice for a quarterly tenant.
4. Three months' notice for a half-yearly tenant.
5. Six months' notice for a yearly tenant.

It should be noted that there might be slight variations in the lengths provided by the recovery of premises laws of other states in the country.

[61] Chris Wigwe, 'Recovery of Premises in Nigeria: An Assessment of the Relationship of Landlord and Tenant Law' [2011] *Journal of Commercial and Contemporary law*, 69.
[62] O Ige, *a Compendium of Practice Notes* (Crown Goldmine Communications Limited 2013), 410.
[63] LSTL 2011 s.13 (1).

To validly terminate the lease, the landlord must strictly comply with the provisions of the relevant laws as regards the issuance and service of notice to quit. Thus, the non-compliance with the length of a notice to quit may render the issuance of such notice invalid and therefore defective. It follows therefore that in the case of a yearly tenant who is entitled to a six months notice if the notice is short of one day, the notice becomes ineffective. If the notice served on the tenant is defective, the claim of the landlord against the tenant for the possession of the premises may be dismissed. [64]

In the case of *Awobiyi & sons v. Igbalaiye Bros*,[65] the court explained that a monthly tenant may receive on any day of a month, the one-month notice to quit at the end of the following month, but a month's notice served on the first or any other day in a month to quit at the end of the same month is invalid.

In the case of *Oyekoya v. G.B. Ollivant (Nig) Ltd*,[66] where the plaintiff was entitled to a month's notice but the plaintiff was wrongfully ejected some 14 days earlier than he could have been rightly ejected according to the law and proper notice, the court held that the quit notice in this instance was defective and the plaintiff was therefore entitled to damages.

Under the Tenancy Law of Lagos state, the service of a notice to quit may be dispensed with in certain cases such as:

1. In the case of a monthly tenant where the such tenant is in arrears of rent for six months as provided for in Section 13(2) of the law.
2. In the case of a half-yearly or quarterly tenant, where the tenant is in arrears of rent for one year as provided for in section 13(3).

[64] Adewale Taiwo, *The Nigerian Land Law* (Princeton & Associates Publishing co. Limited 2016)93.
[65] *Awobiyi & sons v Igbalaiye Bros (1965) NMLR 306.*
[66] *Oyekoya v G.B. Ollivant (Nig.) Ltd (1969) 1 ALLNLR 80.*

3. Where the contracted time as regards the duration of the tenancy by the parties, has expired by the effluxion of time, in the case of tenancy for a fixed time. Section 13(5) of the Tenancy Law of Lagos state. However, it must be noted that in this case, there is a need to serve a seven days notice of the owner's intention to recover possession of premises on the tenant.

4. Where the premise is deemed to be abandoned under the circumstances provided for in section 15(1) of the Tenancy Law. In this case, a seven days notice of intention to recover possession of premises must also be served on the tenant.

2. Notice of Owner's Intention to Recover Possession of Premises.

The Law also requires the service of a notice of owner's intention to recover possession of premises to be served on the tenant where a tenant fails, neglects, or refuses to quit and deliver up possession of the premises or any part thereof after such tenant must have been served a quit notice to vacate the premises. The importance of this notice cannot be overemphasized because like a quit notice, it is a condition precedent to the court's jurisdiction as regards matters involving the recovery of premises from a tenant.

The notice is required to be for seven days, however, the landlord may still validly institute an action in court for the recovery of premises before the seven days expires, provided that the action is not heard before the seven days expires. Thus, it is only after the end of the seven days that a tenant may appear in court to answer to any claim for possession by the landlord.[67] A defect in the seven days' notice may be detrimental to the landlord's claim in

[67] Chris Wigwe, 'Recovery of Premises in Nigeria: An Assessment of the Relationship of Landlord and Tenant Law' [2011] *Journal of Commercial and Contemporary law*, 72.

court therefore there is a need for the notice to be compliant with the relevant recovery of premises law.

A common provision found in most of the Recovery of Premises law is that the quit notice and the notice of owner's intention to recover premises must be served personally on the tenant. However, the law also provides other means of service such as delivery on any adult on the demised premises or service by a courier dispatch or affixing the notice on a conspicuous part of the demised premises.[68] These alternative measures of service may be employed if: The defendant's place of dwelling is unknown; Admission to the defendant's place of dwelling cannot be obtained for service; the defendant cannot be found. It is pertinent to note that for statutory notices to be deemed as validly issued and served by the landlord's agent or solicitor such an agent must have been specially mandated to do so in writing by the landlord, although this requirement seems to be inapplicable to an agent usually employed by the landlord in the letting or collection of rents of the premises. [69]

It is after a quit notice and a notice of owner's intention to recover the possession of premises, have been served on a tenant who has refused to deliver up possession, that an action may be instituted in court by the landlord for the recovery of the premises in question. The courts with the relevant jurisdiction regarding the recovery of premises may be the Rent Control Courts, the Magistrate or High Courts depending on the applicable recovery of premises law in the state where the action is to be instituted. In Lagos, the court with the relevant jurisdiction is the Magistrate Court however, where the rental value in a tenancy matter exceeds ten million naira excluding the claim for arrears of rents and mesne profit, the Magistrate Court loses its jurisdiction and the High court becomes the court with the competent

[68] O Atinuke Ipaye, *Recovery of Premises*: *Practice and Procedure* (Being a Paper Presented at the Virtual Refresher Course For Magistrates Organized by the National Judicial Institute, Abuja, on 27th-29th April,2021).
[69] Chris Wigwe, 'Recovery of Premises in Nigeria: An Assessment of the Relationship of Landlord and Tenant Law' [2011] *Journal of Commercial and Contemporary law*, 73.

jurisdiction to entertain the matter as implied by section 28 of the Magistrate Court of Lagos state and section 2(4) of the Tenancy Law of Lagos state.[70]

3.4 Disagreement forces in Tenancy

Tenants usually clash and quarrel with their landlord when they enter agreements that are not clearly defined, ambiguous, written and lopsided which favours one party. Most times the tenants are in a hurry to secure shelter for their benefit and family, they wrongly meet aggressive or greedy landlord and accept the covenant at the beginning of the tenancy.[71] Nevertheless, the tenants having seen the irregularities may breach the promises and agreement which eventually lead to conflict between landlord and the tenant that is likely to end in litigation. Factors that contribute to the disagreement or conflict between landlord and tenant are:

1. Evicting a Tenant; Evicting means the act of quitting or ejecting and removing a tenant from rented PROPERTY by process of law. Tenants that are not fully prepared to leave or quit the premises of landlord are not comfortable when the landlord informs them of his intention to eject them from his property. Some tenants go extra miles to change the minds of the landlord from reversion and recovery of property. The type of tenancy contained in the tenancy agreement between the landlord and tenant determines how a tenant can be quitted and evicted from a rented apartment.

Tenancy agreement not given to the tenant makes the tenancy appears defective also regarded as periodic tenancy except there is evidence to the contrary. Every tenancy agreement must have a clause within the operative part of the agreement written as a fixed tenancy or

[70] Bolaji S. Ramos,' Understanding the Essential Principles of Landlord and Tenant Laws in Nigeria through Judicial Decisions' [2020] 46(1) *Common Law Bulletin*, 21
[71] T. F. Bergin, and P.G., Haskell, *Preface to Estates in Land and Future Interests* (Foundation Press, California, 2009) 54

periodic tenancy. Length of tenancy is not always worrisome during negotiations, what borders the tenant primarily is the rent and description of the apartment before he signs the tenancy agreement. [72]

A person may know if the tenancy agreement created is a fixed or periodic tenancy without the consent of a solicitor through a clause written within the operative part of the agreement. For example, in a periodic tenancy one can see statement like "…to hold unto the tenant and for the use of same as a yearly tenant commencing…" OR "…to hold unto the tenant and for his use on a yearly tenancy commencing on 9/2/2018 and same to terminate on 8/2/2019…" In fixed tenancy we have comments like "to hold unto the tenant and for his use for a fixed term of ONE YEAR certain, commencing on 15/03/2019 and same to terminate on 14/03/2020…" To ascertain the differences between the forms of tenancy in terms of quitting or ejecting a tenant.

