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Trespass to Land: A Case Study of Mary Odili's Home Invasion

Oridamilola A. Ijiwoye

Department of Jurisprudence and International Law,
Redeemer's University, Ede, Osun-State
Nigeria.

Email: ijiwoyeo@run.edu.ng

Tel: 08164748728

Adetutu A. Adewole

Department of Jurisprudence and International Law,
Redeemer's University, Ede, Osun-State
Nigeria.

Email: adewoleade@run.edu.ng

Tel: 08133000655

Abstract

The issue of trespass to land is an essential topic under the law of tort. The law of trespass tends to safeguard a person's right to the use of his property, specifically regarding the enjoyment of the land. Over the years, this tortuous act has been controversial in so many ways, which can be attributed to several things. However, the position of the law is germane because trespass to land is actionable per se, which means if a person's land is entered into intentionally without any lawful explanation or reason, the action shall be considered a trespass. This paper aims to shed light on the concept of trespass as it relates to the case of A Supreme Court of Nigeria serving a Judge (Honorable Justice Mary Odili) home that was invaded by armed security operatives. The research method adopted for the study is doctrinal, which involves detailed analysis of the law and used to explore the concept of trespass to property. The paper concluded on the basis that the invasion was wrongly conducted and that it constitutes a complete breach of the law of trespass. It further provided recommendations on how the issue of trespass can be handled, the independence of the third tier of government, the Judiciary, and eradicating the abuse of power.

Keywords: Home Invasion, Land, Possession, Trespass to Land, Supreme Court.

1.0 INTRODUCTION

Privacy is one of the civil rights essential for a person to enjoy personal liberty and live a dignified life.¹²⁵⁹ When this liberty is eroded upon in any unlawful way, a tort of trespass would be said to have been committed. Trespass is an intentional act to infringe or violate the right of another to his body or property.¹²⁶⁰ Society in this present age experiences diverse forms of privacy invasion; of course, they happen in the day-to-day activities that human being are involved and the impact of this usually lead to a tort being committed without the tortfeasor's awareness of any wrong done. This invasion is what is known as trespass. The tort of trespass to land was designed to protect the possession of land or property. It is an act of interference, and to avoid any breach, only the person with title or right to possession can sue for the act of trespass.¹²⁶¹

Land includes land of any tenure, and mines and minerals, whether or not held apart from the surface, buildings¹²⁶² ”In the case of *Bocado SA v Star Energy UK Onshore Ltd*¹²⁶³, Lord Hope stated that the owner of a land surface has a right over everything, including the one below, down to the centre of the earth. It is pertinent to note that the owner of the land has right to acquire and own land or immovable property in Nigeria is a fundamental right under¹²⁶⁴ and due to this, a person has a right to peaceful possession of his land with no interference from anyone.

The tort of trespass to land has been designed to protect the possession of land or/and property. It prohibits any direct interference and avoids any form of civil breach. It is important to note that only the person with title or right of possession can sue for trespass.

2.0 DEFINITION OF TRESPASS TO LAND

Trespass in ordinary parlance refers to the unauthorized and intentional interference of the land, chattel in possession of another.¹²⁶⁵ It also refers to the interference with the person of another,

¹²⁵⁹ Equality and Human Rights Commission, ‘Article 8: Respect for Your Private and Family Life | Equality and Human Rights Commission’ (*Equalityhumanrights.com*24 June 2021) <<https://www.equalityhumanrights.com/en/human-rights-act/article-8-respect-your-private-and-family-life>>.

¹²⁶⁰ Ibid.

¹²⁶¹ Ibid.

