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Nigerian Land Policy: Issues, Challenges and The Way Forward

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ABSTRACT: *Efficient administration and management of land ownership, holding and uses cannot be adequately achieved without sound land policy and its effective implementation. Land policy is essentially aimed at ensuring land accessibility to citizens of the society as well as protection of their interests. The contemporary land policy in Nigeria is the Land Use Decree No. 6 of 1978, now Land Use Act (LUA), Cap L5, Laws of the Federal Republic of Nigeria 2004. This paper aims at undertaking a contemporary review of the issues and challenges of land policy in Nigeria in order to proffer ways to ameliorate them and ensure that land is accessible to citizens at reasonable ease. The issues and challenges of Nigerian land policy include: the abrogation of freehold interest which affect the free market economy; excessive bureaucracy in obtaining Governor's consent and approval for land transactions and issuance of certificate of occupancy; underdeveloped or bare land not having commercial value according to the LUA which limits the use of land for mortgage and some other purpose transactions; insecurity of private land ownership, etc. National sustainable economic development and growth depend largely on the land policy in operation; hence it should be inclusive and responsive to the needs of all land users. It is therefore recommended that the LUA, should be excised from the 1999 Constitution to ease requisite amendments to address these contemporary issues and challenges of the land system and use.*

KEYWORD: Administration, Management, Review, Issues, Challenges, Land Policy, LUA

INTRODUCTION

Land is pivotal, central and fundamental to social and economic development of any society whether civilized or primitive. According to Ozigbo (2012), universally, land is one resource that has generated and attracted widest attention. This perhaps explains why statutes, regulations, policies, bylaws, edicts, conventions, enactments and even beliefs held in respect of it keep on

emerging, getting reviewed, repealed, conflicted and even duplicated from time to time. Umeh (2007), posited that "land even though difficult to define has its meaning fully charted and clearly focused in the physical, spiritual, socio-political, economic, abstract and legal concepts of land. It is this overwhelming importance of land to mankind and the society that necessitated the state intervention by way of property legislations in order to ensure adequate and efficient land management policies for the benefit of majority of the citizens. Every person requires land for his support, preservation and self-actualization within the ideals of the society. Thus, it is apposite that man's fulfillment of his potentials in life depends on his relationship with land (Otubu, 2003). Hence, no nation jokes with land management policies as no nation handles the issue of land management with levity (Datong 1991).

Land Policy

The advent of colonialism in Nigeria with its attendant increase in administrative, social and economic activities in the cities led to natural population increase, massive rural–urban drift and unplanned urbanization especially within Lagos colony in the South Western region and other regional capitals. This extensive labour migration could not go on without land being alienated to strangers and immigrants in the face of competing land uses and effective demand. This act of selling land to strangers was contrary to the position at the beginning of 20th century in most communities that land was not sold. According to Mabogunje (2009), to sell land to a stranger or immigrant is to render the security of the community concerned a hostage to fortune. This created a great amount of tension among the natives and the immigrants as the practice was abominable and not supported by the subsisting local land tenure systems. To curb the imminent crises that may result from the foregoing circumstances, a form of legislation was required. Consequently, land policy becomes an expedient tool to creating an atmosphere of orderliness and a legal structure upon which land transactions could take place within the ambit of the law (Kuma, 2017). In the light of the foregoing, land policy is the set of agreed principles to govern ownership (or access to), use and management of land resources to enhance their productivity and contribution to social, economic, political and environmental development and poverty alleviation. (AUC-ECA-AFDB Consortium, 2010). Land policy is meant to strengthen access to land tenure, ensure the land rights of the poor and vulnerable in the communities, ensure sustainable land use, provide direction fit for purposeful land administration services and guide the prevention and resolution of land conflicts and disputes. Umeh (2007) described Land policy as the soul and the very life blood of land tenure system, defining the concept as a set of rules, principles, objectives or course of

action respecting land ownership, land development and land resource utilization, He further identified eighteen objectives of land policy to include:

a. Social justice
b. Social welfare
c. Economic efficiency
d. Economic livelihood
e. Political stability
f. Social cohesion
g. Cultural identity
h. Environmental viability
i. External influence (social, economic, spiritual, political, cultural etc)
j. Independence or Self-reliance
k. National unity
l. Self-regeneration
m. Continuity
n. Territorial integrity
o. Resource conservation
p. Accelerated development
q. Revolutions or evolutions and
r. Social insurance

A good land policy should be inclusive and responsive to the needs of all land users, contribute to political stability, promote gender equity, foster the reduction of conflict, enhance sustainable management of natural resources, ensure orderly urban development and improve the economic growth and quality of life of stakeholders. Unfortunately, Land Use Act which is the principal land policy in Nigeria and institutions thereof have failed to resolve the fundamental problems underlying the sustainable development of land economy and those of related sectors. This, therefore, calls for comprehensive and systematic revision of the policy and institutions. The exercise should involve intense reflection, rigorous consultations and exemplary collaboration across stakeholders and the public. It should also be rooted in the national consciousness of the Nigerian people to engender wide acceptance.