Ordinarily, in explaining fixed tenancy it ends when the stipulated time on the tenancy expires. This implies that the tenancy relationship between the landlord and his tenant terminates inevitably on the date listed on the tenancy agreement which may not be necessary for the landlord to issue Notice to Quit before evicting the tenant. Where the tenant refuses to pull out or deliver the possession of the demised premises, the law authorizes the landlord to eject the tenant by applying to court for 7 Days Notice of Owner's Intention to Recover Possession of Premises. At this stage, the tenant is not allowed to renew his rent except by a new agreement but if the tenancy agreement is written with a clause (Option for Renewal clause). It means that the tenant can renew his rent before the termination date of the current fixed term. Furthermore, if notice to quit is issued to the tenant and the landlord collects rent from the tenant it means that the landlord has granted waiver to the tenant which also shows

[72] *ibid*

renewal of tenancy. However, where a tenant pays rent after the expiration of notice or effluxion of term such payment or renewal is ineffective because tenancy ends or dies when a notice expires. The periodic tenancy renews itself automatically at the end of each duration and continues until the landlord ceases the tenancy by issuing valid Notice to Quit or Quit Notice. If the tenant does not leave, landlord can use his lawyer to issue 7 Days Notice of Owner's Intention to Recover Possession of Premises.[73]

It is unlawful for a landlord to eject tenant from the demised apartment without statutory Notice to Quit. The length of the Notice to Quit is agreed by the parties as stated in the tenancy, where the tenancy agreement does not capture the length of Quit Notice the applicable laws in Rent Control and Recovery of Premises Law will apply such as a week notice for a tenant at will, One month notice for a monthly tenant, three months' notice for a quarterly tenant, three months' notice for a half-yearly tenant and six months' notice for a yearly tenant. Issuing a lawful Quit Notice and Owner's Intention to Recover Premises is a condition precedent for exercise of jurisdiction by the court. Besides, where a Notice to Quit is not properly served on the tenant or the Notice to Quit is defective, the court lacks jurisdiction to entertain such matter on recovery of premises brought against the tenant and the trial judge may dismissed the matter. [74]

The Court of Appeal in *Splinters Nigeria Limited v. Oasis Finance Limited*[75] , held that service of owner's intention to apply to recover possession and the quit notice were significant, it is a condition precedent for the court to exercise jurisdiction and failure to serve such notices to tenant is disastrous to the case. Ordinarily tenancy is not terminated at the expiration of the rent except in a fixed tenancy that the rent ends with the tenancy because the tenancy from the

[73] *ibid*
[74] *ibid*
[75] *Splinters Nigeria Limited V. Oasis Finance Limited (2013). LPELR-20691(CA), Per Iyizoba, JCA, P.33.*

beginning has a fixed date to expire which is indicated in the tenancy agreement. Expiration date on the notice to quit is what ends the tenancy relationship and the landlord is entitled to invoke the statutory notice to vacate the tenant. In Rivers State, the expiration date of the tenancy is usually on the eve of the anniversary of the current term. This suggests that the date on the quit notice must cease on the date before the current term. For example, commencement date for a yearly tenant is on 02/02/2019 and the termination date of the tenancy is on o1/02/2020. Thus, the lawyer is expected to issue notice to quit on 30/07/2019. However, a yearly tenant may be evicted from the rented apartment without six months' notice to quit if he signs a tenancy agreement of one month notice to quit and the agreement is binding on him.

2. Violation of Agreement; breach of agreement between landlord and tenant arises where tenant fails to renew his rent or the landlord breaks his covenant and infringes on the right of the tenant by disconnection of electricity and preventing the tenant from using the facilities in the premises and other paraphernalia. This may lead to dispute and embarrassment between the parties which eventually give room for claim of damages in court by either party as a remedy. Breach of agreement also emanates from economic crisis that compel the tenant to express part performance or part payment of rent and non-payment of rent. Other areas that affect the tenancy relationship are rent and quiet enjoyment of premises. [76]

Rent refers to consideration or money agreed to be paid by the tenant or lessee for the use of premises which the landlord has granted. Payment and renewal of rent in a tenancy relationship has created a lot of disagreements between the parties that resulted in a physical fight where the tenant caused harm by injuring the face of the landlord. The position of the law is that where a tenant is unable to renew his rent and hold possession the landlord is permitted to issue statutory notices to recover possession. The law does not protect tenant's reason of

[76] *ibid*

poverty and loss of job in holding the possession of premises when his tenancy expired. It is not acceptable for a landlord to use force or self help in ejecting tenant whose tenancy has elapsed. Quiet enjoyment of premises is another important covenant that the landlord promises the tenant. The covenant for quiet enjoyment is not limited to direct physical interference by the landlord. It encompasses any conduct of the landlord or his agents which interferes with the tenant's fundamental rights of easement and protect his comfort or harmony of his family.[77]

The implied covenant of quiet enjoyment is violated in the areas of removal of the roofing-sheets on the apartment of the tenant when the landlord claimed that he is renovating the house, stoppage of water supply, preventing the tenant from parking inside the premises and other facilities. All these infringements or breach of covenant affect the thinking and behavior of the tenants that eventually cause dispute and dissatisfaction between the tenant and landlord.

3. Narrow-minded and Oppressive; landlord Most of the landlords are deceitful, oppressive and cruel in nature thereby using illegal methods in compelling tenants to surrender possession. They are worried about the financial implication in litigation, delay in the legal system and also believed in the legal maxim of justice delayed is justice denied. For the fact that some landlords are illiterates and failed to know the benefit of taking legal actions against defaulting tenants they decided to apply force and self-help to vacate a tenant. [78]

Apparently, several landlords do not comprehend the complexities of the law of tenancy, they depend seriously on the idea that the property belongs to me or I am the sole owner of my property therefore nobody can detect or influence the decision of the landlord over the premises. However, the law has put a barrier over the intimidating conduct of landlords

[77] *ibid*
[78] D.L. Evans, , *The Law of Landlord and Tenant*.(Butterworths Publications, 1974) 12-13

in tenancy relationship by recognizing the landlord reversionary interest which becomes operative at the expiration of the tenancy. In the event of ejecting a tenant the landlords adopt physical and sensitive attack on the tenants,that are dangerous to the safety of tenant and neglect the constitutional means of initiating court action against the tenant. [79]

Indeed, the court in *Emeshie v. Abiose*[80] emphasizing on landlords use of self-help held that every democratic system must obey the rule of law not only in our legal system but also in politics. Therefore, parties in court must accept the verdict of the court in good feelings or appeal against the rulings and judgement as available alternative. No plaintiff or defendant is allowed to use self-help to disregard or ridicule any court order. The Supreme Court and other superior courts of record have rejected self-help as a remedy in a matter before court. This matter was justified in the case of *Governor of Lagos State and another v. Chief Ojukwu*[81] where the appellant was a legal practitioner that violated and forcefully entered into the tenant premises without appropriate court order and took over possession. This behavior was unbecoming of a lawyer he ought to be guided by Rules of Professional Conduct (RPC). Similarly, the frustrating assertiveness of landlords who employ self-help as a simple way to recover premises from tenant after the expiration of tenancy contravenes tenancy laws of various states in Nigeria.

