

Land Title Perfection and Legal Issues and Challenges of Land Registration in Nigeria

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ABSTRACT

Land is nature's gift to humans and on it we live, build, farm, excavate minerals resources which to a great extent sustain livelihood. In different climes, land is seen as belonging to the Crown, the Governor, the communities or families. In Nigeria, the Land Use Act vests all lands in Nigeria with the exclusion of federal lands to the the Governor of the State who holds same in trust and is to administer it to the common benefit of all Nigerians. When applicants are allotted land by Government or purchased lands from others, such conveyance must registered. Land registration is the process of recording rights in land either in the form of Deed or title registration. Deed registration has called to question the need for a comprehensive storage, preservation and registration of land titles. Lack of registration of land has led to uncertainty in land transactions; loss of income; land title litigation; loss of lives; state lands have remained unknown; review of title deeds and interest takes much longer time in cases where the land is currently unregistered; fraudsters and corn-men target unregistered land as they can easily fake documentation for it. On the other hand, registration of land title provides security of title. Once a title holder is registered and title has been investigated and put in register, proof of title becomes easier as the register becomes evidence of title. Registration of land provides full information about the title and land which can be downloaded form the land registry website in seconds. Under the Title registration system, where title is registered, and the owner of land has become a subject of an elaborate fraud; title holder can claim indemnity from the land registry; lost deeds and instruments relating to a parcel of land poses no challenge as land information is safely stored in land registry database can be retrieved and updated at any point in time; land registration protects the valid property rights of an individual or group, it is a viable way of preventing conflict regarding ownership or rights and it makes buying and selling of land much easier. The work adopts the doctrinal method of research. Case laws and statutes were scrutinized and applied in the light of present realities. The article found out that there are many issues and challenges bedeviling the land registration procedure in Nigeria which include the general public lack of adequate awareness of the need to register land at the land registry; high cost of land registration; long duration of land registration; corruption issues, lack of manpower; irregularities in documentation and bureaucratic bottleneck. The article proposed three abatement methods to nip in the bud these legal issues to wit: thorough investigation of land title before registration by the land registry; the use of cadastral mapping and implementation of the geographical information system in all states in Nigeria. The work recommended that the cost of land registration should be modest and the duration of registration should be streamlined. This article finally recommended that purchasers of land need the services of property lawyers to assist in drafting a complete and competent sealed Deed of conveyance; they ought to pay for stamp duties, apply for Governor's consent and register the Deed of Conveyance to complete the real property registration and acquire a registered title that can stand the test of time.

INTRODUCTION

Before a land is registered, there are preliminary steps to be taken before registration and the procedure of land registration in some selected states in Nigeria slightly varies and it is pertinent to note that there are legal issues and challenges that affect land registration in Nigeria. Where title to land is not registered, a purchaser is bound by all the legal interests except where, very unusually, the legal interest is registrable as a land charge and has not been registered and purchaser is bound by all equitable interests of which the purchaser has notice, except where the interest is over-reachable and it has been overreached. In the case of *Owakah v Rivers State Housing and Property Development Authority*[\[1\]](#)

the appellant's case was that he bought the property (No. 38 Elechi Street Mile 3, Diobu, Port Harcourt) from the 1st respondent in 1983, and a sales agreement was executed and registered in the Land Registry, Port Harcourt, and that later 1st respondent sold the property to 2nd respondent while the agreement between the appellant and 1st respondent was still subsisting. The 2nd respondent counter claimed a declaration that she was the lawful owner and as such entitled to the statutory right of occupancy in and over the parcel of land with building in dispute situate at No 38 Elechi Street. The property in dispute was one of the abandoned properties vested in the 1st respondent to sell to members of the general public. 1st respondent contended that they did not legitimately sell the property to the appellant. That the appellant committed fraud and colluded with officials of the 1st respondent in his alleged purchase of the property. Further argued that the appellant's claim to ownership of the property lacked contractual basis as there was no offer and acceptance. 1st respondent stated that they advertised the abandoned property for sale in Newspaper and acting on the publication the 2nd respondent purchased the property. The 2nd respondent revealed that prior to the purchase, she had lived in the property and was paying rent. In 1985, State Government directed all tenants to renovate abandoned property, nobody came forward and the property was thereafter published for sale and she purchased the property and became owner in possession. The trial court dismissed 2nd respondent counter claim. Respondents appealed to Court of Appeal and 2nd respondent sought leave to argue the equitable defence of a *bona fide* [2] purchaser for value as a substantial point of law. The Court of Appeal held the trial Court wrongly rejected Exhibit AG and AH tendered by 2nd respondent and held 2nd respondent was the lawful owner of the property as she was a *bona fide* purchaser for value without notice. Dissatisfied, appellant appealed to Supreme Court and contended respondent failed to conduct the necessary search at the Land Registry in Port Harcourt to determine if there was any existing interest in the property. The Supreme Court held that there was no reason for 2nd respondent to engage in another voyage of discovery having followed and complied with all the conditions stipulated in Newspaper publication which was made public. The Court confirmed that the 2nd respondent was a *bona fide* purchaser for value without notice and had acquired a good title to the property. The Supreme Court expatiated that *bona fide* purchaser for value is not affected by the transferor's fraud against a third party and has a superior right to the transferred property against the transferor's creditor and that in this case, since the 2nd respondent had no notice of the sale of the property to the appellant, the 2nd respondent title as a *bona fide* purchaser without notice is immune from all such allegations against the 1st respondent. Where there are multiple interests exist in land, the person that has the better title is the one with legal interest in the eyes of the law; the person having better claim to the land. Thus, to avert buying a land without a clear title, it is important for series of preliminary checks to be conducted on the land. These checks include investigation of the land, perfection of title, stamping of the title deed and registration of title.