¹²⁶² According to Section 205(1) (ix) of the Law of Property Act 1925, 15 Geo. 5. c. 20

¹²⁶³ [2010] UKSC 35

¹²⁶⁴ Section 43 of the 1999 CFRN (as amended),

¹²⁶⁵ ‘Trespass to Land: Definition, Scope, Remedies, Defences (NG) - LawGlobal Hub’ (1 June 2021) <<https://www.lawglobalhub.com/trespass-to-land-definition-scope-remedies-defences/>>.

thereby invading and infringing on their liberty, without lawful justification. Thus, trespass to land, a common law tort or civil liability, refers to the unauthorised interference of the land in the possession of another, intentionally, negligently, or mistakenly¹²⁶⁶. Trespass “*quareclausumfregit*”,¹²⁶⁷ which means “*trespass because he has broken the close,*” is the form of action for this tort.

The *West African Court of Appeal* in *Awoonor Renner v Anan*¹²⁶⁸ defined trespass to land as ‘an entry unto land or a direct and immediate interference with the landowner’s possession of it’. The exhaustive means of describing trespass is to say that the plaintiff’s close was broken and entered into by the defendant to which he caused damage’.¹²⁶⁹ Trespass to land is actionable per se; that is, it is actionable *by itself* or without a necessity to prove damage. In clear terms, the unjustified interference need not result in damage before such a person possessing the land trespassed upon can institute an action,¹²⁷⁰ *The Supreme Court of Nigeria held* that trespass to land consists of the slightest disturbance of the possession of land by a person who cannot show a better right to possession.¹²⁷¹

3.0 ELEMENTS OF TRESPASS TO LAND

There are varying elements that need to be established to determine if the tort constitutes trespass to land. In lieu, the elements of trespass to land are:

- a) that there was entry onto land, remaining on land, or placing or projecting any object on or above the land;
- b) that the plaintiff has *defacto* possession or right to immediate possession; and that the entry was unauthorized by law.

These elements will further be discussed one after the other.

¹²⁶⁶Wikipedia, the free Encyclopedia ‘Trespass to Land’ https://en.wikipedia.org/wiki/Trespass_to_land#:~:text=Trespass%20to%20land%20is%20a,land%20is%20actionable%20per%20se, accessed on 3rdMay 2023

¹²⁶⁷OlanrewajuOlamide, ‘TRESPASS TO LAND’ (*dJetLawyer*) <https://djetlawyer.com/trespass-to-land/> accessed 3rdMay 2023

¹²⁶⁸(1934-1935) 2 WACA

¹²⁶⁹Law Global Hub ‘Nigerian Cases on Trespass to Land’ (*LawGlobalHub*, 30 May 2022) <https://www.lawglobalhub.com/nigerian-cases-on-trespass-to-land/> accessed 3rdMay 2023

¹²⁷⁰ See *Eze v Obiefuna* (1995) 6 NWLR pt 404, p. 639 SC

¹²⁷¹EseMalemi, *Law of Tort*, 2nd ed. p.237

3.1 Entry on the Land

Trespass to land includes the minutest entry onto land either by walking, loitering, remaining on land after permission has been withdrawn, throwing things on land, placing, building, erecting or mounting any object on the land of another, projecting an object in the airspace of such other person, and so forth.¹²⁷² The entry or act must be direct and immediate and not indirect or consequential.

In the case of **Basely v Clarkson**,¹²⁷³ the defendant was mowing his lawn when he unintentionally entered his adjoining neighbour's land, honestly believing that he was still on his land, and cut the grass. The court held that such an act constituted trespass and that mistake would not serve as a defense. In **Balogun v Alakija**,¹²⁷⁴ the defendant engaged the plaintiff to collect rent on his behalf. After business hours one night, the defendant called at the plaintiff's house requesting for a statement of account for the rent collected. During their dealings, an argument ensued, and the plaintiff requested that the defendant leaves his premise. The defendant remained on the premise, refusing to leave until about (15) fifteen minutes. The Court held that the defendant was liable for trespass due to his failure to comply with the plaintiff's request to leave within a reasonable time. This is because *"to refuse or omit to leave the plaintiff's land, is as much a trespass as to enter originally without right."*¹²⁷⁵

As a general rule, entering below the surface of the land or into the airspace above it, when such an act is carried out within the customary and expected scope of use, is trespass. Thus, in the Great Britain case of **Kelsen v Imperial Tobacco Co. Ltd**¹²⁷⁶, the Court held that the protrusion of the defendant's advertising signboard into the plaintiff's airspace, a few feet above his shop, constituted trespass, and is entitled to the grant of an injunction for its removal, though the damage caused was minute.