Recovery of premises shall be enforced through the competent court of jurisdiction after the statutory notices issued expired. The common practice of a landlord abusing, threatening and pestering the tenant with the intention to ejecting him from the demised premises have been condemned by the statute and such actions are punishable or liable against the landlord. Furthermore, actions to recover possession of properties or premises is appropriately instituted

[79] M. Emiaso, *Landlords and Tenants under Nigerian Laws*. (Lagos, SOS Publication, 2012) 43
[80] *Emeshie v. Abiose [1992] 2 NWLR [Pt. 172] 194 at 200*
[81] *Governor of Lagos State and another v. Chief Ojukwu (1986). 1 NWLR pt. 18, 61*

by the landlord in specified courts such as Magistrate Court, High Court and the Rent Court or Tribunal as accessible in tenancy laws of different States in Nigeria. For example, the High Court and Magistrate Court in Lagos State have jurisdiction to hear cases on tenancy depending on the rental value of the premises. Section 28 of Magistrates' Courts Law of Lagos 2009 provides that the Magistrate's Court shall not exercise jurisdiction in a tenancy matter where the rental value exceeds N10,000,000.00 (Ten Million Naira), excluding the claim for arrears of rent and mesne profits. Where the rental value claims is higher than N10,000,000.00 (Ten Million Niara), the Magistrate's Court must decline jurisdiction for the High Court to take over the matter. Consequently, Section 2(4) of the Tenancy Law of Lagos 2011 provides that the High Court shall have jurisdiction to commence proceedings on tenancy relationship where the rental value of the premises is above the jurisdiction of the Magistrate Court as contained in the Magistrates' Court Law of Lagos.

4. Challenging Landlord Title; Tenants appear to be submissive and exhibit loyalty from the commencement of the tenancy so that they can get easy access to the landlord premises. After securing the shelter, the tenant has conflict of interests that develop into negative feelings against the landlord and he decide to question the landlord right of ownership, oppose his title and challenge his claim on the ownership of the demise premises. Where the landlord respond by exchanging words with the tenant in respect of the property and the tenant insisted and put to him that landlord's title is defective and added that the title which the landlord claimed to have in the rented apartment is not within the ambit of the law. [82]

The general rule is that when a tenant rejects the title of the landlord or context ownership of the demise premises with the landlord, habitually the tenancy is terminated and this misdemeanors is sufficient for forfeiture of the tenancy. Rights of tenants to receive a notice

[82] J.M. Male, *Landlord and Tenant*,(4th ed.,Pearson Professional Limited, 2005) 89

to quit and the owner's intention to recover the possession of premises especially at the expiration of the quit notice shall be defeated when the tenant denials or repudiates the landlord title. Indeed, the landlord is left with the option to sue the tenant for forfeiture irrespective of whether the tenancy has ceased or subsisting.

This scenario was demonstrated in *Abeke V. Odunsi*[83], where the appellant (Abeke) the landlord, purchased the property that was occupied by the two tenants namely Odunsi and Sky Hotel Limited who are the 1st and 2nd Respondents. The respondent tenants opposed and contested the appellant landlord title with the reason that they were to purchase the property. The appellant sued the respondents for a declaration as the owner of the property and for an order to recover the possession of premises and mesne profit. High Court was the first court of instance that held that the appellant was the owner of the property and the court also granted the relief for possession and mesne profit to the appellant. The two respondents were dissatisfied with the judgement of the High Court and proceeded to Court of Appeal. On appeal, the Court of Appeal upheld the decision of the lower court and stated that it is obvious that the respondents were opposing and contesting the appellant title to the said property. Therefore, a tenant who rejects landlord title of the premises is liable to forfeit the tenancy. At the Supreme Court, the apex court held that the respondents denial of landlord ownership has prevented them from receiving statutory notices upon expiration of tenancy. The judgement was delivered in favour of the appellant.[84]

[83] *Abeke V. Odunsi(2013) LLJR-SC*
[84] *ibid*

CHAPTER FOUR
THE RIGHTS AND DUTIES OF A LANDLORD AND TENANT IN NIGERIA

In the realm of property rental, the relationship between landlord and tenant is governed by a complex interplay of rights and duties, crucial for maintaining a harmonious and functional tenancy arrangement. Landlords, as property owners, hold the right to receive rent payments and maintain the premises in a habitable condition, while tenants possess the right to occupy the property undisturbed and expect timely repairs and maintenance. However, alongside these rights, both parties are bound by a set of corresponding duties. Landlords are obligated to provide safe and sanitary living conditions, adhere to lease agreements, and handle tenant concerns promptly. Conversely, tenants must pay rent on time, refrain from damaging the property, and comply with the terms of the lease. Balancing these rights and duties is essential for fostering a mutually beneficial relationship that ensures the well-being of both landlords and tenants within the rental framework.

4.1 Rights and Duties of a Landlord and tenant

It is inevitable for a man to own all his basic needs. Renting of the house is a must for those who left the rural to seek a white-collar job in the urban. Industrialization and urbanization call for overcrowding in the urban area. Therefore, the need for a house becomes high. Subsequently, the landlord starts exploiting the tenant. On this background, the governments of different states intervene to safeguard the rights of the tenants and that of the landlord through various enactments. The rights of the tenant, thereafter, metamorphose the duties of the landlord and vice versa.[1] In Nigeria, the rights of both landlords and tenants are enshrined in various legal statutes and customary practices, which form the framework governing landlord-tenant relationships. Landlords possess fundamental rights, including the right to receive rent payments promptly, the right to access and inspect the property (with prior

[1]Hayford, J. E. C. *The truth about the West African land question* (Psychology Press, 2017) 23

notice), and the right to maintain the premises in a habitable condition. Additionally, landlords have the right to evict tenants for non-payment of rent or breach of lease terms, provided due process is followed as outlined in the relevant tenancy laws. On the other hand, tenants in Nigeria also enjoy certain rights aimed at protecting their interests and ensuring fair treatment. These rights typically include the right to quiet enjoyment of the premises, the right to basic amenities such as water and electricity (where applicable), and the right to security of tenure as stipulated in the lease agreement or by law. Furthermore, tenants have the right to seek redress in case of unlawful eviction, discrimination, or harassment by the landlord. It's essential to note that while legal provisions exist to safeguard the rights of both parties, enforcement mechanisms and awareness of these rights vary, often leading to disputes and conflicts. Therefore, promoting tenant education, enhancing legal literacy, and strengthening dispute resolution mechanisms are crucial steps towards ensuring the equitable protection of landlord and tenant rights in Nigeria's dynamic rental market.

4.1.1 Rights of a landlord

In Nigeria, the rights of landlords are a critical aspect of property ownership and management, encapsulating legal, financial, and regulatory dimensions. As stewards of real estate assets, landlords wield certain privileges and responsibilities that are safeguarded by both customary and statutory laws. These rights empower landlords to assert control over their properties, ensure rent payments, maintain the premises, and resolve disputes with tenants. However, these rights are intricately intertwined with tenants' rights, and the balance between both parties is crucial for fostering harmonious landlord-tenant relationships and upholding the rule of law.[2] Understanding the rights of landlords in Nigeria is fundamental for navigating the

[2] *Ibid*

complexities of property ownership and tenancy within the country's legal framework. The following are the rights of a landlord in Nigeria:

1. Right to own immovable property in any part of Nigeria; this is a constitutional right 27 of every citizen in the country. The tenant having admitted the landlord's ownership cannot deny him the same.[3]

2. Right against compulsory acquisition of property; the law[4] provides that no property can be compulsorily acquired from its owner without legal justification. The law gives the landlord the right to institute an action against the government if his land/premises is acquired for a public purpose and converted to another purpose.[5]

3. The right to compensation; on the above right of the landlord, the government is under a legal obligation to compensate any landlord that his premise or land is acquired for a public purpose.

4. Right not to issue notice to quit; this right is of two folds; where it is not required under the law or where the landlord has decided not to eject the tenant. The first fold above includes a tenancy for a fixed term once the tenancy has been determined by effluxion of time.[6]

5. Right to issue 7 day's notice; this is a right desired to put the tenant on notice of the landlord repossession. It is a seven (7) days written a notice of his intention to apply to recover possession either through the tenant personal vacation or court.

6. Rights to terminate the agreement after adequate notice.[7]

7. Right to enter a lent property[8]; section 7(4) of the Lagos Law obliges the tenant to permit the landlord and his agents during the tenancy at all reasonable hours in the

[3] *Ajie & Ors v Ahunanya & Ors (2000) LPELR-10062(CA)*
[4] Section 44 of CFRN 1999 as amended.
[5] *Olaoye v Mandilas (1949) 19 NLR 59.*
[6] Section 13(5) of the Lagos State Tenancy Law
[7] *Adewunmi & Ors. v. Oketade (2010) LPELR-163(SC)*
[8] *Bolori v. Offorke (2010) LPELR-3886(CA)*

daytime after previous written notice, to view the condition of the premises and to effect repairs in necessary parts of the building.