INVESTIGATION OF TITLE

Investigation of real property title is the process of confirming the title of the vendor as asserted by him/her. It also involves anything and everything that will reveal any defects in a property to be purchased. [3] A purchaser is expected to inspect the land and make inquiry about anything which appears inconsistent with the title offered by the vendor. [4] In the case of *Njimogu v Okpe* [5], the appellant as plaintiff in the trial court, instituted an action against respondent as defendant and sought a declaration that he is the lawful and rightful owner of the customary right of occupancy over a sixteen -rooms house located at Afake in Kaduna. On the other hand the respondent counter claimed against the appellant that he is the rightful owner of the premises. The appellant stated that in 1995, it was one Mr. G. O. Nwachukwu who introduced him to the property and took him to the owner. That he paid for the property and was given a receipt. That after the purchase, he pleaded for the said Nwachukwu to look after the property as he had lived close to it. That subsequently he was transferred out of Kaduna from 1996 to 2006 but when he came to Kaduna sometimes in 2011, he discovered that the house was already completed and he contacted Mr. Nwachukwu who said he thought the Appellant had sold the house. The respondent's case was that he bought the property in dispute from his predecessor in title, Mohammed Aliyu Isiyaku who bought from Sarkin Musa Umaru. The trial

Court refused both the prayers in the statement of claim and counter-claim. Dissatisfied, the appellant appealed to the Court of Appeal, and in the end held the appellant and respondent were not entitled to judgment in their favour as they failed to provide evidence in proof confirming the claim to their respective titles. It is submitted from this case, that the respondent did not thoroughly investigate title before purchase. There was no due diligence exercised by respondent. On the part of the appellant, he was not in physical possession of land. It is put forward that if the purchaser see evidence of farming on the land or tenants in the building, in such circumstances the purchaser must make thorough inquiry as to when the rent of tenant will expire and when the farmer will harvest the crops. It is an ancient rule that fact of possession constitutes notice of rights of possessor, hence occupation of the premises by a person whose presence is inconsistent with vendor's title places any purchaser on inquiry as to the occupier's rights.[\[6\]](#) The Supreme Court[\[7\]](#) held that a defect in title to land is not easily ascertainable as discovering defect in respect of specific goods. A person buying a pair of trousers will examine the trousers and easily discover if it has defects, and if he fails to discover the defects and buys, he has only himself and not the vendor, to blame. This is not the case with a purchaser of a parcel of land. The purchaser cannot look at the bare ground or either a bare bush or a developed property and discover whether or not the vendor's title to it is defective. A recourse must be had to the title documents which the vendor possesses or in the case of native grants; the history of the founder of the land. A purchaser must of course always take care and be thorough in conducting investigation. A purchaser has constructive notice of all rights which would have been discovered had he or she investigated the vendor's title to the land for the period allowed by law in ordinary cases where the parties make no special agreement as to the length of title. Investigation of title means the examination of documents relating to transactions in the land during the period immediately prior to the purchase. In some climes, this period is now at least 15 years.[\[8\]](#)

Investigation of the Legal Owner of the Land

The purchaser will need to identify the legal owner and the legal nature of the land and how it is currently owned. Is the property or land owned by a public or private entity? Is it owned in fee simple or is it a grant in trust or in leasehold? Is it a condominium which will require consent of the other co-owners to transfer? Is it a family or community land which will require consent of Head and principal members of all the branches of the unit to transfer. The seller/vendor must be the legal owner and have valid legal title. In the case of *Otasanya v Ojelade*[\[9\]](#), it was in evidence before the trial court is that the land in dispute, which is situated at Alahun Village in Ogun State belonged to the Otasanya Bankole family who has been in possession from time immemorial without any disturbance from anybody whatsoever, they alleged that the cause of action of the case arose on the 18th of August 2014 when they alleged that defendants/respondent invaded the disputed and pursued plaintiff/appellant and other members of his family from the land. It was defendants case that the disputed land belongs to several families in Alahun village and that 125 acres of the land was sold to the incorporated Trustees of the Redeemed Church of God under native law and custom, it was further their case that the appellant led thugs to the land and chased them and their agents away destroying blocks and boreholes put on the land by the trustees. The trial gave judgment in favour of the respondent and on appeal, Court of Appeal dismissed the appeal on the failure of the appellant to prove with clarity the legal owner of the land. To this end investigation of land should be poised at revealing the true legal or customary owner of land. Where the land is owned by a public authority, due diligence will require that plot allocation letter to the land be investigated. Was the land always owned by public authority or was the land acquired from family or community in which case the take over was published in the gazette. Such gazette should be looked for and examined. In the case of *Mohammed v Farmers Supply Co. (KDS) Ltd*[\[10\]](#), the Court held that information about existence of revocation of Certificate of Occupancy is a matter within public domain, which upon diligent search at the diligent at the relevant land office, registry or legislative house, any member of the public can easily establish, access and ascertain. Where the land is owned by a private person, investigation of how the private person acquired the land should be diligently pursued. It is put forward that the mode of acquisition of the private person should be clearly ascertained. Instances where

the private person bought the land in a company name, in which case the corporate affairs registry should be searched. Where the land or building is owned jointly, then all joint owners must be consulted and their consents properly obtained.