¹²⁷² Fawaz Haroun, 'Learn Nigerian Law' (*Learn Nigerian Law*) <<https://www.learnnigerianlaw.com/learn/law-of-torts/trespass-to-land>>.

¹²⁷³ (1681) 83 ER 565

¹²⁷⁴ (1963) 2 ALL NLR 175

¹²⁷⁵ Salmond op cit p.41

¹²⁷⁶ (1957) 2 QB 334

3.2 The plaintiff must have possession

The tort of trespass to land is primarily a wrong against possession. As espoused by the Obaseki JSC in *Ekpan v Uyo*, possession denotes the actual physical control or occupation of a parcel of land or landed property either personally or through an agent or servant¹²⁷⁷. In line with this, possession could be ‘*actual*’ or ‘*constructive*’.¹²⁷⁸ Possession includes physical occupation or occupation through servants, agents, licensees, tenants, and so forth. Thus, any individual who possesses a title or is entitled to possession, whether a temporary or long-term right, retains the legal standing to initiate legal proceedings to safeguard such right of possession against any intrusion by a trespasser.

Jones SPJ of the High Court of Kano Division, in explaining the law in *Oguche v Iliyasu*¹²⁷⁹ stated that ‘*it is bare, defacto, physical possession or occupation that entitles a person to bring an action for trespass*’.

3.3 That the Entry was without lawful justification

For any entry into, remaining upon, placing, or projecting any object upon land to constitute trespass, such action must have been done without a license from the person in possession or without authorization from a relevant body of law. In plain terms, a license refers to a permission or legal authorization that confers the privilege to undertake an activity otherwise deemed wrongful, illicit, or an act of trespass if done without the requisite permission. Hence, where an individual enters into the land of another with a license or with the authority of law, an act done by that person, so long as it falls within the ambits of the license or authority given and so long as it is not withdrawn, will not be held to constitute trespass.

In the instance where an individual enters the landed property of another person by authority of law but subsequently misbehaves or otherwise abuses his right of entry by his conduct, for instance, by stealing, destroying, damaging, breaching the peace and so forth, such person will be considered a ‘*trespasser ab initio – from the beginning*’.¹²⁸⁰

¹²⁷⁷ (1986) LCN/2275 SC

¹²⁷⁸ John Lamaster, ‘Property: Conflicting Constructive and Civil Possessions, 45 La’ (1985) 45 L. Rev <<https://digitalcommons.law.lsu.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=4909&context=lalrev>> accessed 3 June 2023.

¹²⁷⁹ (1971) NWLR 157

¹²⁸⁰ EseMalemi, Law of Tort, 2nd ed. p. 252

The case of **McGuire v. United States**¹²⁸¹ involved the issuance of a search warrant to revenue agent officers to enter and search McGuire's premises. During the search, the officers discovered and confiscated several gallons of intoxicating liquor, which they proceeded to destroy without legal authorization, except for one quart of whisky, which they retained as evidence. The court determined that the officers, destroying the seized liquor, had become trespassers ab initio, losing the protection and authority granted by the search warrant. Nonetheless, the court permitted the use of the remaining liquor sample as evidence.¹²⁸²

4.0 DEFENCES IN TRESPASS

Upon the establishment of trespass-to-land claim, there are instances whereby the so-called trespasser may still not be held liable for this tortuous act; however, due to the main focus of this study, a few amongst the numerous defenses of trespass to land will be stated below:

a. License:

This is the consent that does not pass any interest in the property to which it relates but merely prevents an act on which it is given, from being unlawful. It is permission to enter onto a land and may be express, implied, or contractual.