8. Right to claim a mesne profit.

9. Right to renew tenancy; after the expiration of rent, the landlord, bilaterally with the census ad idem of the tenant, can add to or remove from the subsisting terms of the agreement.[9]

10. Right not to reimburse a tenant; any tenant who without the consent or permission of his landlord spends on a premise will not hold the landlord responsible for the expenses, even if he does so, the law grants the landlord right to refuse the reimbursement.[10]

11. Right to review rent; this must be done bilaterally. To guarantee this right, the law permits the landlord to include Rent Review Clause, Optional Review Clause, and Arbitrator Clause.

12. Right of repossession[11]; Where there is a breach or non-observance of any of the conditions or covenants in respect of the premises, the landlord shall subject to any provision to the contrary in the agreement between the parties; and the service of process following the relevant provisions of the Law, have the right to institute proceedings for an order to re-enter and determine the tenancy.[12]

4.1.2 Duties of a landlord

The obligations of the landlord are listed under section 8, subject to the tenancy agreement, as follows;

1. Not disturb the tenant's quiet and peaceable enjoyment of the premises.[13]

[9] *Jovinco Nigeria Ltd & Anor v. Ibeozimako (2014) LPELR-23599(CA)*
[10] Section 6(2) of the Lagos state tenancy Law
[11] *Akpan & Anor v. Akpan & Anor (2014) LPELR-22637(CA)*
[12] section 7(1) of the tenancy law of Kwara State
[13] *Dickson & Anor. v. Assamudo (2013) LPELR-20416(CA)*

2. Pay all rates and charges as stipulated by law.

3. Keep the premises insured against loss or damage.

4. Not terminate or restrict the use of a common facility or service for the use of the premises.

5. Not seize any item or property of the tenant or interfere with the tenant's access to his personal property.

6. Effect repairs and maintain the external and common parts of the premises.[14]

7. Section 31(1) of the Kwara State law obliges landlord in the high-density area or urban centres to issue a rent book in addition to the receipt.

4.1.3 Rights of a tenant.

In Nigeria, the rights of tenants play a crucial role in balancing the dynamics of landlord-tenant relationships and ensuring fair and equitable treatment within the realm of property occupancy. As individuals or entities leasing residential or commercial spaces, tenants are endowed with legal protections and entitlements that safeguard their interests, dignity, and security while occupying rented premises. These rights encompass various facets, including the right to habitable living conditions, privacy, freedom from discrimination, and due process in lease agreements and eviction proceedings.[15] Understanding the rights of tenants in Nigeria is paramount for fostering a conducive environment for rental tenancies, promoting social justice, and upholding the rule of law within the real estate sector. The following are rights of a tenant in Nigeria:

1. The right to a written agreement: the law required both the landlord and the tenant to put their consensus ad idem in writing in case of any disagreement. So far the landlord and

[14] Section 8 of Tenancy law of Kwara state
[15] *ibid*

tenant relationship is contractual; the terms of the agreement need to be pen down to avoid future ambiguity. This does not invalidate the oral agreement between the parties.[16]

The law makes the writing of tenancy agreements mandatory for tenancies above three (3) years while tenancy below three can be orally or written. Although, equity may come to aid if a party wants to use an unwritten agreement as to the basis of fraud. Regarding the business premise, the agreement shall provide, among other things, for tenants access, the flow of the customers, the rectification of plants and machinery under landlord care e.t.c.[17]

2. The right to the issuance of receipt of payment; section 5(1)[18] obliges landlord to give a receipt of payment which will contain the date of the payment, its duration and when it will lapse. The receipt can help a court in calculating the duration for a valid notice to quit, where there is no agreement.

Prove of payment (receipt) is needed in the calculation of a mesne profit and even arrears of rent, the receipt shall state the date on which rent was received; names and addresses of the landlord and the tenant; description and location of premises in respect of which the rent is paid; amount of rent paid; and period to which the payment relates.[19] Section 10 required issuance of receipt of Service Charge, Facility and Security Deposits.[20]

3. Right to peaceful enjoyment of property; the tenant can sue the land for nuisance if he indirectly interrupts his enjoyment arbitrarily.[21] Therefore, any act that may cause an intolerable nuisance to the tenant is substantial enough for reparation. The tenant's entitlement to the quiet and peaceable enjoyment of the premises includes the right to privacy; freedom from unreasonable disturbance; exclusive possession of the premises, subject to the landlord's

[16] Section 3 of Lagos State Tenancy Law
[17] Section 9of Lagos State Tenancy Law
[18] Section 5 (1) of Lagos State Tenancy law
[19] Section 5(2) of Lagos State Tenancy Law
[20] Section 10 of Lagos State Tenancy Law
[21] Section 8 (1) of Lagos State Tenancy Law

restricted right of inspection; and the use of common areas for the reasonable and lawful purpose.[22]

4. The right to a valid notice to quit; this is a condition precedent to the legality and validity of the landlord's right of repossession. It is advised that agreements are written, on that note a Latin maxim says that “quo scripti scripti”, what is written is written and another adds that, “quo scripti mante”; what is written remains.[23]

In the case of a tenancy for a fixed term, no notice to quit shall be required once the tenancy has been determined by effluxion of time.[24]it determines the term or interest on any premises.[25]where there is no stipulation as to the notice to be given by either party to determine the tenancy, the notice shall be a week’s notice for a tenant at will; one (1) month’s notice for a monthly tenant; three (3) months notice for a quarterly tenant; three (3) months notice for a half-yearly tenant; and six months notice[26] for a yearly tenant.[27]The tenant may forfeit this right where he is in arrear of rent for a stipulated period.[28]

5 The right to a compulsory 7 days notice; this is a condition precedent to the legality and validity of the landlord's right of repossession. A default tenant may waive this right. A tenancy for a fixed term must be given 7 days notice even when his rent has been determined by efflux ion of time. This notice must be brought to the knowledge of the tenant by the landlord in an appropriate manner stipulated in the law.[29]

[22] Section 6(1) of Lagos State Tenancy Law
[23]Onyekachi Umah, Rights of a Tenant in Nigeria <https://www.linkedin.com/pulse/rights-tenant-nigeria-onyekachi-umah> accessed 18th February, 2024
[24] Section13(5) of Lagos State Tenancy Law
[25] Section 16 of Lagos State Tenancy Law
[26] *Adejumo v. David Hughes And Company Ltd*(1989) LPELR-20454(CA)
[27] Section 13(1) of Lagos State Tenancy Law
[28] Section 13 (2 and 3) of Lagos State Tenancy Law
[29] Provisions of Section 17 to 19 of Lagos State Tenancy Law

6. The right to a statutory tenancy; a statutory tenant is also called a sitting tenant. Ordinarily, the landlord may not refer to a person that holds over as a tenant, the law still recognises such person as a tenant which cannot be forcefully ejected without due process of law. As a statutory tenant, he is not mandated to pay rent to his landlord although a court can order him to pay up all rent (mesne) he accumulated within such period after determination of a suit on such.[30]

7. The right to a fair hearing; this is a constitutional right[31] that is universally accepted by all democratic and civilised society. Irrespective of any default or allegation against the tenant, the court of law will serve him to come and put in his defence. This is based on two maxims; nemo judex in causa sua (no man is a judge in is the own case) and Audi Altram partem (hear the other party).[32]

8. Right to sue the landlord for trespass; it the landlord entered plaintiff apartment without prior notice of the tenant of forcefully ejected the tenant from his premise, the claimant can institute tort of trespass against him.[33]

9. The right of reimbursement; section 6(2) provides that Where a tenant with the previous consent in writing of the landlord, effects improvements on the premises and the landlord determines the tenancy, such a tenant shall be entitled to claim compensation for the improvements on quitting the premises.[34]

10. Right to apply for standard rent in line with section 4 of the Kwara State law.

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[30] *ibid*
[31] Section 36 of the CFRN 1999 as amended.
[32] *Bamayi v the State (2001) 4 SC (pt1) 18 and Buhari v Yusuf (2003) 6 SC (pt11).*
[33] *Dabira v. Adelaja (1973) 11 CCHCJ 97 at p.76*
[34] Section 30 of the Lagos State Tenancy Law.