Investigation of the Previous Changes of ownership

Before purchasing a property, due diligence or property title search must be carried out. There is need to trace previous changes of ownership and ensure that there are no breaks in the chain of title. Most Deed of conveyance simply recite the fact that the vendor is the absolute owner of the land sought to be purchased, other states that the vendor is the beneficial owner of the land. These phrases does not disclose former owners of land and it is a scanty recital on the history of the land. It is necessary to go back as the applicable law and regulations establish that a title can be challenged. History of the land land from present vendor to the predecessor in title and if possible the founder of the land are vital information. In Nigeria, actions for recovery of land must be commenced within 12 (Twelve) years. Action by the State authority to recover land must be commenced within 20 (twenty) years in Lagos State and 12 years in Abuja.[\[11\]](#)

Investigation of the Previous Registered Title

For a registered title, the investigation is simplified as search may be conducted at Land Registry, the nature of grant is search for, description of the property, the details of the registered transfer, any previous or existing encumbrances on property such as mortgages, pledge or any government acquisition. There are some acclaimed registered title that were forged by land speculators and grabbers so caution must still be exercised when dealing with registered title. Investigation is still necessary. In the case of *Segun v Amah*[\[12\]](#), the 2nd respondent case was that he was the original owner allottee of Plot 17 Kubwa Annex in Kubwa Bwari Area Council of Federal Capital Territory since 1995, later his title was regularized by Abuja Geographical Information System in 2009. Appellant denied the claims of the respondent and stated that the respondents were mere trespassers without any colour of title to the plot in dispute. Judgment was given in favour of respondent in the lower court but in the Court of Appeal, appellant's appeal was allowed. This case is an eye opener of the need to verify registered title as most registered title may be without any colour of title. If the property is a bequeathed, there should be search at the probate to reveal whether or not probate has been granted and who the accredited executors of the will are. Where the past owners of the property is a company, a search at the Corporate Affairs Commission is in place to verify who the Directors or Trustees of the company, whether the company was registered and to know if the vendor has the capacity to transfer or sell the property of the company.

Investigation of Family and Communal Lands

Where a family or communal land is to be sold or transferred, interview must be conducted with the Head and principal members of family or community to verify the founder of the land, mode of acquisition of title, the direct descendants of the founder and the branches of family emanating therefrom. In the case of *Ngari v Otaji*[\[13\]](#), claimants sought declaration of title to land, an order of Court setting aside purported sale of land to the respondents. The respondent on the other hand, filed defence and counter-claim against appellant for title to the same land. The land in dispute was 90A Abba Street, Mile 1 Diobu, Port Harcourt. The Claimants stated they were the owners and the property forms part of their family and ancestral land which they inherited alongside the adjoining property from their late father, Chief Worlu Ngara of Rebisi Community in Port Harcourt who was the founder of the land. The claimant laid solid evidence on the mode of acquisition of the founder. The Trial court gave judgement in favour of the claimants and on appeal, the judgment of the trial Court was affirmed. It is revealed from this case, that the respondent purchased from a wrong source and not from the Head and principal members of the claimants family (Worlu family).The case would have been different if adequate and thorough investigation was made to verify the rightful family to sell the land. Experiences from case laws has shown that where all the representatives of branches

or gate of the family or community were not met and negotiated with, problems will spring up in form of land title litigation which will be detrimental to the purchaser. [\[14\]](#)

Investigation at the Court and Charting of the Survey Plan

Investigations of court cause lists, judgments and orders to see if the land proposed for purchase is not subject matter of a court litigation is also vital. There are so many land cases in the court bordering on many subject matter and most times, those who in trouble may want to rush and sold litigation to unsuspecting purchasers. There is a dire need to investigate the survey plan given by the vendor to the purchaser through charting of the coordinates of the plan to ensure it is not under government committed acquisition. It has observed that most surveys are carried out by agents who may not physically visit the land to conduct measurement and submit accurate findings for lodgement at the Ministry of Land. This condition has made some purchasers of land buy a land that was under Government acquisition but were given a wrong coordinates. It is vital that a trusted surveyor should be used and purchaser of land must take the surveyor and the agent to the land. In the alternative it is submitted that a provisional survey can be carried and lodge for charting before payment of money on the land. Purchaser should further confirm the property limits as can be verified from the survey plan. It should be ascertained that the property description in the survey plan is correct, there should be confirmation where the property ends and where the adjacent property begin; it should be confirmed whether the property description in the survey plan matches the version in the title deed. Consents for past transfers ought to be substantiated. It must be verified whether any required consent for each past transfer was granted; such as consent by government authorities, commissioners of lands, spouses, co-owners amongst others. In Lagos State, where earlier consent was not given the purchaser must seek double consent on the recent transaction. [\[15\]](#)

Physical Inspection of the Land and inquiries from Boundary Neighbours

Where a purchaser fails to conduct preliminary inspection of the physical state of the property, he/she will be bound to take the property with its patent defects, thus it imperative that physical be carried out. During physical visit to the property, land boundary neighbours should be interviewed with a view to obtain answers to the following queries: is the vendor the legitimate owner of land? How many land-owners are there? Do all owners consent to the sale? If the land-owner is married, does the mate need to consent to the sale? Are all owners to the property alive and if the legal owner is dead, can the estate of the deceased sell the property? If the property belongs to a minor, is he/she emancipated from his parents? Investigation should be carried out to find out whether there exist possible long term encroachment or right of way that grants an easement or legal right acquired by use; also the use to which the property was previously put. It should be determined whether previous commercial or industrial use of the property had resulted in environmental contamination to the property. This is vital as such previous use could subject the new purchaser to liability as the successor owner.