b. Acquiescence and Laches:

This can be referred to as slackness, negligence, inactivity, silence, passivity or unreasonable delay in asserting and enforcing a right that is lost after the time limited by law to enforce it. Generally, after twelve (12) years, a trespasser's adverse possession becomes ownership or title to the land.

c. Statutory Right of Entry

This is an entry justified by law, hence, acts which would otherwise be trespass are not trespass. The category of persons who have lawful authority to enter a premises in discharge of their duties are several, for example, the police have specific power of entry under the criminal law, such as to make arrest or to search premises in the course of investigations¹²⁸³.

¹²⁸¹ (1927) 273 US 95

¹²⁸² Trespass Ab Initio <https://trespass.uslegal.com/trespass-ab-initio/#:~:text=Trespass%20ab%20initio%20is%20a%20doctrine%20developed%20by%20early%20common,causing%20damage%20to%20the%20property>. Accessed 3rd May 2023

¹²⁸³ Section 4, Nigerian Police Act, 2020

d. Jus Tertii:

This is a claim by the trespasser that he has the authority of a third party with a better title to enter the land.¹²⁸⁴

5.0. JUSTICE MARY UKAEGO ODILI'S HOME INVASION

The second most senior justice of the apex court, Mary Odili, is the wife of a former governor of Rivers state, who is currently on the Economic and Financial Crimes Commission (EFCC) watch list.¹²⁸⁵ Justice Odili's residence at No. 7 Imo crescent street, Maitama, Abuja, was invaded by armed security operatives who allegedly posed as a body identified as the Joint Panel Recovery Unit in the Ministry of Justice on the 29th of October, 2021. The grounds for the invasion were an alleged tip-off by a whistle-blower, Aliyu Umar¹²⁸⁶, who claimed to have witnessed suspicious activities at the residence.

An alleged Chief Superintendent of Police, Lawrence Ajodo, applied for and acquired a search warrant from the Wuse Zone 6 Magistrate's court issued by Chief Magistrate Emmanuel Iyanna, leading to the invasion of Mrs. Odili's home. Mr. Ajodo claimed to be acting in line with a particular joint asset recovery team in the court document, further stating that the application was centred on an ongoing investigation into whistle-blower information suggesting that illegal activities were occurring at the residence.

Madaki Chidawa, an Assistant police officer attached to Justice Odili,¹²⁸⁷ informed Justice Maha, the presiding Judge during the trial, that the defendants, led by Mr Ajodo, fearfully stormed the house around 6 p.mon October 29, 2021. Further disclosing that the defendants demanded to execute a search warrant on the house, having requested the warrant and upon thorough review, he discovered that it was wrongly addressed as the address on the warrant was for No. 9 Imo

¹²⁸⁴ 'Trespass to Land: Definition, Scope, Remedies, Defences (NG) - LawGlobal Hub' (*Lawglobal hub* 1 June 2021) <<https://www.lawglobalhub.com/trespass-to-land-definition-scope-remedies-defences/>>.

¹²⁸⁵ 'Soldiers, Police Operatives Search Mary Odili's Residence In Abuja' (*The Cable* 29 October 2021) <https://www.thecable.ng/breaking-soldiers-police-operatives-search-mary-odilis-residence-in-abuja> accessed 16th April 2023

¹²⁸⁶ AmehEjekwonyilo, 'How I aborted search Mary Odili's home, prosecution witness tells court' (*Premium Times*, 17 January 2022) <<https://www.premiumtimesng.com/news/top-news/506367-how-i-aborted-search-on-mary-odilis-home-prosecution-witness-tells-court.html?tztc=1>> accessed 16th April 2023

¹²⁸⁷ Oluchi, 'Invasion of Justice Odili's Residence: Search Warrant Had Wrong Address, Says Witness' (*Channels TV*, 18 January 2022) <https://www.channelstv.com/2022/01/18/invasion-of-justice-odilis-residence-search-warrant-had-wrong-address-says-witness/> accessed 16th April 2023

