

Citizen Basseyy and ISPAT

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By Okey Ndibe

One measure of a nation's greatness lies in the scrupulosity with which it ensures that justice is served to all its citizens, regardless of their station. On this score, I doubt that many right-thinking Nigerians would rate their nation highly. True, Nigeria is not the only nation where the profession of the law as an impartial arbiter is mere hocus-pocus. But Nigeria belongs, I am afraid, among the best of the worst when it comes to the dispensation of justice and the rule of law.

The law in Nigeria is a committed respecter of the wealthy and powerful. Far from being blind, Nigerian justice casts its steady, contemptuous preferential gaze on those who are often described by the press as "chieftains," "stake holders," "prominent" citizens. As for those who can't boast friendship or filial bond with the high and mighty of the land, their lot is to gnash their teeth and suffer all manner of indignity. To be poor in Nigeria is to have one's flanks exposed to assault, to be woe-be-gone.

That strikes me to be the fate of Basseyy Eniang, a Nigerian citizen locked in what appears a mismatched legal duel with ISPAT Steel Company, the Indian-owned company that was awarded the concession to manage Ajaokuta Steel. Mr. Eniang's story was carried in The Sunday Guardian edition of July 16 under the headline, "Citizen Eniang Battles Indians,

Lagos Govt Over Amuwo-Odofin Land." According to the report, Eniang, a director of a family-owned business, Sam Grace and Company Limited, was pursuing a civil case to reclaim his land from ISPAT. He also petitioned government agencies, including the Economic and Financial Crimes Commission, the police, State Security Service as well as officials of Lagos State to address certain allegedly criminal aspects of ISPAT's conduct.

The one settled fact of the case is that, in 2002, ISPAT persuaded Eniang's octogenarian mother to sell the company's land to the steel company for seven million naira. At the heart of Eniang's case is his allegation that the land belonged to him, and that the steel company used deceit and coercion to acquire it. In court documents, the company's lawyer, Akinfemi Onadele, denied this allegation, but his denial leaves several questions unaddressed.

At the time of the sale, Mrs Grace Eniang was not in possession of the certificate of occupancy. In a later statement to the police, she corroborated her son's story of coercion and deception. "I was sitting in my house," she wrote, "when Akinfemi Onadele and one Indian came and said they have been looking for me for over three months and that they were interested in to acquire plot C9 Amuwo Odofin...They put me under intense

pressure to sell the land to them. The land was not advertised or put up for sale. I then told them that I did not have the original certificate of occupancy. They then said 'Mama, don't worry we have people at the land office who will help and arrange the documents.' Akinfemi Onadele said this without my solicitation and in apparent attempt to further lure me into their scheme. The Indian who accompanied Onadele said they (Indians) will (sic) help me with my import business as they know the customs people who will help reduce duty. I did not answer them. They then brought documents including memorandum of loss, affidavit of loss and deed of assignment to me at home to sign. I never went before court officials to sign documents. They brought them to me at home to sign. I assumed that the documents were not important and significant."

If Mrs. Eniang's statement is true, then the company's conduct is, at the very least, curious. As it happened, Mrs. Eniang did not have the certificate of occupancy for the good reason that it was in her son's possession. The land in question, Mrs. Eniang confirmed to the police, belongs to her son, a bequest from her late husband and founder of Sam Grace and Company. Basse was abroad at the time she was coerced to sell the land. On his return, and learning of the disposition of the land, Basse Eniang informed the company that the land was his, and that he had no intention of selling it. The company waved him aside.

As Eniang pored over documents in preparation for a legal effort to reclaim

his alienated patrimony, he was stunned by certain bizarre findings. Some of the documents did not strike him as right. He then decided to mount an effort to have the whole transaction reviewed as a possible case of criminal misconduct.

His allegation that the company acted fraudulently deserves to be treated with more seriousness by law enforcement officials as well as the Lagos state government. He has provided compelling proof that the company, in papers filed with the state government, claimed that the land was purchased for two million naira. This understatement meant that ISPAT paid a much lower fee to the Lagos state government than it was obligated to pay given the seven million price tag of the land. If true, then ISPAT would be guilty of an attempt to defraud the public.

In addition, Eniang's petition alleged that ISPAT officials paid several state taxes on behalf of his mother (but unknown to her), subsequently using the receipts to secure official approval of the land sale. If the company wanted to act irreproachably, then why did its officials engage in surreptitious payment of fees to enable them to obtain the legal papers to finalise the transfer of land? Why would the company stamp Mrs. Eniang's name on the payment slip, but use its own corporate address in Apapa?

In the grand scheme of a nation's affairs, Citizen Eniang's fight with ISPAT may well seem of little consequence. After all, how many people know the name of this small man, a veritable David, pitted against a corporate colossus, Goliath

personified? In spite of the fact that Eniang commands little or no public visibility – in fact because of it – his story interests me, and ought to interest anybody who is invested in the elevation of justice in Nigeria.

I was saddened, but hardly surprised, to read in the Guardian that Nigerian officials have apparently chosen to snore off Eniang’s case. The first police report, in effect, threw the petitioner to his own wits, asking him to seek redress in a civil case. However, the second police report, prepared by Olayinka Balogun, a Deputy Commissioner of Police, sustained the two major planks of Eniang’s petition: that “the sale of the property can be said to be

questionable” and that “the parties to the transaction defrauded the Lagos State government when they declared in the relevant form(s) that the land was sold/bought for N2million instead of N7million.”

Amazingly, the office of the Lagos Director of Public Prosecution chose not to pursue the case. In a legal advice signed by Mrs. O.O. Odugbesan, the office of public prosecution made the astonishing claim that the state government “did not in any way suffer any loss.” It further stated that the a civil court proceeding was the proper avenue to ascertain the validity of documents related to the land matter.

It shocks to hear a government official proclaim that a corporate citizen that deliberately understated the taxable price of a land transaction has done nothing

wrong. Does this not amount to an invitation to powerful corporations and citizens to cheat the state out of its legitimate revenue? In the end, what riles me most about Eniang’s travails is this: I doubt that a Nigerian-owned company operating in India would be able to treat an Indian citizen so questionably and expect Indian officials to stand askance. Here, then, is a memo to the EFCC, the police, and officials of Lagos state: Unless small men like Eniang are assured of justice, the idea of Nigeria is bound to remain bankrupt.

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Okey Ndibe is a novelist, poet, political activist from Yola, Nigeria. He is the author of *Arrows of Rain*, a critically reviewed novel published in 2000. Ndibe relocated to the United States in 1988, where he founded *African Commentary*, a magazine described as "award-winning and widely acclaimed." Ndibe is also a published poet, and a former associate professor of English at Bard College at Simon's Rock. He currently teaches fiction and African literature at Trinity College in Hartford, CT. Okey Ndibe is finishing his second novel titled *Foreign gods, incorporated*.

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