Perfection of Title

Perfection of title is the completion of the acquisition of interest, transfer of title and ownership vested in the land. It is a conscious step taken by parties to the transaction to complete the transaction by registering the title document with the appropriate state land registry where the land is situated. [\[16\]](#) There are three steps taken in perfection of title in land transactions in Nigeria. It commences from the stamping of the documents, obtaining of Governor's consent and registration with the appropriate land registry.

Stamping of the Title Deed

Stamp duty is a tax on written documents, it is chargeable on instruments that transfer land and buildings situated on it. Payment of tax in Nigeria is a function of law, in other words, all taxes collected by Nigerian

Government are regulated by tax laws.^[17] Under the stamp duties Act, stamping of documents must be done within 30 days of execution of the Deed of Assignment, Transfer or Conveyance.^[18] Payment of 3 percent of the value of the property purchased is paid after assessment. Four copies of the title deeds is deposited at the stamp duties officer for stamping. The stamping of title deed serves as a precursor to obtaining governor's consent and subsequent registration. Effects of failure to stamp may include: an unstamped document is not admissible in evidence to prove title; late stamping attracts penalty and the document would not be accepted for registration.

Pursuit of Governor's Consent

By virtue of the Land Use Act, all land in each state in the federation became vested in the Governor of that State, who prior consent is mandatory for the legal validity of any transfers or alienation of interest in landed property. Section 22 of the Land Use Act imposes the need for a holder of statutory right of occupancy to obtain the Governor's consent where he intends to alienate his right in the property. A completed contract on sale requires Governor's consent and if it not sought or obtained, there can be no valid transfer. In *B. Manfag (Nig) Ltd v M/SOI Ltd*,^[19] the Supreme Court held that section 22 of the Act merely prohibits the holder of a statutory right of occupancy from alienating his right of occupancy or any part thereof by assignment, mortgage, transfer or possession, sublease, or otherwise without the consent of the Governor first had and obtained. The apex court however stated: but the holder of statutory right of occupancy is certainly not prohibited by the section from entering into some form of agreement for presentation to the Governor for his necessary consent. This is good sense because the Governor when giving his consent may require the holder to submit an instrument executed in evidence of the assignment in order that his consent may be signified by endorsement thereon. In the case of *Polaris Bank Ltd & Ors v Oladipo*^[20], the mortgage agreement (Exhibit D2) was made with no column for Governor's consent. The usual endorsement put on the agreements of this nature to which the governor subsequently append his signature was missing. The Court reasoned that the deposit of the title document created an equitable mortgage and the creation of equitable mortgage can be made without getting the governor's consent at the time of creating same. That consent can be obtained later to comply with sections 22 and 26 of the Land Use Act. The purport of the above mentioned provisions is to the effect that where there is alienation of land either by way of mortgage, sale, lease without prior consent of the Governor, such alienation will be rendered null and void. The court held that parties had no intention of seeking and obtaining consent. That if the provision for Governor's consent was there, then it would have been inchoate but the the absence of the column for Governor's consent is a clear violation of section 22 and therefore the mortgage agreement is null and void. It is to be noted that solicitors preparing title document need to insert column for Governor's consent to show the intention to comply with sections 22 and 26 of the Act. In Lagos, documents to be submitted for Governor's consent are application in the prescribed Form 1C obtainable at Land Registry; covering letter addressed to the Commissioner of Lands and Housing; evidence of tax clearance for three years for both parties; evidence of payment of development fee; evidence of payment of ground rent (if the land is not developed), land use charge and tenement rates (if land is developed); 4 copies of duly executed deed of assignment; approved building plan; survey plan; a photograph of the property; a copy of the applicant's identification or his legal representative's identification.

Registration of the Title Deed

Registration is compulsory for Deed of assignment and must be done within 60 days of execution of the Deed of assignment.^[21] The land instrument registration laws governs the registration of documents in each jurisdiction. The registrar will only accept a deed of assignment, if consent had been obtained and stamp duties paid. The purpose of registration is to prevent fraud; a problem arising from suppression or omission of these facts when title is deduced. Upon submission of the application documents and payment of administrative fee, the application is given a unique reference number, processed and delivered to the