4.1.4 Duties of a tenant

The law[35] obliges, subject to any provision to the contrary in the tenancy agreement, the tenant to

1. Pay the rents at the times and in the manner stated;

2. Pay all existing and future rates and charges not payable by the landlord by law;

3. Keep the premises in good and tenantable repair, reasonable wear and tear excepted;

4. Permit the landlord and his agents during the tenancy at all reasonable hours in the daytime after previous written notice, to view the condition of the premises and to effect, repairs in necessary parts of the building;

5. Not make any alterations or additions to the premises without the written consent of the landlord;

6. Not assign or sublet any part of the premises without the written consent of the landlord; and 7. Notify the landlord where structural or substantial damage has occurred to any part of the premises as soon as practicable.

4.2 Legal Capacity to Create or Take a Tenancy in Nigeria

In Nigeria, the legal capacity to take tenancy is governed by various legal statutes and customary practices, which outline the rights and responsibilities of both landlords and tenants. Generally, any individual who has reached the age of majority, typically 18 years old, and is of sound mind, possesses the legal capacity to enter into a tenancy agreement. This agreement entails the leasing of property for residential or commercial purposes, subject to mutually agreed-upon terms and conditions. However, there are certain legal restrictions and

[35] Section 7, ibid.

considerations regarding specific categories of individuals, such as minors, mentally incapacitated persons, and corporations. Minors, those below the age of majority, generally lack the legal capacity to enter into binding contracts, including tenancy agreements, without the consent of their legal guardians or trustees. Similarly, mentally incapacitated individuals may lack the legal capacity to engage in contractual agreements, unless represented by a legally appointed guardian or authorized representative. Additionally, corporations and legal entities may enter into tenancy agreements through authorized agents or representatives acting on behalf of the organization. Understanding the legal capacity requirements and restrictions is essential for both landlords and tenants to ensure the validity and enforceability of tenancy agreements in Nigeria. Moreover, promoting awareness of these legal provisions can help prevent exploitation and disputes, contributing to a more transparent and equitable rental market landscape. Legal capacity to create or take a lease is governed by common law principles and local legislations which include:

1. **Holder of right of occupancy**: Deemed Landlords under the Land Use Act who are basically the holders of the right of occupancy can create leases and tenancies under the Act. These original or deemed landlords are empowered by LUA 1978 to create tenancies for fixed terms which are subject to any conditions and covenants they think profit and the provisions of LUA 1978 and any other statute.[36]

Tenancies created by deemed or original landlords are regarded as subleases because their statutory interest is leasehold. Generally, tenants except a tenant-at-will or at sufferance may create a tenancy of a lesser period in favour of third parties in the absence of an agreement to the contrary and subject to the Landlord's consent requirement. Some States' Rent Control

[36] J. I. T Buertey, Abeere-Inga, and T. Adjei, Project cost risk and uncertainties: towards a conceptual cost contingency estimation model. In WEST AFRICA BUILT ENVIRONMENT RESEARCH (WABER) CONFERENCE, (2013) 9(11).

Laws grant the powers to yearly tenants of one or more years certain or yearly tenancy by deed. The exercise of such powers is subject to any contrary agreement in his tenancy and the landlord's consent.[37]

2. **Holders of Power of Attorney**: Holders of the Power of Attorney may create a tenancy for a term that is less than that authorized by the power of Attorney or for the full authorized period.[38] Any tenancy shall, if it would otherwise be valid, be valid for the authorized period and void as to the excess period.[39]

3. **Infants**: At common law, a lease created by an infant is voidable and may be avoided by the infant within a reasonable time after attaining the age of majority.[40] On the contrary, an infant may take a lease but he is entitled to repudiate it on attaining age of majority, but he cannot recover any rent paid.

Repudiation of the lease by the infant on attaining majority must be done within a reasonable time, or else, he will be liable for arrears of rent and the performance of the covenants contained in the lease. In Rivers and Kaduna states, an infant cannot create a tenancy in relation to residential premises except through his parent or guardian or the High Court upon application on his behalf. The infant cannot also hold a legal interest under a deed of lease. It is important to emphasize that:

a) where a deed of lease is executed in favour of an infant for his benefit, the deed shall operate as an agreement for valuable consideration to execute a lease in the name of one or more adults in trust for the infant and the beneficial interest of the infant in the property shall not be affected. b) where a lease is executed in favour of an infant jointly with an adult, the

[37] *ibid*
[38] K. E. Boxx, 'The Durable Power of Attorney's Place in the Family of Fiduciary Relationships' *Ga. L. Rev*., (2017) 3 (6) 32
[39] *ibid*
[40] W. R. Barnes, 'Arrested development: Rethinking the contract age of majority for the twenty-first century adolescent' *Md. L. Rev*., (2016) 7 (6) 405

adult shall hold the lease in trust for himself and the infant, but not as to severe the joint tenancy in any beneficial interest arising from such transaction.[41]

4. **Persons of unsound mind**: Any lease created or taken by a person of unsound mind is binding on him except the lessee or landlord (lessor) knew of his insanity at the time of creating the lease. An order made in respect of the estate of a person of unsound mind can make the lease to be granted by the receiver.[42] Under the rent control laws of Rivers and Kaduna states a person of unsound mind may be granted a tenancy, except the tenancy is unecessary for him, he cannot be sued directly or indirectly upon a tenancy or an agreement for tenancy. [43]

5. **Married persons**: the Married Women Acts 1882 empowers married women to grant or take a lease of tenancy.

6. **Corporations**: coporations may grant or take leases , but they must do so under the coporations seal. However, where the lease is not sealed by the corporation and a tenant enters the property and pays rent, he holds the tenancy on the terms of the deed of lease.[44]

7. **Registered companies**: companies registered under Companies and Allied Matters Act 2020 may create or take lease as authorized by its Memorandum of Association. Where the Memorandum of Association does not provide for the power of the company to lease. The lease will be void, but may however form the basis for the application for injunction by third parties.[45]

[41]B. W. Frier, *Landlords and tenants in imperial Rome* (Princeton University Press, 2014) 115
[42] H. A. Bigelow, 'The Content of Covenants in Leases' *Michigan Law Review*, (2014) 12(8), 639-659
[43] *ibid*
[44] M. D. Olong, *Land Law in Nigeria.* (African Books Collective, 2012) 45
[45] *ibid*

8. **Partnership**: members of a partnership may only create or take a lease which will be binding on the partnership, if they create or take a lease with the business name, such a lease will be void.[46]

9. **Associations**: associations formed for any socio-cultural or religious purpose under part C of CAMA 2020 can create or take a lease in the names of their registered trustees. If a lease is created or taken in the name of an association as a party, it would be void.

10. **Trustees**: under the Settled Land Act 1882, trustees holding land on trust for sale can grant lease to a tenant for life, subject, however, to consent (if any) as would have been required on sale under the trust for sale.

4.3 Factors That Can Vitiate a Tenancy

Vitiating factors that can render a lease or tenancy void include fraud. Unlawful lease or tenancy contrary to public policy, common mistake by both landlord and tenant, inducement and clerical errors.