Land Tenure System in Nigeria

Land tenure is defined as the nature and manner in which rights and interests over various categories of land are created or determined, allocated and enjoyed. A land tenure system is an institutional framework within which decisions are taken about ownership, use, value and development of land. The land tenure system is constituted by the rules and procedures which

govern the right and responsibilities of both individuals and groups in the acquisition, use and control of land. The prevailing land tenure system in a given society determines the extent of rights/interests capable of being owned in that society over land (Ugonabo, 2019). There are two categories of land tenure systems in Nigeria and they are discussed below.

Customary Land Tenure System

According to Lamba (2005), customary land tenure system refers to land ownership practices by ethnic communities under unwritten laws. In Nigeria and indeed Africa, customary land tenure system consists of two main concepts, namely; the traditional African concept prevalent in the south among majority ethnic groups of Yoruba and Ibo, and the other minor ethnic nationalities (Acquaye & Asiana, 1986, Otubu, 2008) and Islamic concept mainly applicable in the northern region amongst the Hausa/Fulani which also extends further to other northern African countries with insignificant exceptions. The variation in the Northern and Southern pre-colonial land policies in Nigeria was outcome of the different ethnic, cultural and local administration (Kuma, 2017).

Traditionally before the Fulani conquest of northern part of the today Nigeria, the land tenure of the North was akin to that of the South. However, the Fulani conquest of early 19th century came with the imposition of Maliki law (a type of Islamic land law) in the north. The Fulani Jihadists introduced a kind of feudal tenure under which they claimed over-lordship of land with Emirs claiming ultimate title to land. The British colonization of the country also altered the subsisting customary tenure systems. By the end of 19th century, under British rule, Lord Lugard who occupied Northern Nigeria gave letters of appointment to Emirs which transferred their feudal pattern of land holding to the British crown (Atilola, 2010). Conversely, in the Southern Nigeria, there existed multiplicity of customary land tenure systems that significantly determine local land administration. Land was held by the community family/groups, traditional rulers and extended lineage with individuals having only usufructuary rights by virtue of their membership of the family. However, an English freehold system was established in Lagos colony following its annexation in 1861.

Statutory Land Tenure System

Statutory land tenure system is regulated by either English statutes of general application, i.e. enactment in England before 1st January, 1900, statutes enacted by local legislatures or colonial statutes made expressly applicable in Nigeria. Land ownership under Statutory tenure system entails a statute or legislation arrogating rights to individual, groups (Non-Governmental Organizations NGOs) with each exercising such rights as to use, occupy and alienate distinct from others. The statute or legislation determines the quantum or bundle of rights conferred on the

holders and exercisable by them by virtue of such powers. In Nigeria, the Statutory land tenure system is regulated by Land Use Act of the 1978 which abolished absolute ownership by private persons and conferred same on the Governor of each state who holds same on trust for Nigerian citizens. The Act grants rights of occupancy which could be statutory or customary if granted by the Governor or local government respectively.

Nigeria being a multi ethnic nationality, land policy and administration pre-independence had regional formations and were guided by several statutes and customary norms and conventions (Kuma, 2017), under this structure, Umar (2013), observed that the incorporeal interest in land in the North were held as usufructuary interest while the allodial title prevailed in the South and both were juxtaposed by the abstract but confusing law principles of doctrine of estates. Multiple legislations were enacted and others repealed while others operated simultaneously with the customary laws governed by both statutory and traditional institutions namely: Treaty of cession (English freehold system) 1861; Land Proclamation No.8 1900; Crown Land Management Proclamation 1906; Land and Native Right Proclamation No.9 1910; Land and Native Rights Act 1916, Niger Lands Transfer Act 1916; Public Lands Acquisition Act CAP 167, 1917; Public Lands Acquisition Ordinance No. 32, 1917 and Kola Tenancies Ordinances No. 25, 1935, respectively.

The Post-Independence Land Policy in Nigeria

After independence and before the Land Use Act of 1978, land acquisition and use in Nigeria was governed by three major sources of land law, namely customary law, English received law and local legislations. According to Oseni (2012), there was duality of land tenure system in both Northern and Southern parts of Nigeria. Private ownership of land by individuals, families and communities under customary laws was the predominant land tenure system in Southern Nigeria (Udoekanem, Adoga & Onwumere, 2014). Land was therefore acquired in the south by either inheritance, first settlement, conveyance, gift, outright purchase or long possession. However, in the north the parliament of the then Northern Nigeria passed the Land Tenure Law in 1962, which governed all issues concerning land in Northern Nigeria. Therefore, all lands in the territory comprising the Northern states of Nigeria were regarded as owned by the state based on of the Land Tenure Law of 1962 (Nwoko, 2016, Udoekanem et al, 2014). Two principal legislations have been enacted to regulate land ownership in Nigeria since independence; namely:

i. The Land Tenure Law No.25 Laws of Northern Nigeria, 1962; and
ii. The Land Use Decree No 6 of 1978 (now Land Use Act Cap 202 LFN 2004)