Surveyor's General's office for the charting department to ensure that the plans were prepared in accordance with town planning rules and that the property is free from government acquisition. If there are no queries, the deeds are returned to the Directorate of Lands service for issuance of the assessment notice. Where the survey plan is queried, a notice of the query is issued to the applicant. After investigation and assessment of the true value of the property, an assessment letter will be issued to the applicant. The letter will contain the amount for the registration fee, consent fee, neighborhood improvement charge and capital gains tax to be paid to a designated bank. After payment receipts are issued to be submitted as proof of payment to the land registry who will register the Deed. In practice the registrar will paste a certified true copy of the instrument on the register with his signature. On it and on the original, he shall endorse the following words: " This instrument is registered as No 6 at Page 6 in vol 123 of the Lagos Land Registry in the office at 9am." Upon registration of a conveyance instrument, the original is handed over to the applicant. The effect of registered dispositions is that their validity is guaranteed by the registry. If anybody relying on the registration suffers loss, he will be entitled to an indemnity. In addition, they are given special effect and priority. As between the parties, transfer takes effect from the date of execution once the transfer has been executed the die has been cast. But the transferee acquires no title until the transfer is registered. The transferee takes the land subject to entries in the register, overriding interest and in case of a disposition of a leasehold, to all covenants, obligations and liabilities on the estate.[\[22\]](#) Until a transfer of interest in registered land is registered, the transferor remains the proprietor of the estate. Consequently, the transferee, will not able to exercise the powers of a registered proprietor but may be able to at least in some circumstances, exercise some rights over the land. This is because, such an unregistered transfer is effective in equity.

ISSUES AFFECTING REAL PROPERTY REGISTRATION IN NIGERIA

Manual registration of land title is fraught with many legal issues. Prominent among which include the fact that manual land registration procedure is cumbersome; the cost very expensive; the duration for registration is protracted and it requires over 14 different steps. The next heading shall briefly discuss these legal issues.

Lack of Adequate Awareness of the General Public

Most purchasers of land do not know that they need to properly document and register the land they had bought, to this end, they stop at payment of the land to the vendor. Nearly all state registration laws are in support of land registration. Section 2 of the Lagos law states that registration is compulsory for all lands in Lagos[\[23\]](#). In one report, beneficiaries in Ekiti and Benue states were more likely to have better understanding of the land registration process than those in other states because there land information guidelines in circulation.[\[24\]](#) Where there are no guidelines, seminars and training, some purchasers do not go through private conveyancing, stamp duty, obtaining of Governor's consent and registration. They do not know in the first place that such procedure exist or are necessary. The legal issue here is that failure to register land with the registry entails loss of priority and connotes that the instrument cannot be given in evidence to prove title[\[25\]](#). For most Pre-Act land owners, land registration seems as an exercise in futility, they do not understand why they should apply for a certificate of occupancy that will limit their title to just 99 years.[\[26\]](#) They also query why they should pay annual customary or statutory fees to government for their family or communal land. Most people practically do not know the value attachment to documentation of land transactions. Others believe that it is only when they want to sell or take loan from the bank that they need registration of land.[\[27\]](#) Overcoming this informational constraint is a key point in improving land registration service delivery in Nigeria.

High Cost of Land Registration Procedure

Affordability is another road block to land registration. The cost of registration is too high relative to the income of the people, despite cost reductions the government has introduced in some states. For example in

Kaduna, the government put a flat rate of ₦80,000 (Eighty Thousand naira only) yet some people are still poor and cannot afford. In Osun State, the cost of registration is between ₦100,000 and ₦150,000 (One Hundred Thousand and One Hundred and Fifty Thousand naira), but this amount is still very exorbitant for the inhabitants especially in the village where the cost of land is still very cheap.[\[28\]](#) This reinforces the outcome of previous studies that cost of land title registration in developing countries is too high, often beyond the reach of the poor.[\[29\]](#) It must be borne in mind that land registration processes starts from the negotiation, investigation of title, private conveyancing, payment for stamp duties, application of Governor's consent and registration at last. The sum total of entire land registration procedure is on the high side and is not affordable for most Nigerian citizens. More so, where a lawyer's services is retained for perfection of title the title holder will have to pay for legal services and this also add up to the high cost of land registration. This exorbitant trajectory has contributed to the reason why most land owners have not keyed into the real property registration in Nigeria.

Duration of Land Registration Procedure

In Lagos, where land registration procedure is digitalised, it takes from one to three months to register a title in land. In other states that combine manual and digital land registration processes, land registration takes up to six months. The manual land registration processes include obtaining a form; submission of filled form; opening of file and issuance of file number; advertisement in national newspaper; payment of outstanding ground rent; payment of calculated proposed ground rent; inspection; payment of 10% of approved value as consent fee; capital gain tax; payment of stamp duty fees for stamping; deed registration fees; endorsement of land title by Governor, Commissioner and Deed Registrar and registration of title by registrar.[\[30\]](#) These stages are over 14 different stages and spans over a protracted period of time. Where land management procedure are carefully planned, some procedures can be merged or completed online to economize time. Land registration takes a very long time as the dominant means of access to land registration institutions is direct contact in many states in Nigeria, while online means of communication appears to be limited. As shall be seen from other climes, duration of land registration can be effectively managed, curtailed and reduced with the application of digital registration.