1. Fraud: a tenancy that is procured by fraud and intended for a purpose which is unlawful or contrary to public policy is void. Tenancy set for illegal purposes is also void and money or other payments made in connection with unlawful or illegal tenancy is not recoverable by action.[47]
2. Common Mistakes: a tenancy created by common mistakes of the parties may be set aside, if it is a mistake of facts and not of law. The landlord can be mistaken of the identity of the tenant and where circumstances are such that the person of the tenant is an important factor such a tenancy shall be void.[48]

[46] *ibid*
[47] Friedman, D. A., 'Bringing Order to Contracts Against Public Policy' *Fla. St. UL Rev*., (2011) 3 (9) 563
[48] Gold, A. E. 'No home for justice: How eviction perpetuates health inequity among low-income and minority tenants' *Geo. J. on Poverty L. & Pol'y,* (2016) 2 (4) 59

3. Inducement through Misinterpretation: this is where a party to a tenancy agreement through Misrepresentation is induced (either fraudulently or innocently) and not being a term of the agreement, the party is induced may res and the agreement. Where terms in a written tenancy differ maternally from the term intended by the parties: this could result from mutual mistake of fact of both the landlord and tenant or clerical error. Such a mutual mistake or clerical error may be corrected to effectuate the intention of the parties, and oral evidence of such intention shall be admissible by the court.[49]

4.4 Efficacy of Tenancies in Nigeria: Challenges And Prospects

The operation of leases and tenancies as land interests in Nigeria is foreign to Nigerians who are from childhood, socialized into communalism. The English roots of leases and tenancies are entrenched in the concept of individualism, which is alien to Africa. Nigerian customary land law, however, recognizes some limited forms of tenancies such as customary kola tenancies that grants interest purely on vacant parcels of land in hell of the payment of rents by the grantee to the grantor. Tenancies in Nigeria, like in many other countries, play a crucial role in facilitating access to housing and other types of property. However, there are various challenges affecting their efficacy, as well as prospects for improvement.

4.4.1 Challenges of Tenancy in Nigeria

In Nigeria, the landscape of tenancy is fraught with a myriad of challenges, posing significant obstacles for both landlords and tenants alike. One of the foremost challenges is the lack of clear and enforceable tenancy laws, leading to ambiguity and disputes over rights, responsibilities, and eviction procedures. Additionally, the pervasive issue of inadequate

[49] *ibid*

housing supply exacerbates rental market pressures, driving up rental costs and making housing unaffordable for many Nigerians. This affordability crisis is further compounded by socio-economic inequalities, with low-income households disproportionately affected. Moreover, informal housing arrangements and a lack of formalization contribute to insecurity of tenure, leaving tenants vulnerable to arbitrary evictions and exploitation by unscrupulous landlords. Maintenance and repair issues also plague many rental properties, with landlords often neglecting their obligations, thereby compromising tenants' living conditions and safety. The following are the challenges on tenancy in Nigeria

1. Informal arrangements: A significant portion of leases and tenancies in Nigeria operate within the informal sector, lacking formal documentation and legal backing. This leads to disputes and insecurity of tenure for tenants.[50]

2. Non-Payment of Rents: Some tenants move into the demised premises and impress the landlord by paying their rents as and when due. After some years they accumulate arrears of rents. This may be due to economic reasons or intentional. Owing arrears of rent affects the relationship between the landlord and tenant and leads to the determination of the tenancy. Many landlords whose relationship with their tenants has gone soar at times resort to the unstatutory approach of ejectment of such tenants.[51] They obtain fake quit notices from Magistrate's Court Clerks, eject and throw out the personal effects of their tenants without court proceedings. [52]

[50] O. M. Ogundele, "Tenancy in Nigeria: Overview and Challenges." In: Ogundele, O. M. (Ed.), The Nigerian Tenant: Legal and Practical Aspects. (Adonis & Abbey Publishers Ltd, 2017) 76
[51] J. Morris, *Fifty Years in Politics and the Law* (University of Wales Press, 2011) 54
[52] *ibid*

3. Weak legal framework: The legal framework governing leases and tenancies in Nigeria is often perceived as inadequate, leading to ambiguity and loopholes that can be exploited by either landlords or tenants.[53]

4. Arbitrary rent increases: Landlords sometimes impose arbitrary rent increases without considering the economic circumstances of tenants, leading to financial strain and housing insecurity.[54]

5. Lack of enforcement mechanisms: Even when lease agreements are formalized, enforcement mechanisms can be weak, making it difficult for parties to resolve disputes effectively through legal channels.[55]

6. Inadequate infrastructure: Issues such as unreliable power supply, poor road networks, and lack of basic amenities in some areas diminish the attractiveness of certain rental properties, affecting both landlords and tenants.[56]

7. Payment of levies, taxes, charges, utilities and outgoings: This may at times result in disagreement between the landlord and his tenant. In recent times one of the major issues in tenancy in Nigeria is landlord-tenant disputes as a result of personal differences between them. This usually leads to the breakdown in communication between them. Limited involvement of the landlord and tenant in the preparation of leases agreement by the lawyer has been adjudged to be the major cause of lack of trust between them. This approach shuts out the tenant from participatory decision-making process in the lease agreement. Third parties such as estate valuers, managers and surveyors who act as middlemen between the landlord and tenant usually create gaps between them that leads to disputes. These disputes can easily be settled, if

[53] A. A. Adebayo, 'Rental Housing: A Panacea to Housing Crisis in Nigeria' *International Journal of Sustainable Construction Engineering & Technology*, (2019) 10(2), 49-62
[54] *ibid*
[55] *ibid*
[56] *ibid*

such third parties arrange general meeting between landlord and tenant to settle the disputes. This is called in-house resolution of disputes mechanism.[57]

4.4.2 Prospects of Tenancy in Nigeria

1. Legal reforms: There is potential for legal reforms to strengthen the legal framework governing leases and tenancies. Clearer regulations and enforcement mechanisms can help to protect the rights of both landlords and tenants, reducing disputes and insecurity.[58]

2. Promotion of formalization: Encouraging formalization of lease agreements through registration and documentation can enhance security of tenure for tenants and provide landlords with legal recourse in case of disputes.[59]

3. Affordable housing initiatives: Government and private sector initiatives aimed at increasing the availability of affordable housing can alleviate the burden on tenants and foster a more stable rental market.

4. Technology adoption: Leveraging technology, such as online rental platforms and digital payment systems, can improve transparency, efficiency, and convenience in the rental market, benefiting both landlords and tenants.[60]

5. Public-private partnerships: Collaboration between government agencies, private sector stakeholders, and civil society organizations can lead to innovative solutions for addressing housing challenges and improving the efficacy of leases and tenancies.

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[57] *ibid*
[58] R. H., Sitkoff, and J. Dukeminier, *Wills, trusts, and estates*. (Aspen Publishing, 2017) 65
[59] National Bureau of Statistics (Nigeria). (2020). "2019 Poverty and Inequality in Nigeria." [Online] Available: https://www.nigerianstat.gov.ng/download/1382 accessed 19th February, 2024
[60] C. Onuwah, 'A Review of the Nigerian Rental Market: Challenges and Opportunities' *International Journal of Scientific & Technology Research*, (2021) 10(1), 47-54.

4.5 The Right to Housing, Any Legal Duty on the Part of Governments?

Shelter has been identified as one of the three most fundamental and basic needs of man, yet the question of the existence or non-existence of a human right to housing globally and more particularly in Nigeria has over the years been evaded by government authorities as well as by legal analysts. This is probably not unconnected to the fact that the Constitution of the Federal Republic of Nigeria in force makes no provision on the subject matter under its provisions in Chapter IV which is dedicated to the fundamental rights of Nigerians as envisaged by the "We the People of the Federal Republic of Nigeria[61]".

Yet the argument for a human right to housing in Nigeria may well transcend the provisions of Chapter IV of the CFRN to include other statutory provisions binding within the jurisdiction of Nigeria, customary law principles as well as generally acceptable legal principles. Arguments in this wise would not be out of place as overtime such advances in establishing other rights have been recognized as binding by the Courts in spite of their baselessness in the provisions of the Constitution[62].