Land Management Under the Land Tenure Law of 1962

Land management in the North before the Land Use Act was governed by the Land Tenure Law of 1962 which repealed and replaced the Land and Native Right Act of 1916. The Land Tenure Law provided that all lands in each of the states in Northern Nigeria whether occupied or unoccupied were "Native Lands" and were subject to the control and disposition of the Minister for land matters, who held and administered them for the use and common benefit of the "natives". It abrogated all freehold interests except those held in accordance with native laws and customs which were deemed to have been granted requiring minister's consent before it could be sold, mortgaged or assigned. Statutory rights of occupancy were issued to both natives and non-natives alike but vary in its physical and abstract characteristics (Kuma, 2017). Whereas right of occupancy for residential and agricultural uses were granted to natives for a term of 99 years while non–natives were granted a term of 40 years.

Land Management Under the Land Use Act of 1978

The land tenure system of Southern Nigeria existing before the promulgation of the LUA was characterized by a lot of malpractices, namely:

i. Multiple sales of the same land to different buyers by land owning families in the absence of appropriate registration mechanisms,
ii. Tremendous land speculation and a sharp rise in the prices of land for urban and infrastructural development thus making it difficult for government of the federation to obtain land for its public purposes; in any acquisition, government was made to pay huge sums of money as compensation to land owners as result of fraudulent collusion between government officials and speculators as to the proper value of such land, government projects were either grounded due to lack of land or its exceedingly high costs;
iii. Multiple land litigations, among others.

The activities of these speculators often extended to buying up land cheaply from poor unsuspecting villagers when they (the speculators) had information that the land will be needed for public purposes (Shogunle, 2003). Mabogunje (2019) observed that this promoted increasing inequity in land ownership and increasing lawlessness among the poorer segments of the population. Even after government had invoked its rights of eminent domain to compulsorily acquire and pay compensation for land for public purposes, the tendency grew for some owners of land to refuse to vacate their land.

The foregoing malpractices and fraudulent activities provided rationale for the enactment of LUA in 1978 as supported by the assertion of Nnamani (1991)

> Government could neither remain indifferent to a problem that is widely regarded as an obstacle to national development nor remain unconcerned about a system where only the rich and powerful own all land which is God given national assets.

Land Use Act, Cap L.5, LFN of 2004, was enacted to unify the existing land tenure systems by extending the Northern system to the rest of the country as a means of ensuring easier access to land for Government/individuals, curb land speculation, ensure redistribution of land and promote investment in agriculture through secure land rights. Land Use Act which is still the basic legal framework for land administration in Nigeria was incorporated into the constitution in 1979 and 1999, therefore requires a constitutional amendment to be altered
According to Omotola (1980) the objectives of LUA are:

i. To remove the bitter controversies resulting at times in loss of lives and limbs which land is known to be generating.
ii. To streamline and simplify the management and ownership of land in the country.
iii. To assist the citizenry, irrespective of his social status to realize his ambition and aspiration of owing the place where he and his family will live a secure and peaceful life.
iv. To enable the government to bring under control the use to which land can be put in all parts of the country and thus facilitate planning and zoning programmes for particular uses.
v. To curtail the activities of land speculators and remove the undue influence which certain traditional rulers have on land.

To all intents and purposes, the Act regulates the ownership, alienation, acquisition, administration and management of land within the federal republic of Nigeria. LUA was revolutionary in that for the first time it sought to unify the land tenure systems all over the country in addition to nationalizing land in the country's geographical space (Atilola, 2010).

Basic Principles of Land Use Act

The basic principles enunciated in LUA are given below:

i. Section 1 of the LUA vests all land in the territory of each state in Nigeria in the state Governor to be held in trust for the use and common benefit of all Nigerians in accordance with the provisions of the Act. However, by Section 49, land vested in the Federal Government of Nigeria or its agencies is exempted from the vesting declaration of section 1.

ii. The management and control of land in urban areas is vested in the Governor, while the Local Governments assume this responsibility over land in non-urban areas. Section 5(1) empowers the Government to grant statutory right of occupancy to any person for all purposes in respect of land whether in urban or non-urban areas and issue a certificate of occupancy in evidence of such right of occupancy in accordance with the provisions of section 9(1) of the Act, while Section 6 empowers the appropriate Local Government to grant customary right of occupancy over land in non-urban areas within its jurisdiction. These authorities are assisted in the exercise of their assignment by the Land Use and Allocation Committee and Land Use Advisory committee at the state and local government levels, respectively. Only the Governor can declare parts of the state territory governed by him as an urban by an order published in the state gazette.

iii. By provisions of Sections 34 and 36 of LUA, pre-existing interests in land are preserved subject to their transformation into rights of occupancy.