Corruption Issues

A new survey released revealed that land registries have remained a cesspit for bribery among other public offices in Nigeria.[\[31\]](#) The survey stated that public officials who are entrusted with some core functions of the state, not least those involved in land administration, account for the highest prevalence in direct bribe requests from 21 percent in 2016 to 26 percent in 2019. In the case of *Abba v Abaiji* [\[32\]](#) the respondent was a civil servant who was allocated a government quarter in Borno State since 1983 and was paying rents until 2002 when the 3rd respondent (Borno State Government) asked that every occupier should apply to buy the flat they occupied under the policy known as owner-occupier. The respondent applied in May 2002, whereas the appellant (Secretary to the State Government) applied in September 2002. The appellant misrepresented facts to the Governor and on the strength of the facts that the flat was empty, he was issued a Certificate of occupancy. The 1st respondent petitioned the 3rd respondent and a committee was set to investigate the complaint and discovered that the complaint was genuine. As a result, the certificate of appellant was revoked. The appellant brought an action at High court to challenge the revocation, while the 1st respondent counter claimed. The trial court gave judgment in favour of the appellant. The 1st respondent appealed to the Court of Appeal which allowed the appeal and set aside the judgment of the trial court and granted the 1st respondent's counter claim. The appellant thus appealed to Supreme Court and the Court held *inter alia* as follows: In the exercise of the statutory powers of the Governor to grant and issue a certificate of occupancy, occasions may arise where the Governor is misled into granting the right of occupancy and issuing a certificate to a wrong person or the Governor may discover that the issuance of the certificate of occupancy was carried out irregularly through inducement, fraud, concealment or misrepresentation, in such situations,

the Governor cannot fold his arms and allow those vitiating vices to be perpetrated over the land he holds in trust and for the benefit of all Nigerians and allow the certificate to stand. Even though there is no specific provision in the Land Use Act for such, the Governor has inherent power to revisit the grant and issuance of certificate of occupancy with a view to correcting the anomaly. It is submitted that the inherent power of the Governor in correction of anomaly in issuance of certificate of occupancy shall include revocation or cancellation of a wrongly issued certificate of occupancy. Applicants complained about how some staff of the land registry made the process of registration difficult by demanding gratification before performing their statutory work of land registration and applicants who were not able to offer bribe abandon the registration process without completing same as the said officials refuse to process their application. [33] Land registries are one of the three stages of perfecting title to land to enhance the property rights enjoyed by the assignee. Corruption in land administration has remained a challenge in the real estate sector with many stakeholders calling for digitalisation of the process. There are anecdotal experiences of property files that magically disappear in order to solicit for facilitation to ensure their reappearance, besides, cases abound of multiple ownership of land in Nigeria, which has caused many disputes. The reports say a digitised registry would in some measure provide incorruptibility, clarity and transparency in the system. [34] There are also reports about attorneys who had charged their client as high as 20 percent of the purchase price inclusive of the registration of the titled Deed but who only stopped at preparation, sealing and attestation of the Deed at court without any further steps. [35] There is also the problem of insufficient land laws and measures, excessive or unpublished fees for land services, uneven practices in the assemblage of land taxes, lack of active compliant, grievance and oversight mechanisms. The existence of corruption in land governance can create stunt growth in the land sector which could affect future land sustainability. [36]

Challenges of Real Property Registration in Nigeria

Land title registration is germane to providing proof of individual ownership of land. In recognition of its importance in enhancing property rights efforts at improving land title has significantly. But there are still challenges militating against land registration including lack of manpower, irregularities in documentation and bureaucratic bottlenecks. The sub-headings below shall elucidate in simple clear terms how this challenge plays out.

Lack of Adequate Manpower

Manpower are considered as the the most essential function of the human resource management of the organization. Lack of manpower connotes an insufficiency, shortage or absence of qualified registry staff. Manpower basically helps to efficiently manage the maintenance of the registry goodwill by enabling value to their parastatal , registry functions, revenue generated and other important resources. Lack of adequate manpower in land registry prevents the completion and perfection of title registration tasks. The lack of productivity translates into a reduction in revenue and profit. Most of the staff working in the land registry lack the professional competence to understand the technicalities and intricacies of land registration, record keeping, working within time and the need for title security. [37] it is the competent staff of the land registry that ought to detect inadequacies of title documents, it is the registry staff that ought to thoroughly investigate title document at the point of submission and properly direct applicants to regularize their title documents. In the age of technology advancement adequate manpower requires recruitment of graduate staff with expertise the field of geographical information management, real estate management, surveying, Law and business administration amongst other field. The staff also require on the job training to sharpen skills and work effectively.

Irregularities in Documentation

Title registration is authentication of the ownership of a legal interest in a parcel of land. Once the registration process is completed, no search behind the register is needed to establish a chain of title to the

property for the register itself is conclusive proof of title. This system calls for accurate documentation. In most Geographical information systems and land registries, online forms and manual forms are given to applicants to fill with respect to personal, tax, financial, technical and land information details.[38] Most applicants are not well informed or legally minded to fill land documentation papers correctly. And when such irregular documentation are recorded publicly and stored, it can lead to misleading the public. Innocent purchasers can buy land on the strength of the false charting or search result arising from improper documentation and will run into loss of money. There will be dire need for assistant to be rendered to applicant with limited legal knowledge on how to fill land registration forms correctly. During conveyancing, majority of persons refrain from employing competent hands that would assist them with the process, they often engage the services of estate agents or do it themselves by using a precedent to copy and paste land information history that is not compatible with theirs resulting in defective land titles registration in Nigeria. It appears that even the elites in Nigeria exhibit this wrong attitude, unknown to purchasers, the defective title is conveyed in subsequent land transactions which end in bitter litigation. Estate agents have increased in number, most of whom are touts carrying out questionable land transactions. They attract members of the public with their cheap yet unprofessional services, having undergone no significant training on the law of property and conveyancing.[39]