Crescent, Abuja, to which he used to resist its execution and subsequently informed Justice Odili who made relevant phone calls that ultimately resulted in the unlawful mission of the defendant coming to its end.¹²⁸⁸

On the other hand, after realizing the illegality of the search, the Magistrate revoked the order because he was misled. Upon confrontation about the inconsistencies, he responded that "he took a closer look at the copies of the applications presented to him by Mr. Ajodo after he had left and noticed that the words 'Street' and 'Close' were used interchangeably in the documents and the search warrant itself." According to him, the knowledge of the significance of 'specificity and exactitude' of address in both the issuance of and effecting a search warrant warranted him to instantaneously instruct the Court Registrar to get a hold of Mr. Ajodo by placing a call through to him and drawing his attention to the inconsistency, further requesting him to come back to the office for clarification.¹²⁸⁹ However, he never did return; and after waiting for a reasonable time without seeing him; the Chief Magistrate *suomotu* revoked the search warrant. That same day, he subsequently communicated this Revocation Order to Mr. Ajodo through his Registrar. He further stated that since the warrant was revoked before the invasion, the invasion was executed on a revoked search warrant obtained illegally by Mr Ajodo.

In a statement by the Supreme Court management's Director of Press and Information, Festus Akande, the apex Court said the invasion of the official residence of one of our senior justices in the Supreme Court, which 'depicted a gory picture of war' looked like a mission to kill or maim her. Further stating that the raid was an 'uncivilized and shameful show of primitive force' since it was carried out under the guise of executing a search based on a 'questionable and baseless' warrant upon an innocent judicial officer who has spent a substantial amount of her productive life serving 'her country'.¹²⁹⁰

¹²⁸⁸Adelani Adepegba, "Odili's house invaders had wrong address on search warrant by magistrate – Policeman" 18 January 2022 <<https://punchng.com/odilis-house-invaders-had-wrong-address-on-search-warrant-by-magistrate-policeman/>> accessed 16th April 2023

¹²⁸⁹Paul Omorogbe 'How invasion of Justice Odili's residence was planned, executed – NBA Report' (*Tribune Online*, 18 March 2022) <https://tribuneonline.com/how-invasion-of-justice-odilis-residence-was-planned-executed-nba-report/> accessed 15 April 2023

¹²⁹⁰Ameh Ejekwonyilo, 'Raid on Mary Odili's home appeared like a mission to kill, maim her – Supreme Court' (*Premium Times*, 2 November 2021) [Raid on Mary Odili's home appeared like a mission to kill, maim her - Supreme Court \(premiumtimesng.com\)](https://premiumtimesng.com/raids-on-justice-odili-home-appeared-like-a-mission-to-kill-maim-her-supreme-court/) accessed 14 April 2023

According to Mba, the security men and the assistant police officer attached to Justice Odili should be commended for detecting that the search warrant contained No 9 instead of No 7. He further stated that this act protected the nation from what would have been an embarrassment, declaring that, in the end, all defendants would be charged to court dependent on their level of involvement.¹²⁹¹ Initially, the raid on Justice Odili's residence was linked to a hailed investigation of Mr. Odili by the EFCC. The EFCC, after Mr. Odili had left office, made a move to prosecute him after two terms as governor in 2007 but was barred after the issuance of a perpetual injunction by the Federal High Court restraining the EFCC and other security agencies from arresting him.¹²⁹² Further attempts were made against his person after their failed efforts.

In a *37-page* report obtained by Nigerian Tribune, Malami, according to this report, was unswerving in his claim of innocence.¹²⁹³ The police claimed that the suspects were part of a crime syndicate known for doing such raids and that CSP Lawrence Ajodo admitted that he was not a police officer but claimed he was a consultant to the Attorney General of the Federation, Abubakar Malami, to which the later vehemently denied describing the confession of Mr. Ajodo as that of a "drowning man scavenging for a dying partner".¹²⁹⁴ He further dissociated the Ministry from any alleged Local Whistle-blower, Joint Panel Recovery Unit, Ghost Account, or similar names the perpetrators may have associated themselves with.¹²⁹⁵ Likewise, the police, through the Inspector General of Police, Usman Baba, the EFCC, and State Security Services (SSS), had separately denied authorising the raid or knowledge of it.

