

IN THE CHIEF MAGISTRATE COURT V KOGI STATE OF NIGERIA  
IN THE KOGI STATE MAGISTERIAL DISTRICT  
HOLDEN AT SMALL CLAIMS COURT, LOKOJA  
THIS 30<sup>TH</sup> DAY OF OCTOBER, 2024

SUIT NO:- CMCL/CV530/2024

BEFORE: HON. MEDINAT UMAR - SMALL CLAIMS JUDGE

BETWEEN:

MRS. JULIANAH JONATHAN - PLAINTIFF

AND

AUGUSTINE O. OLOWOLAYEMO - DEFENDANT

CAUSE OF ACTION:

WHEREOF: THE PLAINTIFF CLAIMS AGAINST THE  
DEFENDANT AS FOLLOWS:

- A. THAT THE DEFENDANT VACATE AND DELIVER UP POSSESSION OF THE ROOM AND PARLOUR HE OCCUPIES AT THE PLAINTIFF'S PROPERTY SITUATE AT MOPA HOUSE ZANGO DAJI AREA OF ADAVI KOGI STATE IMMEDIATELY.
- B. AN ORDER DIRECTING THE DEFENDANT TO PAY THE MONTHLY EQUIVALENT OF THE RENT OF ₦8,333.33K TILL POSSESSION IS DELIVERED.
- C. THE COST OF THIS SUIT, ₦10,000.00.

JUDGMENT

The plaintiff took out plaint against the defendant wherein he claims:

1. That the defendant vacate and deliver up possession of the room and parlour he occupies at the plaintiff's property

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situate at Mopa House Zango Daji Area of Adavi Kogi State immediately.

2. An order directing the defendant to pay the monthly equivalent of the rent of ~~₦~~8,333.33k till possession is delivered.
3. The cost of filing this suit, ~~₦~~10,000.00.

The defendant denied liability after been served the summon of the Court and the case was slated for hearing and the defendant never appeared thereafter even upon several hearing notices served him.

The plaintiff presented her case through a sole witness that the defendant is a yearly tenant whose tenancy commences every 31<sup>st</sup> day of August and terminate 30<sup>th</sup> day of August preceding year.

That upon the determination of his tenancy 30<sup>th</sup> day of August 2024 the landlord served him Form 'D', which is seven days notice of Owner's Intention to Apply to Court to Recover Possession and the duplicate of the said Form 'D' is before the Court and the defendant is still in possession.

He equally informed the Court that rent of the defendant is ~~₦~~100,000.00 (One Hundred Thousand Naira) per annum. And that the defendant's behaviour constituted a nuisance to other tenants.

And urge the Court to grant their claim.



Under the Kogi State Rent Control and Recovery of Residential Premises Law, once a tenancy has been determined by effluxion of time the statutory notice required to be served on the defendant is Form 'D'. See Section 17 of the Law.

The landlord has served the seven days notice on the defendant which he still holds over.

And it was held in the case of *Ameh V. Ozoli (2011) 5 NWLR Pt. 331*, that an order of possession of premises is not granted by Court as a matter of course. A landlord seeking order for recovery of premises must therefore, strictly comply therewith without which will justify the Court to refuse to grant such order for recovery.

In the case at hand the plaintiff who is the landlord has strictly comply with the requirement of the law by serving the statutory notice required by law before taking up summon against the defendant and as such is entitled to possession of her property.

The plaintiff equally claims ~~N~~8,333.33k (Eight Thousand, Three Hundred and Thirty-Three Naira Thirty-Three Kobo) monthly till possession is given up. To entitle the plaintiff to the claim it must be prove that tenancy has been determined, statutory notice served and the defendant still holds over entitled the plaintiff to mesne profit.

See the case of *Adam V. NLPC Pension Fund Administrator & Anor (2021) LPELR 53400 (CA)*.





And the plaintiff in this case has proved that the tenancy of the defendant has been determined and statutory notice has been served on him and he is still holding over, this entitled the plaintiff to mesne profit.

On the claim of ₦10,000.00 (Ten Thousand Naira) as the cost of this suit, no evidence was led to proof how he arrive at such amount and as such this Court cannot grant same.

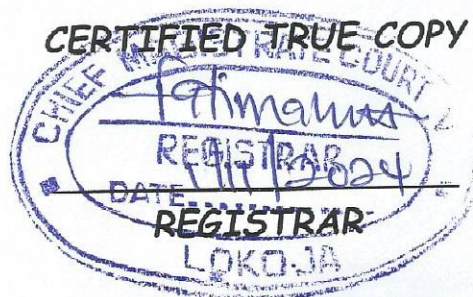
On the whole, it is hereby adjudged that the defendant should deliver up possession of the room and parlour he occupies situated at Mopa House, Zango Daji Area of Adavi Local Government Area, on or before the 31<sup>st</sup> day of October 2024.

It is equally adjudged that the defendant should pay the sum of ₦8,333.33k (Eight Thousand, Three Hundred and Thirty-Three Naira Thirty-Three Kobo) monthly as mesne profit from the 31<sup>st</sup> day of August 2024 until possession is given up.

Parties have the right of appeal within 30 days from this judgment.

SGD.

MEDINAT O. UMAR  
SMALL CLAIMS JUDGE  
30/10/2024



Abdul salam fatima Umar.