Non Compliance of Registration Rules by Applicants

For an organization to function properly, there must be a set of rules to be complied with. The registration laws have provided time frame within which certain acts must be done by the applicants. For example the Stamp duty act require that document conferring interest in land ought to be stamped within 30 days of its execution. The Land instrument registration laws of various states also provide for registration of land instrument within 30 days. Registration benefits applicant as it provides evidence of ownership, higher property value, security of title and ease of transaction for future disposals, the more reason why the applicants must abide by registration rules and procedures. The registry also have similar rules with respect to procedure and duration for registration of Deeds, title, caution, searches, lost of land instrument, Deed of Assent, vesting Deeds, registration of Certificate of Occupancy.[40] It behooves on the applicant to make adequate enquiry of the procedure to follow, documents to submit, amount to pay and return date from registry officials. Where the rules are ignored, the registration process cannot run smoothly. So many land registrations processes by applicants were dumped for non compliance with registration rule.

Bureaucratic Bottleneck

Bureaucracy is an element of administration so interlocked that government parastatal especially complex organizations which have hierarchy of workers with responsibilities moving from row to another. Bureaucratic bottleneck then is a complicated official system which caused delay in one stage of process to the other and makes the whole process take longer to accomplish. The manual registry is a good example thereof as it stack silos of information, they have redundant data, manual entry errors which become a clog in the wheel of work flow process.[41] Furthermore the time frame to obtain Governor's consent, certificate of occupancy is annoyingly slow as many application need to pass through so many desks and sometime go back and fourth. Application may stay long in a particular desk untreated. In many cases some application files had got missing. Applicants for land registration are required to present the purchase agreement for their plot of land, record copy of survey plan, tax clearance, passport photographs, pay prescribe fees depending on the type of land title registration they applied for. Files are opened for applicants for easy identification, applicant obtain survey clearance from the office of the Surveyor General, the land would be slated for advertisement in national newspaper, title would be presented to the Governor or his representative for endorsement, the applicant will proceed to pay stamp duty and ground rent. At this stage, the title document would be registered at the Deed Registry by the registrar of Deed in the Lands Department of the Ministry after which the document would be ready for collection by the applicant. A

meticulous perusal reveals the title will be endorsed by Governor, Land Commissioner and the Deed Registrar and thereafter returned to Deed Registrar for registration. The land registration process involves many ministries including: Office of the Surveyor General, Deed Registry, GIS office, Lands Department, Town Planning and Land Use Allocation Committee and that is what caused the delay.[\[42\]](#) In Kaduna, it is reported that respondents say the registration process is lengthy and cumbersome and involves many delays. The respondents continued to identify other problems that dovetailed from bureaucracy to include inefficiency and record keeping it is put forward that the powers of the governor under the law to grant rights of occupancy and the requirement for consent of the Governor for alienation of land has been the major causes of the delays and lengthy process. The Governor signs the certificates of occupancy and approves consents. The process often results in delay due to the busy schedule of the governor. Another respondent stated he has tried to process some applications for the past two years with success. It is apposite to state that a change to a paperless land registration system can be a panacea for bureaucratic bottleneck presently experienced in the manual land registry.[\[43\]](#) In this system once title document are scanned into electronic form on land registry platform, it can be sent in electronic format to ministries concerned for their official comments and signature.

Abatement Techniques to Improve the legal issues and Challenges of land registration in Nigeria

One of the principal aim of this article was to propose the abatement techniques to improve real property registration in Nigeria. The three techniques in view include geographical information system, robust cadastral system and root of title investigation by the registry.

Geographical Information System

Land Geographical information Systems generally, capture, store, manipulate, analyse, manage and present all types of geographical data including urban planning, infrastructure, utility, natural resource management amongst others. Geographic information system is a technology for gathering, managing and analysing spatial data related to positions on earth's surface. GIS analyse the location and organize multiple data layers to create a visual 3D map. It help create maps that help improve decision making, share information, identify issues and encourage developing solutions to complex problems in our world today.[\[44\]](#) The GIS can show many different kinds of data on one map, such as streets, buildings and vegetation. This enables people to more easily see, analyse, and understand patterns and relationships. In a number of countries, the separate functions of land administration are being drawn together through the creation of digital cadastral databases. This assist the linkage of data sets held by different agencies for defining and referencing parcels. The type of data that can be linked together include:

1. Data for defining land ownership and supporting land transfer, mortgaging and investment;
2. Data for assessing the value of land and property for example, for taxation or calculating land acquisition compensation;
3. Data for land market support and analysis and for identifying trends in rents and prices and their relation to location;
4. Data for planning a management of utilities, soils, existing forms of land-use and environmental impact assessment.[\[45\]](#)