iv. Section 5(2) of the Act provides that upon the grant of a statutory right of occupancy under the provisions of subsection (1) of the section, all existing rights to the use and occupation of the land which is the subject of statutory right of occupancy shall be extinguished. Thus, the statutory right of occupancy granted by a Governor is presently the highest right to land in Nigeria.

v. Sections 21 and 22 of LUA prohibit alienation by assignment, mortgage, transfer of possession, sublease or otherwise, howsoever of customary or statutory rights of occupancy in Nigeria without the consent of the Governor of the state in cases where property is to be sold by or under the order of any court under the provisions of the applicable civil process law; or in other cases without the approval of the appropriate local government.

vi. The maximum area of underdeveloped land that any person could hold in any one urban area in a state is one half of a hectare, in the rural areas, this must not exceed 500 hectares except with permission of the Governor.

vii. By Section 28, the power to revoke any right of occupancy for overriding public interest subject to the payment of compensation for the unexhausted improvements based on the provision of Section 29(4) of the Act is vested in the Governor of the state while the local government has limited power to revoke a customary right of occupancy only.

viii. Statutory right of occupancy as interpreted in Section 51 of LUA is a right of occupancy granted by the Governor under the Act for a maximum holding period of 99 years. Customary right of occupancy as also interpreted in that section of the Act is the right of a person or community lawfully using or occupying land in accordance with customary law and includes a customary right of occupancy granted by the local government under the Act.

By these provisions, the LUA introduced a uniform state ownership system otherwise known as Nigerian's rights of occupancy system.

Issues and Challenges of Land Policy in Nigeria

Granted that the LUA has made it easy for government to acquire land for public purposes, reasonably reduced the burden of land compensation and considerably reduced court litigations over land, it created multiple challenges for land management in the country. The shortcomings of LUA prompted a number of researches, government officials and members of the civil society to suggest amendments, comprehensive review and outright expunging of specific sections of the Act. Some of these issues and challenges are discussed hereunder:

i. The abolishing of the existing freehold interest in land in Nigeria and its nationalization by government as provided in Section 1 of LUA, is inconsistent with democratic practices and the operations of free market economic system.

ii. No permanent institutional arrangement was established for LUA uniform implementation in Nigeria and none of the key pieces of regulation envisaged to enhance its implementation were developed or passed by the National Council of States.

iii. Excessive bureaucracy in obtaining Governor's consent and approval for land transactions and certificate of occupancy among other shortcomings has made land registration in Nigeria very prohibitive. As reported by World Bank (2015), Nigeria ranked among the lowest in terms of ease of registration of property title. While it will take twelve days and fifteen days to register property title in Rwanda and Botswana, respectively, such title will take seventy-seven days to be registered in Nigeria. In addition to excessive bureaucracy depicted by the highest number of procedures required for property registration in sub-Saharan Africa (13 procedures in Nigeria as compared to 9 in Kenya), the cost of property registration in Nigeria (20.8% of property value) is the highest when compared with that of other countries in the region. The process of obtaining title is expensive and tedious. Consequently, after over 30years of operation of the LUA, less than 3 percent of land in the country, mainly in urban areas, is covered by title deeds and only an average of 23.1 percent of household in Nigeria own land (National Bureau of statistics, 2011).

iv. Under the LUA underdeveloped or bare land has no commercial value and as such cannot be pledged as collateral for mortgage purposes. In addition, by virtue of section 51 of LUA a mortgagee is specifically excluded from the class of persons who are regarded as holders of right of occupancy and hence entitled to compensation in the event of revocation of right of occupancy of mortgaged property. This has hindered the development of mortgage and housing delivery in Nigeria. The enactment of LUA has greatly affected the value and reliability of land as a form of security for lending.

v. The combined effect of the provisions of Sections 21, 22, and 26 which make it unlawful for a holder of right of occupancy to alienate his right of occupancy or part thereof by assignment, sub-transfer of possession, mortgage, sublease or otherwise howsoever without the consent of the Governor or local government chairman, hinders business efficacy and creates unnecessary burden on security creation, perfection and realization over land. With this provision, not only is the consent required at the creation of the mortgage, but also at its realization as the mortgagee will require the Governor's consent before he could exercise the mortgagee's power of sale. Despite of the above problems, the mortgagee is also hampered by the bureaucratic red-tapism of government ministries in processing the application for consent, and the exorbitant fees charged. All these aggravate the cost of the loan with consequent drawback on business (Otubu, 2003).

vi. Insecurity of private land ownership. Section 28 of LUA empowers the Governor of a state to revoke any right of occupancy for overriding public interest with or without payment of compensation. Compensation payable on revocation of right of occupancy by the Governor is limited to only unexhausted improvement as provided in Section 29(4) of the Act and is not for bare land without unexhausted improvement, except for an amount equal to the rent, if any, paid by the occupier during the year in which the right of occupancy was revoked. Compensation payable is inadequate and does not include claims for severance and injurious affection thus hindering the effective functioning and operation of property markets in Nigeria.