Against this backdrop, it is important to note that human rights are such important concepts in the society that without their judicious enforcement, the progress, peace and happiness of the society cannot be preserved. In Ransome Kuti vs. Attorney General of the Federation[63], the learned Justice Kayode Eso JSC held that:

> "…it is a right which stands above the ordinary laws of the land and which, in fact, is antecedent to political society itself. It is a primary condition for a civilized existence, and what has been done by our constitution since

[61] the Preamble of the Constitution of the Federal Republic of Nigeria, 1999 (as amended)
[62] Legal Defence and Assistant Project (LEDAP) GTE & LTD V Federal Ministry of Education & Anor; (unreported) Suit No: FHC/L/CS/1512/2010-183 where Justice T. Tosho held that Nigerians had a legal right to education despite it not being provided under Chapter IV of the 1999 Constitution of the Federal Republic of Nigeria (as amended).
[63] *Ransome Kuti vs. Attorney General of the Federation, (1985) 2 NWLR (Pt 61) 211 at 230.*

independence is to have these rights enshrined in the constitution so that the rights could be immutable to the extent of the non- immutability of the constitution itself"

While this is appreciated, it is worth noting that three grand categories of rights have been distinguished by legal analysts over the years to wit the first generation rights otherwise known as the civil and political rights, the second generation rights alternatively known as the economic, social and political (ESC) Rights and the third generation rights also known as the solidarity rights.

The first generation rights are said to be liberty-oriented rights and include the right to life; right to personal security; right to freedom of thought, conscience and religion; right to freedom of opinion and expression, peaceful assembly and association; right to freedom from slavery and servitude, and the right to freedom from torture or cruel, inhuman or degrading treatment or punishment. These are rights asserted against the State for the protection of the liberty of the individual. They are the category of rights essentially guaranteed by the provisions of Chapter IV of the Constitution.

The second generation rights on the other hand are deemed security-oriented rights and include the right to work, to just and favourable condition of work, to form and join trade unions, to social security, to protection of family life, to adequate standard of living, to shelter, to education, and to take part in the cultural life of one's society. These form part the Fundamental Objectives and Directive Principles of State Policy as contained in Chapter II of the Nigerian Constitution and has by the provisions of Section 6(6) (c) of the Constitution been declared to be unjusticiable in any Court within Nigeria.

The final category of rights, the third generation deemed the solidarity rights essentially include the right to health and balanced environment, the right to communicate, the right to be

different, the right to benefit from the common heritage of mankind and the right to humanitarian assistance. This category of rights is however still evolving and is oftentimes included in the second generation category of rights.

In the light of the foregoing, right to housing or shelter therefore forms part of the Second generation rights also known as the Economic, Social and Cultural rights. For a Constitutional provision, Section 16 (2) (d) reads:

> "(2) The State shall direct its policy towards ensuring:
>
> (d) That suitable and adequate shelter, suitable and adequate food, reasonable national minimum living wage, old age care and pensions, and unemployment, sick benefits and welfare of the disabled are provided for all citizens."

While it is true that no legal right can be enforced in Nigeria on the basis of it forming part of the Fundamental Objectives and Directive Principles of State Policy, it does not necessarily follow that Nigerians lose the rights provided in other binding legal instruments simply because these same rights form part of the Fundamental Objectives and Directive Principles of State Policy or are not provided under Chapter IV of the Constitution. In Otteh's view:

> "When lawyers classify socio-economic rights as unjusticiable, they confuse in my mind, two important rights – bearing normative orders – the Constitution as a rights founding source on one hand, and legislation as rights empowering source on the other. Although fundamental rights claims are often founded on the authority of the Constitution, there is no requirement that this must be invariably so. Constitutional protection of rights may offer the best guarantees, but sometimes Constitutions themselves can be used to

found new legal claims arising from a state's greater capacity and ability to realise human rights..."[64]

However, it is to be noted that the right to housing in question does not amount to the right to housing on demand as this would be grossly irrational, hence the reason the framers of the constitution decided to divest the government of the day from any legal duty or responsibility of providing housing or shelter to persons within the territories of Nigeria through the provision of the clause in an unjusticiable part of the Constitution. Nevertheless, it does not follow that the government has no legal (or at least moral) responsibility towards housing or shelter provisions for persons within its territories. Hence, while there is no duty on demand to provide housing facilities, the making of policies to aid and guarantee that everyone has access to shelter remains constitutionally binding. The government is therefore expected to direct its policies and gear its objectives towards the adequate provision of shelter to everyone within its territories in furtherance and in accordance with the provisions of other relevant legal instruments such as the various Rent Control and Recovery of Residential Premises Laws of Constituent States of Nigeria, with the Land Use Act[65], which guarantees access to land for housing purposes and with other International Legal Instruments such as the International Convention on the Elimination of all Forms of Racial Discrimination, 1965 which under its Article 2 prohibits discrimination in the enjoyment of "t*he Right to Housing*[66]", the International Covenant on Economic, Social and Cultural Rights which under its Article 11(1) obliges all States parties to recognise the right of everyone to housing amongst other things[67]

[64] Joseph Otteh, The Challenges for Socio-Economic Right litigation in Nigeria: Hurdles and Prospects in Economic, Social and Cultural Rights in Developing a Training Agenda for Nigeria. (Lagos, Legal Research and Resource Development Centre Roundtable Series, 1998).
[65] *Ibid*
[66] See Article 2 of the International Convention on the Elimination of all Forms of Racial Discrimination, 1965 which states that: "parties undertake to prohibit and to eliminate discrimination on ground of race, colour or national or ethnic origin, to guarantee equality before the law in the enjoyment of the following rights.... (e) In particular (iii) the right to housing…"
[67] International Covenant on Economic, Social and Cultural Rights, Article 11(1): The state parties to the present covenant recognise the right of everyone to an adequate standard of living for himself and his family, including

and the Universal Declaration of Human Rights (1948) which provides wordings under its 25 (1) which could by extended interpretation guarantee the right to housing to humans[68].

adequate food, clothing and housing, and continuous improvement of living conditions. The state parties will take appropriate steps to ensure to this effect the essential importance of international appreciation based on enforced consent.

[68]Universal Declaration of Human Rights (1948), Article 25 (1): Everyone has the right to a standard of living adequate before the health and wellbeing of himself and his family, including food, clothing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age, or other lack of livelihood in circumstances beyond his control.

CHAPTER FIVE
CONCLUSION

5.1 Summary of findings

The research on a critical appraisal of the landlord and tenant relationship in Nigeria involved an in-depth investigation into various aspects of this dynamic interaction. The findings from this research endeavor provide valuable insights into the complexities, challenges, and opportunities inherent in this relationship within the Nigerian context on Tenancy. Below is an extensive summary of the key findings:

1. Legal Framework and Regulatory Environment: One significant aspect of the landlord and tenant relationship in Nigeria is the legal framework governing it. The research in chapter three uncovered that Nigeria has a comprehensive legal framework that includes both statutory laws and customary practices regulating landlord-tenant interactions. These laws encompass issues such as lease agreements, rent control, eviction procedures, and property rights, providing a foundation for understanding the rights and obligations of both parties.

2. Role of Tenancy Laws: The study delved into the role of tenancy laws in shaping the dynamics between landlords and tenants. Findings revealed that while tenancy laws exist at both the federal and state levels, implementation and enforcement vary across different jurisdictions. Additionally, gaps and ambiguities in existing legislation contribute to challenges in resolving disputes and protecting the interests of both landlords and tenants.

3. Communication and Conflict Resolution**:** Effective communication emerged as a critical determinant of the quality of the landlord-tenant relationship. The research findings highlighted the importance of clear and transparent communication in establishing expectations, resolving disputes, and maintaining trust between parties. Additionally, the study underscored the need for accessible and efficient mechanisms for conflict resolution, such as mediation and arbitration, to address grievances promptly and prevent escalation.

4. Cultural and Social Dynamics: Cultural norms and social dynamics also influence the landlord-tenant relationship in Nigeria. Traditional practices, community norms, and societal expectations may impact how landlords and tenants interact and perceive their roles and responsibilities. Understanding and navigating these cultural nuances are essential for fostering positive and mutually beneficial relationships.

5. Tenant Rights and Responsibilities: The research identified various rights and responsibilities afforded to tenants under Nigerian law. These include the right to habitable living conditions, privacy, and protection from unfair eviction. Conversely, tenants are obligated to pay rent promptly, maintain the property in good condition, and adhere to lease agreements. Awareness of these rights and responsibilities is crucial for ensuring compliance and resolving disputes.

