



## CASE LAW REVIEW

25/06/2020

# **FLASHBACK** **LEGAL STANDING OF THE** **LAGOS STATE** **INFECTIOUS DISEASE** **(EMERGENCY** **PREVENTION** **REGULATION 2020) -** **FUNKE AKINDELE'S CASE** **IN VIEW**



# 01

## INTRODUCTION

Nigeria, like the whole world, is faced with a ravaging virus called coronavirus (COVID 19). The federal as well as state governments are taking proactive steps to curtail the spread of COVID 19 throughout the country. Many states have restricted airport and inter-state travel to curtail the spread of COVID-19.

Lagos State Government seems to have taken the lead in this exercise by issuing an emergency prevention regulation called Lagos State Infectious Disease (Emergency Prevention Regulation 2020). The Regulation was issued by the Governor of Lagos State on the 27th of March, 2020 and is made pursuant to the Quarantine Act, 1926 and the State Public Health Law, 2015.

The Regulation amongst others, gives the Governor powers to take certain measures geared towards preventing and containing the spread of COVID-19, saving lives, reducing ill health and ensuring that the economy of the state is not weakened as a result of the pandemic.

On the basis of this Regulation some individuals have been charged to Court including popular Nollywood actress, Funke Akindele.

# 02

## ATTORNEY-GENERAL OF LAGOS STATE V. FUNKE AKINDELE & ORS

On the 6th of April, 2020, Funke Akindele, and her husband, Abdul Rasheed Bello were arraigned before a Magistrate Court in Ikeja, presided over by Chief Magistrate Aje-Afunwa.

The duo were charged on a one count charge for gathering twenty persons contrary to the Social Distancing Directives Prevention of the Governor of Lagos State made pursuant to Regulation 8 (1) (a) & (b) and 17 (1) of the Lagos State Infectious Disease (Emergency Prevention Regulation 2020) and punishable under Section 58 of the Public Health Law cap P16 Vol 9, Laws of Lagos State, 2015.

They both pleaded guilty and were sentenced to 14 days community service and a fine of N100,000 each for the violation of the Lagos state Governor's Regulation.

The Nollywood actress and her husband Abdul Rasheed Bello hosted a birthday party at their home in Ibeju-Lekki on Saturday, 4th of April, 2020. The party was attended by a large number of people, as well as celebrities, which was contrary to Social Distancing Directives Prevention made by the Governor.

## 03

Subsequently, two other defendants including the popular Nigerian musician Naira Marley was also arraigned. However, the charge was eventually withdrawn.

## WAS THE REGULATION VALID?

The Regulations Approval Law of Lagos State, Cap R4 Laws of Lagos State 2015 provides that no regulation shall have effect unless it has been laid before and approved by the House of Assembly.

For clarity purpose; Section 1 (1) of the Regulations Approval Law, Cap R4 Laws of Lagos State 2015 provides thus;

*"Notwithstanding any provision to the contrary in any Law in the State, no regulation shall have effect unless laid before and approved by the House of Assembly."*

Section 3 of the said Law further provides that;

*"All regulations made pursuant to the provisions of any enactment in the State shall be published in the Official Gazette after its approval by the House of Assembly."*

# 04

In this case, as at the time of arraignment, the Infectious Disease (Emergency Prevention) Regulation, 2020 issued by Governor had not come into effect for the sole purpose that it has not been laid before and approved by the Lagos State House of Assembly. This is so because words ought to be given their literal and ordinary meaning. And the ordinary meaning of the provisions is quite clear.

## CONCLUSION

Since the charge against the defendants was brought under a regulation that has not been approved by the House of Assembly as required by law, the arraignment, conviction and sentencing of Funke and her husband, is a nullity.

However, it behoves the citizens of Nigeria to support in the preventive measures laid down by the Government in order to curb the spread of the deadly virus.



Fernandez  
Marcus-Obiene



Elfrida  
Igbikiowubo

05

## CONCLUSION

The Guidelines set outs incredibly detailed requirements and methodology for each stage of the process. We reckon these require careful guidance from expert advisers, including lawyers, geologists and finance professionals.