vii. The philosophy of the Act that all lands belong to the state, nationalized land ownership in Nigeria. However, the implementation of the Act has progressively become a clog in the wheel of economic growth and development in the country. The operation of the LUA by its "trustee" the state Governors and Local Government Chairmen has been characterized by its use as political weapon, lack of transparency, arbitrary and selective implementation of its provisions. The case of *Administrator/Executor of the Estate of Abacha v Ekespriff* (2003) INWLR (Pt800) 114, offers a textbook insight on the position above. In that case, the Governor granted the respondent lease in respect of a parcel of land under state land law, and while the term of lease was still running he granted a statutory right of occupancy over the same parcel of land to General Abacha, then Chief of Defence Staff. Ikongbeh, JCA (as he then was) frowning at the abuse of power in administration of land, held the purported revocation to be wrongful, illegal being contrary to the provisions of Section 28, most callous and ought to be roundly condemned.

viii. Each succeeding government since the promulgation of the Act had exhibited lack of political will to implement various provisions of the Act to make it succeed. The Act made allowance for transitional provisions for the orderly assimilation of the pre-existing land tenure systems it hoped to replace, but after over 30 years of its enactment these other land tenure systems are still being operated (Atilola, 2010). As a matter of fact, within just a decade of its enactment, its operation had encountered the same pitfalls as the pre-existing land tenure systems. Speculative dealings in land and profiteering are now rife resulting in increase in prices of land.

ix. The LUA while recognizing and preserving the existence of indigenous land tenure fails to make clear and adequate provisions for it. For instance, section 48 saves existing laws subject to modifications, but until now the extent of these modifications has not been made clear. Another problem is that the transitional provisions of the Act do not set deadlines for conversion of formerly indigenous titles into rights of occupancy. Consequently, the indigenous title holders feel that they are free to deal with their land or alienate it in accordance with customary law even in disregard of the right of occupancy system.

x. The Act vests land in the Governor of the state where the land situates. There is no provision in the Act vesting any land in the local government. The question is the validity of such grant on the simple legal reasoning of *nemo dat quod non habet*. This is a serious lacuna that must be redressed urgently (Ojo,2003).

xi. Sequel to the fact that under the Act all allotees of state land and owners of properties covered by certificate of occupancy are tenants of the state and the requirement of the consent of the Governor to transfer properties howsoever, some Governors now see land as a means of raising revenue for their states by imposing heavy charges/rents for rights of occupancy and grant of consent. This practice impacts negatively on the development of an efficient land market and housing finance institutions in the country.

xii. Status of certificate of occupancy. The power of the Governor of a state to issue statutory certificate of occupancy is statutorily provided for in Sections 5(1)(a) and 9 of the LUA. The exercise of this power is protected in Section 47 of the Act which oust the jurisdiction of court to question the power of the Governor to grant a right of occupancy. Unfortunately, certificate of occupancy which is the basic land instrument in Nigeria is not foolproof. It is not better than a tissue paper if the root of title based on which the certificate of occupancy was issued is defective. There is plethora of Supreme Court decided cases in support of the above assertion. In *Ogunleye v Oni* (1990) 2.N.W.L.R. (Pt135) 745 the court laid down the following principles:

a. *Generally, a certificate of occupancy is prima facie evidence and raises the presumption that the holder is in exclusive possession and has a right of occupancy over the land in dispute. However, the presumption is a rebuttable one and the onus of disproving this right is on the person who asserts the contrary*.

Similarly, the Supreme Court in *Omiyale v Macualay* (2009) 7 N.W.L.R (Pt1141) 597 held that

b. *Registration of certificate of occupancy does not and cannot cure or validate any irregularities in its procurement. Mere registration does not and will not validate spurious or fraudulent instrument of title or a transfer or grant which in law patently remains invalid or ineffective.*

The position of the Supreme Court respecting the status of certificate of occupancy is not surprising because the process of procuring certificate of occupancy is flawed. There is no effort made by the Lands Registry to investigate the title of the person applying for certificate of occupancy to the effect that you can apply and be issued certificate of occupancy over land that does not belong to you. The only deterrent to this happening is getting the applicant to swear to an affidavit that the land belongs to him under pain of perjury if the contrary is the case and publishing the application in a state owned Newspaper with limited circulation. It is our submission that swearing to an affidavit of ownership of the parcel of land is not sufficient proof of ownership before issuing certificate of occupancy. The Ministry of Lands should in addition to sworn declaration of ownership take preliminary steps to investigate title of the applicant before recommending issuance of certificate of occupancy. It is only by so doing that certificate of occupancy can be accepted as a valid, good and conclusive proof of title thus reducing to the barest minimum increasing reluctance by banks and courts to accept it as conclusive evidence of title of the holder.