6. Landlord Rights and Responsibilities: Similarly, the study explored the rights and responsibilities of landlords in Nigeria. Landlords have the right to collect rent, evict tenants for non-payment or breach of lease terms, and maintain the property in a habitable condition. However, they are also subject to legal constraints regarding eviction procedures, rent increases, and property maintenance standards.

7. Technology and Innovation: The research highlighted the role of technology and innovation in transforming the landlord-tenant relationship. Digital platforms and property management software have streamlined rental processes, enhanced communication, and facilitated transparency in transactions. Additionally, innovative housing solutions, such as co-living spaces and serviced apartments, are reshaping the rental market landscape and redefining tenant expectations.

In summary, this research revealed a multifaceted dynamic influenced by legal, economic, social, and technological factors. While challenges exist, including regulatory gaps, communication barriers, and cultural differences, opportunities for improvement and

innovation abound. By addressing these challenges and leveraging emerging trends, stakeholders can work towards fostering a more transparent, equitable, and mutually beneficial relationship between landlords and tenants in Nigeria.

5.2 Recommendations

The recommendation on this study steams from the findings listed earlier, and it includes the following:

A. Parties in Landlord-tenant relationship should improve their communication skill, approach communication with positive and creative attitude and work to reduce barriers in dispute resolution. A forum between tenant and landlords of the lease should be organized, defining what they find acceptable or offensive in order to sustain the allegedly cordial relationship.

B. More so, day to day practices should be further attuned to support laid down laws of landlord-tenant relations in order to avoid problems which if not attended to perpetually result in disputes.

C. Obligation of the estate surveying and valuation profession is to serve as healers of human conflict and in a bid to fulfill the traditional obligation, mechanisms should be provided to produce an acceptable result in the shortest possible time, at the least possible expense and minimal stress on the disputants.

D. The clear messages from the study is therefore that: complaints should be dealt with internally or at a local level wherever possible; there should be set procedures for monitoring and reviewing shortcomings in service provision.

E. Covenants in tenancy agreements could provide a vehicle for conflict resolution between landlords and tenants, but this is not significant. Although many local authorities have clauses to deal with conflict resolution, it is very much a mixed picture, and it is suggested that

confidence in the agreement to deal with disputes should be enhanced if one or more of the clauses are used and agreed in advance of any disputes arising.

5.3 Contribution to Knowledge

The research on the landlord and tenant relationship in Nigeria offers an extensive contribution to knowledge across various dimensions, including legal, social, economic, and cultural aspects. This project work serves as a comprehensive examination of the complexities, challenges, and opportunities inherent in this fundamental aspect of property ownership and occupancy within the Nigerian context. Thus, this research can contribute to knowledge in several ways which are as follows:

1. **Legal Insights and Regulatory Analysis**: By delving into the legal framework governing landlord-tenant relationships in Nigeria, this project provides valuable insights into statutory laws, customary practices, and tenancy regulations. It offers a nuanced understanding of the rights, obligations, and protections afforded to both landlords and tenants, shedding light on areas of compliance, enforcement, and potential legal reforms.
2. **Economic Perspectives**: The research contributes to knowledge by analyzing the economic factors influencing the landlord-tenant relationship, such as rental pricing mechanisms, housing affordability, and property market trends. It explores the implications of economic fluctuations, urbanization, and housing demand-supply dynamics on rental negotiations, tenant welfare, and property investment decisions.
3. **Social and Cultural Contextualization**: By considering the cultural and social dynamics shaping landlord-tenant interactions, this research adds depth to our understanding of the relationship. It explores how traditional practices, community norms, and societal expectations influence tenant behavior, landlord-tenant disputes, and property management practices, offering insights into the cultural nuances of rental housing in Nigeria.

5.4 Area for further Studies

An area for further study on the relationship between landlords and tenants in Nigeria could be an in-depth investigation into the impact of emerging technologies on landlord-tenant interactions and the rental market landscape. With the increasing adoption of digital platforms and tools in various sectors, including real estate, there is a need to explore how technology is shaping the dynamics of landlord-tenant relationships in Nigeria.

Specific research avenues within this area could include:

1. Investigating the role of online rental platforms, such as property listing websites and mobile applications, in facilitating property searches, lease agreements, rent payments, and communication between landlords and tenants. This research could examine the extent to which digital platforms are influencing rental market trends, accessibility, and transparency.
2. Exploring the integration of smart home technology, such as IoT devices and home automation systems, into rental properties and its impact on tenant satisfaction, convenience, and property management. This study could assess tenants' perceptions of smart home features, their willingness to pay premium rent for such amenities, and the implications for landlord-tenant relationships.
3. Examining the legal and regulatory frameworks governing digital transactions in the rental market, including electronic lease agreements, online rent payments, and digital communication between landlords and tenants. This research could identify legal challenges, privacy concerns, and regulatory gaps that arise from the digitalization of landlord-tenant interactions.
4. Investigating issues related to data privacy, security, and protection of personal information in online rental transactions. This study could assess tenants' concerns

about sharing sensitive information on digital platforms, the measures taken by landlords and platform providers to safeguard data, and potential risks of data breaches or misuse.

5. Exploring the implications of digitalization for equitable access to rental housing, particularly for marginalized groups and individuals with limited digital literacy or internet access. This research could assess barriers to participation in digital rental platforms, strategies for addressing digital divide challenges, and opportunities for promoting inclusive landlord-tenant relationships in the digital era.

By delving into these emerging areas of inquiry, further research can enhance our understanding of the evolving dynamics between landlords and tenants in Nigeria's rental market, inform policy interventions, and contribute to the development of more responsive and equitable housing solutions.

5.5 Conclusion

In conclusion, the critical appraisal of the relationship between landlords and tenants in Nigeria reveals a complex and multifaceted landscape shaped by historical, legal, socio-economic, and cultural factors. Throughout this research, we have delved into various dimensions of this relationship, scrutinizing the challenges, disparities, and potential avenues for improvement.

Firstly, our examination underscored the prevalent power imbalance favoring landlords, largely stemming from archaic tenancy laws, inadequate legal frameworks, and a lack of enforcement mechanisms. This power asymmetry often results in exploitative practices, arbitrary rent hikes, and unfair eviction tactics, leaving tenants vulnerable and disempowered.

Furthermore, we explored the socio-economic dynamics influencing landlord-tenant relationship, including the housing deficit, urbanization pressures, and socio-cultural norms. These factors contribute to the high demand for rental properties, exacerbating competition among tenants and enabling landlords to dictate terms at the expense of tenant rights and welfare.

However, amidst these challenges, our analysis also revealed pockets of resilience and grassroots initiatives aimed at fostering more equitable landlord-tenant relationships. Community-led advocacy efforts, legal aid services, and tenant associations are emerging as vital platforms for tenant empowerment, collective bargaining, and legal recourse.

Moving forward, addressing the entrenched inequalities within the landlord-tenant dynamic demands a concerted effort from multiple stakeholders, including policymakers, legal experts, civil society organizations, and the broader community. Reforms in tenancy laws, strengthened regulatory oversight, and investments in affordable housing are imperative to rebalance the scales and safeguard tenants' rights.

Moreover, promoting dialogue, education, and awareness-raising campaigns can help dispel misconceptions, foster mutual respect, and cultivate a culture of responsible landlordship and tenancy. Embracing innovative approaches such as alternative dispute resolution mechanisms and inclusive housing policies can further promote stability, fairness, and inclusivity within the rental market.

In essence, while the relationship between landlords and tenants in Nigeria is characterized by deep-seated challenges and inequities, it is not devoid of hope or agency. By adopting a holistic and collaborative approach that prioritizes legal reform, social empowerment, and community engagement, we can pave the way for a more just, dignified,

and harmonious coexistence between landlords and tenants in Nigeria. Only through collective action and sustained commitment to change can we realize the vision of a housing landscape where rights are respected, opportunities are equitable, and dignity is upheld for all.

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