The Supreme Court declared that they had experienced a continuous and unjustifiable barrage of attacks on their judges and the court facilities throughout the country. They stated that this must

¹²⁹¹ 'Police Parade 14 Suspects over Invasion of Justice Odili's Residence'. (*Thisday live*) <https://www.thisdaylive.com/index.php/2021/11/12/police-parade-14-suspects-over-invasion-of-justice-odilis-residence/#> accessed 15 April 2023

¹²⁹² AmehEjekwonyilo, 'Raid on Mary Odili's home appeared like a mission to kill, maim her – Supreme Court' (*Premium Times*, 2 November 2021) [Raid on Mary Odili's home appeared like a mission to kill, maim her - Supreme Court \(premiumtimesng.com\)](https://www.premiumtimesng.com/news/raids-on-justice-odili-s-home-appeared-like-a-mission-to-kill-maim-her-supreme-court/) accessed 14 April 2023

¹²⁹³ Ifedayo Ogunyemi, 'Int'l Agency Chides Malami for Misrepresenting Facts on Attacks on Nigerian Journalists' (*Tribune Online* 29 April 2023) <<https://tribuneonline.com/intl-agency-chides-malami-for-misrepresenting-facts-on-attacks-on-nigerian-journalists/>> accessed 3 June 2023.

¹²⁹⁴ 'Police Parade 14 Suspects over Invasion of Justice Odili's Residence'. (*Thisday live*) <https://www.thisdaylive.com/index.php/2021/11/12/police-parade-14-suspects-over-invasion-of-justice-odilis-residence/#> accessed 15 April 2023

¹²⁹⁵ Paul Omorogbe 'How invasion of Justice Odili's residence was planned, executed – NBA Report' (*Tribune Online*, 18 March 2022) <https://tribuneonline.com/how-invasion-of-justice-odilis-residence-was-planned-executed-nba-report/> accessed 15 April 2023

stop and that the judiciary should never be seen as the weakest branch of government that can be criticized and mocked with impunity due to its cautious approach. On the 15th of December, 2021, the Nigerian Police Force arraigned the 15 defendants before Justice Maha on an 18-count charge centred on forgery, criminal trespass, intimidation, and extortion, among other offences.¹²⁹⁶

6.0 LEGAL IMPLICATION OF THE INVASION IN RELATION TO TRESPASS TO LAND

Lord Camden in the King's Bench, United Kingdom held in **Entick v Carrington**¹²⁹⁷ that 'every invasion of private property, be it ever so minute, is trespass.' The facts of the case are as follows; on the 11th of November, 1762, the defendant and three other individuals who were named entered the claimant's property and spent (4) four hours searching the rooms, breaking open boxes, and ransacking the claimant's possessions. They proceeded to remove one hundred charts and pamphlets from the property. The plaintiff sued for trespass to land, and the defendants contended that they were entitled to enter the property on the ground that they were acting under a warrant from Lord Halifax, who was a member of the Secretary of State and Privy Council, with the responsibility of finding certain seditious papers and that by this legal warrant, their actions were justified.¹²⁹⁸ In his ruling, Lord Camden referred to John *Locke's*, *Two Treatises of Government*¹²⁹⁹, 'The great end for which man entered into society was to secure his property'. In this regard, an individual is charged with the right to prevent unsolicited access to his land unless such is granted by law. Moreover, the state may do nothing concerning the land of an individual save expressly authorized by law to do so. Thus, *Lord Camden* ruled in favour of the plaintiff, *Entick*, further stating that any entry onto land without the license of the landowner is forbidden.¹³⁰⁰