The lesson from the foregoing precarious status of certificate of occupancy is that Lawyers/Estate Surveyors while conducting legal search on a property that has certificate of occupancy should go beyond the certificate of occupancy and trace the root of title of the seller before advising their client to buy or not to buy.

xiii. Legal pluralism. Land Use Act of 1978 created a dual structure of land delivery systems; namely: customary and state systems with the consequence of double purchase from the state and the customary owners. Consequently, customary authorities sell land claiming customary rights over same. Although fully aware that they are not entitled to sell the land (though in some cases they are entitled to use it and/or to hold it as a trustee), they do so,

thus showing their lack of respect for the state as much as for their community. The land conflict here is only the visible part of a traditional culture falling apart and a modern state not being accepted by the traditional society (Wehrmann, 2008). A number of problems arise from this situation of legal pluralism, to wit:

a. Compounding the problem caused by legal pluralism is the inelegant revocation and compensation procedures resulting in non-actualization of residential layouts purportedly created by successive administrations in many states in Nigeria. As payment of compensation completes land acquisition process, it follows that non-payment of adequate compensation stalls acquisition process as in case of many non-actualized layouts in Nigeria. The customary owners of these layout have tended to re-enter or re-possess their lands, parcellate same and sell to interested members of the public. Thus over the same parcel of land two different persons will be claiming ownership, one with government allocation and the other that bought from customary owners. For instance, some allotees of residential plots at Agu-Awka GRA, Anambra State cannot take possession of their land even with certificate of occupancy until they have paid the customary owners for the land supposedly acquired by the state government.
b. Similarly, successive administrations in many states in Nigeria indulge in constant revocation and review of allocation made by previous administrations. Meze, Nwachukwu and Emoh (2014) assert that since the creation of Anambra State in 1991 allotees of government plots were never sure of the status of the plots allocated to them because such allocations were subjected to constant revocation exercises. This ugly situation creates the danger of having three persons claiming ownership of a plot of land namely, the customary owner, the first allottee and the second allottee. This complicates the problem of fraudulent land practices as any of the purported owners can sell the plot to a prospective buyer without notice of the ownership tussle. Thus irrespective of who you buy from, you may have to settle or repurchase from the other claimants in order to have unimpeded access to the plot of land. Ostensibly, the three claimants have quasi-legitimate claim to ownership for the following reasons: government may not have followed proper procedure and adequate compensation paid to the customary owner, thus invalidating the purported revocation. Revocation of the first allotee's allocation may not have been in accordance with the provisions of the Act (i.e. publication of revocation notice for overriding public interest, gazetting the revocation etc.) hence, the revocation may not stand legal challenge.

Finally, the second allotee's claim to ownership of the plot depends on government conformity with the extant law in the revocation/compensation respecting the customary owner and valid revocation of the first allottee's allocation of the subject plot.

c. It could be deduced from the foregoing that the enactment of LUA reasonably contributed to the emergence and widespread of land grabbing with its associated fraudulent land practices in various communities in Nigeria especially Southern Nigeria. The unwholesome activities of land grabbers include but not limited to: forcefully dispossessing lawful owners of their properties; selling a particular parcel of land to several persons, extorting different fees/levies collectively called settlement from developers at every stage in the development of their property; subjecting developers who fail to pay to physical violence including demolition of structures and stalling of development until demand is met among others. Consequently, individuals and organizations planning to put up structures have learnt to factor the cost of settlement into their expenditure. This ugly situation depicts the fundamental difficulty in achieving access to land caused by the enactment of the LUA, (Ugonabo,2019).

xiv. Nigerian Urban and Regional Planning Act (No. 88). This Act establishes three bodies for the proper implementation of the National Physical Development Plans i.e. the Local Planning Authority, the State Urban and Regional Planning Board and the National Urban and Regional Planning Commission. The above institutions are required to have a development control department that has power over development control on all lands and estates. However, most of its implementation are tied and made subject to the operation of the Land Use Act. For instance, conditions for grant of development permit must conform with condition of issue of certificate of occupancy as provided in Section 36 of Decree No. 88 of 1992. All matters connected with payment of compensation for revocation of right of occupancy, shall be governed by the relevant provisions of LUA. Virtually, compliance with the provision of the Decree rests on the LUA. In fact, LUA alienates physical planning from control and management of land and does not accord planning the priority it deserves, as an important activity that could ensure orderly developments of various activities on land. It is therefore imperative to amend LUA in order to make planning and provision of housing a reality in today's Nigeria (Otubu, 2003).

a. Similarly, rights of development which are granted by the relevant Planning Authority entitle a developer to commence development of a piece of land. However,

this formal development permit seems to be ineffective as a result of the fraudulent activities of land grabbers/youths of the former land owning families that grant informal permit on payment of sundry fees. The situation is so bad that even after obtaining formal development rights you will not be allowed to commence development unless and until sundry fees/levies or customary fees collectively called settlement are paid to the youths of former land owning families. Thus the operational development rights are the informal one granted by the former land owning families.

Land Instrument Registration Law/Registration of Titles Law.

Land administration in Nigeria is within the jurisdiction of the state, so the enactments regulating the registration of land instruments are state laws. Thus, each state of the Federation has its own lands instruments registration law. It is instructive to note that registration of instruments system as presently operated does not ensure certainty of title of registered instruments. Meanwhile, the purpose of registering instruments as asserted by Imanobe (2010), is to prevent fraud and challenges arising from suppression or omission of instruments when title is deduced. However, Section 25 of Land Instruments Registration Law (Lagos) provides that registration does not cure defects in the title. It is the instrument that is registered and not title. Therefore, the registration of an instrument does not cure any defect in the instrument.

On the other hand, the system of registration of land titles was introduced into Nigeria by Ordinance No. 13, 1935. This piece of legislation is still a valid law in some part of Lagos state: Victoria Island, Ikoyi, Yaba, Surulere up to somewhere near Mushin. It has as its main purpose simplification of the procedure of investigation of titles to ensure certainty and security of titles to land. Under registration of titles, registered titles substitute for title deeds and thus there is no need for the vendor to deduce titles for thirty or forty years as required by Conveyancing Act 1881and Property and Conveyance Law 1959, respectively.

Comparatively, the system of registration of titles is simpler, cheaper, speedier and more reliable than the system of registration of instruments. Unfortunately, this law is not popular in Nigeria as it was operated only in the old colony of Lagos. The Land Use Act has overshadowed the existence of the registration of titles even though the law still remains a valid law in Lagos State. In England, the system has been so successful that virtually all the land there, is now under registered titles (Imanobe, 2010)

Presidential Technical Committee on Land Reform (PTCLR)

Consequent upon the various problems emanating from the Land Use Act, the federal government of Nigeria established a Presidential Technical Committee on April 2, 2009 to undertake the reform of Land Tenure situation in the country. This was more so because LUA was entrenched in the 1979 Constitution by Section 274(5) (now in Section 315(5) of the Constitution of Federal Republic of Nigeria 1999 as amended) and requires constitutional amendment as provided in Section 9(2) of the Constitution. Following the manifold weaknesses and flaws of LUA already discussed, many groups interested in the development of an efficient and effective land management system in Nigeria have been canvassing for the excision of LUA from the Constitution to facilitate its amendment through the normal legislative process. Perhaps the most fundamental of these complaints as asserted by Mabogunje (2009) is the threat that these exposures of national land management to the whims and caprices of individual Governors constitutes to the growth and development of the Nigerian economy. The need for land reform was prompted by the difficulties encountered by federal government when it embarked on mass housing provision through mortgage financing and the challenges of securing land and procuring certificate of occupancy from the state government. According to Mabogunje (2009), two types of land reform are being promoted in the country namely; excising the Land Use Act from the Constitution and deleting those clauses that gave state Governors power to have to consent to mortgage transactions and assignment of land and to remove the uncertainties under which most Nigerians continue to enjoy their possessory rights to their land (i.e. deemed grants as provided in Sections 34(2) and 36(2) of LUA). Consequently, on April 2, 2009, the president inaugurated an Eight-man Presidential Technical Committee on Land Reform.

The Committee progressed gradually and according to Adeniyi (2018), it proposed introduction of Systematic Land Titling and Registration (SLTR) which would sanitize land administration in Nigeria. SLTR is part of land reform programme of the Federal Government to institutionalize land administration and make it effective and efficient. The system is designed to capture every piece of land in Nigeria. It is envisaged that the Committee would transform to National Land Reform Commission to oversee the completion of the land reform process.

CONCLUSION

Sustainable growth and development in Nigeria and indeed in all developing countries will continue to depend mainly on the security, use and management of land and land-related resources.

Proper management of land is an important factor in development and ensuring or preserving peace and security. This underscores the need for public/popular participation in land policy formulation and implementation so as to facilitate improved land governance. A good land policy should be inclusive and responsive to the needs of all land users, contribute to political stability, promote gender equality, foster the reduction of conflict, enhance sustainable management of natural resources, ensure orderly urban development and improve the economic growth and quality of life of stakeholders.

Land Use Act which is the basic legal framework for land administration in Nigeria has failed to resolve the fundamental problems underlying the sustainable development of the land economy and related sectors. There is a conflict of policy and implementation in the Act which has so far impeded the realization of its objectives. It is therefore ripe for the LUA to be reviewed and amended to give it the necessary policy thrust for the realization of its objectives. Such review should be empirical evidence based and not abstract reasoning and should go beyond the Act to re-engineering existing land administration structures in the public/state sectors. It should also acknowledge the legitimacy of indigenous land tenure systems, together with its land management institutions and structures to engender wide acceptance and implementation.
However, developing an appropriate land policy is not an end in itself but requires the development of political will on the path of government to effectively implement the policies to enhance economic growth and quality of life of the citizens. As land policy implementation entails the transformation of the adopted policy into a programme of land reform, the Nigerian government established the Presidential Technical Committee on Land Reform in 2009. It was envisaged that the Committee would transform to National Land Reform Commission to oversee the completion of the reform process and monitor the performance of the land sector in the country.