The general principle is that trespass to land is actionable per se, in that, it is actionable 'by itself or in itself' and that an individual need not prove that he has suffered any form of damages to

¹²⁹⁶AmehEjekwonyilo, 'How I aborted search Mary Odili's home, prosecution witness tells court' (*Premium Times*, 17 January 2022) <<https://www.premiumtimesng.com/news/top-news/506367-how-i-aborted-search-on-mary-odilis-home-prosecution-witness-tells-court.html?tztc=1>> accessed 15 April 2023

¹²⁹⁷ [1765] 19 ST TR 1090

¹²⁹⁸ *Ibid* 1, p281

¹²⁹⁹ (1689) Ch XI, p134-5

¹³⁰⁰ All Answers Ltd, 'Entick v Carrington [1765]' (Lawteacher.net, April 2023) <<https://www.lawteacher.net/cases/entick-v-carrington-1765.php?vref=1>> accessed 19 April 2023

enable him to bring any legal action or before he can claim damage.¹³⁰¹ It is also imperative to note that every invasion of property is trespass to land irrespective of the damages done or the duration at which it occurs.

In relation to the invasion of the residence of Mary Odili in this study, the perpetrators allegedly obtained a warrant by misrepresenting their intention and fabricating a cause to the magistrate judge, who, upon realization of the inconsistencies and lack of specificity in their processes, revoked the warrant. The legal significance of a search warrant is that it is issued and authorized by law and it further grants the law enforcement or an individual legal justification and liberty to enter into land or property in possession of another in their official duty to execute or discharge any official responsibility attached to the residence. By implication, it exculpates such a person from being liable for any form of trespass to land.

A search warrant is only effective when used in the address contained in the warrant and so long as the enforcement agency acts within the warrant's scope. As an abuse of the warrant makes them *trespasser abinitio* [*trespassers from the beginning*], that is, they would be treated as trespassers from the moment they entered the land, and damages will be assessed on the basis of their entire conduct and not merely that their subsequent wrongful act was tortuous.

The perpetrators of the raid on Justice Odili's residence could therefore be said to be liable in torts for trespass to land and thus be regarded as trespassers abinitio based because, the issuing Magistrate Judge purportedly revoked the search warrant they relied upon. Also, the address contained in the search warrant was No 9 Imo crescent street, Maitama, Abuja, whereas the Justices' residence was No 7 Imo Crescent Street, Maitama, Abuja, which invariably means that the search warrant had no legal authority on her residence. Additionally, the warrant was obtained under false pretence and falsified documents.

Thus, since no authority of law gave them a right of entry and no license or permission was obtained from the person in possession of the residence, their entry upon the land is prima facie trespass to land not just as a civil tort but criminal.

¹³⁰¹ *Ibid*

7.0 CONCLUSION

The Constitution of the Federal Republic of Nigeria and other respective laws has to a great extent, ensured the adequate protection of man's property while providing necessary measures for the enjoyment of such property without continuous interference. It is in line with the foregoing that the tort of trespass to land provides a medium by which individuals can seek recourse and remedy under the law whenever the land in their possession has been unlawfully interfered with, whereby such aggrieved persons are put in a position they would have been if such unlawful interference had not occurred.

Also, it serves as a deterrent that prevents similar acts from being committed against the land in possession of another. Therefore, the home invasion of Justice Mary Ukaego Odili was an unlawful act and show of primitive force based on a baseless and revoked warrant which not only resulted in the interference of and trespass to her residence but also injured her person.

8.0 RECOMMENDATIONS

The legislature should create substantive and procedural legislation for the federal government and state government. This will build up a structure with strict protocols and procedures for the issue of search warrants, detention orders and warrant of arrest. The judiciary should be free from external interferences, where its autonomy, and independence will not be negotiable. Also the numerous committees that oversee government services and security establishment in the legislature should ensure that these government services and security establishments are held accountable for all actions carried out by them.