Cognizance of the overwhelming importance of land as a critical asset in the economy of Nigeria, it is the position of this discourse that the Land Use Act which is the basic legal framework for land administration in Nigeria should be excised from the 1999 Constitution of Federal Republic of Nigeria to facilitate its amendment/review through the normal legislative process.

Recommendations and the Way Forward

Having x-rayed land policy in Nigeria: issues and challenges in this discourse, we are inclined to make the following suggestions as the way forward towards facilitation of the development of efficient and effective land management system in Nigeria. They are:

i. Land Use Act should be excised from the 1999 Constitution of the Federal Republic of Nigeria to facilitate its comprehensive amendment/review through the normal legislative process.
ii. Expunging Section 1 of LUA which appoints Governors as trustees of land in their states to engender operations of a free market economic system in line with global trend.
iii. Two alternative reforms are suggested. The first is an amendment of the Land Use Act to make clearer provisions for the indigenous land tenure system so as not to leave everything to mere implication, as is presently the case under the transitional provisions of Sections 34 and 36. This should include setting a deadline for the conversion of pre-existing indigenous titles into rights of occupancy with the holders obtaining certificate of occupancy. The alternative suggestion is an amendment of the Act to exclude the indigenous land tenure system from the operation of the Act. This would enable the latter to co-exist with the right of occupancy system without the present problems of interpretation
iv. Establishment of National Depository for land title holdings and records in all states in Nigeria and Federal Capital Territory as this will immensely help in investigation of title and processing and registration of instruments. This could be achieved through Systematic Land Titling and Registration as proposed by Presidential Technical Committee on Land Reform
v. Formal land titling and registration process should be made less bureaucratic and expensive. This will encourage investors to apply for and register land with the appropriate government agencies before commencing development and so prevent encroachment on such land by land grabbers.
vi. Ensure that land tenure laws, the operating registration and procedures for land transaction are made uniform, open and business friendly so as to facilitate and promote modern economic and developmental process with minimum bureaucratic hindrance.
vii. Initiating a cadastral survey of the whole country demarcating title holders in such a way that communities, hamlets, villages, village areas, towns, etc will be recognizable.
viii. Empower Nigerians in all sectors of the economy to have easy access to incontestable certificate of occupancy as evidence of title over their landed properties. This empowerment should enable them to explore and utilize such title documents to promote their economic wellbeing whether in agriculture, commerce, small scale enterprises or real estate development

ix. Progress in land policy administration will require the development of tracking systems and mechanisms of land policy formulation and implementation that will enable Nigerian government learn from past successes and setbacks and make timely readjustments to national land policy process.

x. Creating an enabling environment for the transfer and exchange of land rights either formally through documented transactions or informally through intra-family or community arrangements. Promoting the development of robust land rights transfer systems and markets offering various types of rights (whether primary or secondary) will expand opportunities for acquisition of land resources for various land uses.

xi. Emerging best practices suggest that the development/review of the appropriate land policies require that the interest and roles of all stakeholders in the land sector and in particular indigenous institutions (the owners of the land) the land using public and civil society organizations be first clarified and taken on board before the process is launched.

xii. Government should ensure payment of adequate compensation to claimants for unexhausted improvement and the basic of compensation should be market value. Compensation should also be paid for the bare land based on market value of the land

xiii. The frustrating consent, provisions of Section 21, 22 and 26 of LUA should be removed to facilitate business efficacy, mortgage development and housing provision in Nigeria.

xiv. Certificate of occupancy which is the basic land instrument in Nigeria should be made to be a proof of title rather than mere evidence of a right of occupancy to the land. This will give the needed confidence in the certificate of occupancy as a useful document for securing credit and engender security of tenure.

xv. The Governors in exercising their powers under the LUA should do so in the public interest, transparent, accountable and not be used as a political weapon or arbitrarily.

xvi. Land Use Allocation committee and Land Use Advisory Committee at the state and local government levels, respectively, should be constituted as provided in the LUA with registered Estate Surveyors and Valuers as members.

xvii. Government should establish National Land Commission to assist the National Council of States to pass the needed regulations to improve weak land governance and to coordinate and monitor land sector performance in the country.

xviii. The rare and efficient land use planning should be addressed by preparing strategic land use development plans with adequate implementation and enforcement regulations and sensitizing the public on their existence and importance. Reviewing planning standards, plot size, land use class and adoption of model plans for public use and developing,

disseminating and implementing transparent systems for property tax administration, assessment and collection for use by local governments.

xix. There is need to create awareness of existing laws and citizens' rights therein link spatial and textual data, incorporate traditional institutions and Alternative Dispute Resolution mechanism into the justice system and increase the capacity of judicial institutions to dispense land matters speedily in order to facilitate land related dispute resolution and conflict management.

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