Land administration essentially entails a number of processes meant at ensuring that land rights are properly delineated and recorded. It involves all those processes whereby information relating to land ownership, land use and land value are properly documented. Generally, these processes often result in large volumes of information. This information covers issues relating to master plan, land use plans, detailed site development plans, engineering infrastructure as well as other survey information, records of allocation (name of allottees, plot numbers, plot sizes, use and locations), records of all transaction such as power of attorney, deed of assignment, mortgages, subleases, releases, devolution and so on. All these information are

practically difficult to manage using the traditional/manual approach. The registration process in the traditional/manual starts by in person visit for a client who wants to register a land under private ownership to the licensed offices to open/update new registration file. The client will submit title deed, tax-free certificate, original identification document, personal details including phone number and the email address. The email address will be used to activate an instant updating system which enables the client receive emails and SMS about the progress of the registration application. To get land survey after processing the transaction with legal department and the verification of the the transaction, an SMS will be sent to the client to pay for survey fees. Survey is accurately done by certified surveying team who register the coordinates of the land in order to obtain very accurate data for a fixed fee of space in number of points. These processes can be perfectly handled GIS. GIS, being a computerized system, has capabilities in handling such huge amount of data in a manner that is not only effective, but efficient, secured, faster and transparent. Data handled by a GIS can be spatial or attribute data. Spatial data relates to data that has locational or positional identity with respect to the surface of the earth while attribute data describes the characteristics or qualities of spatial features. This implies that a GIS may have a property parcel described in its spatial database and qualities such as its land use, ownership, property valuation and so on in its attribute database. A GIS based friendly user interface data entry and modification system is used by specialists and decision makers to retrieve data from the web based LRS. Through connecting attribute data with spatial data, this system will provide an easy technique for data accessibility sharing, tracking, and manipulating in a transparent way. As the data will be collected and documented through the land registry web based system, the GIS tool will be used to visualize the actual surveyed lands and their corresponding data., in addition to the interpretation of these earlier entered data. Visual basic applications language is utilized to develop a proposed GIS based land registration tool.[\[46\]](#) This tool consists of three main pages including: Land, Parcel, and Block. Each main page contains several sub-pages. For example, land main page involves six sub-pages of data entry and query; land holding data; neighbouring land holders data; new land holder data; previous landholder data; land location and general registration data. Parcel main page includes three sub-pages to wit: parcel data; parcel boundaries, and parcel location. While Block main page also includes three sub-pages: block data; block boundaries and block location. The land holding data sub-page involves information about the piece of land that is to be registered including the magnitude of its area and use, block information containing its history information like transfer date, registration date and transfer reason. The GIS saves time and effort, it helps in tracking transaction and quick dissemination of information through SMS and emails, it is a full automated system and it grant access to information for the public users and land investors. GIS considerably simplifies territorial planning and allows carrying out of complex assessment of the situation and creates a basis for adoption of more exact and scientifically reasonable decisions in the course of land use and registration.

Some of the advantages of computerization of land registration as outlined by Adamu[\[47\]](#) include the followings:

1. Increasing the speed of processing title and reducing time and cost in the process of obtaining title to land.
2. Providing public access to information relating to land.
3. Entrenching transparency in land administration practices.
4. Integrating land record information with other services.
5. Improving collection of property taxes.
6. Controlling of double allocation and un-authorized use of land.
7. Simplifying application forms and processes.
8. Reducing the influx of illegal intermediaries.

The adoption of GIS technology can potentially lead to the development of efficient and organized land markets, guarantee tenure security among land owners, increase revenue generation by government, reduce

disputes among land owners as well fostering prudent land management by establishing efficient system of land administration.[48] The system will reduce to the barest minimum cases of land disputes. The GIS records all the particulars of the owner of a given parcel of land as well as the geometric dimension of the land parcel. By so doing, it is difficult for two people to lay claim to the same piece of land. Integrity checks built in the DBMS ensures that database is not unduly tampered with.

Development of a Robust Cadastral System

Cadastral is a sub-system of a comprehensive land information system. It is composed of the legal cadastre, fiscal cadastre as well as utility cadastre.[49] Among the central tasks of the general cadastre are to archive the documentation of cadastral activities, registration of measurement sheets and filed plans, and to keep up to date record of interests in land. Usually, the cadastre archive is paper based, which hinder the integration of the archive into digital cadastre system, furthermore, recourse is allocated for time consuming archiving work by storing, searching and complying of land documents.[50] The issue of changing from analogue system of archiving to digital becomes more relevant as the deployment of IT-supports for technical as well as administrative task develops. A robust cadastral system consists essentially but not exclusively of the delimitation or documentation, but mapping out of parcels of land, investigations into and record of all interests or rights existing over parcels of land in Nigeria. In a legal sense, cadastre typifies all the actions relating to investigations of entitlement of occupancy rights and other subsidiary rights or interests in land in Nigeria.[51] Cadastres are usually associated with surveyed land parcels and registered land rights[52]. He highlighted that a cadastral system combines cadastres, with its spatial focus, and the land record, with its legal focus, hence, cadastral systems link people to land (spatial component) and rights (legal component) as well as other (off-register) land-based interests. Cadastral should not be looked at as only recording formalized systems of property rights but may refer to non-exclusive customary property rights too. The essence of cadastre is to provide clarity over the land that a set of rights, responsibilities and restrictions apply to; it also meant to define where the location of land can be found most especially when someone is unsure of the extent of the land or when there is a land dispute. Cadastre also involves comprehensive identification of parcel of land, registration and or documentation of interest in land which enables purchaser discover root of title of land intended for sale at the click of the computer mouse.

Root of Title Investigation by Land Registry

Root of title has to be established first by the land registry before registration of the land. This is so because root of title is the *quo warranto*[53] of acts of ownership. The law is that no amount of possession or acts of ownership can compete with and oust title. Root of title connotes the knowing the history of the founder of the real property, verifying the mode of acquisition of the vendor. The mode of acquisition of the founder of land may be grant, a sale, conquest, settlement, inheritance, gift or deforestation. it is always good practice to discover for how long the founder exercised acts of ownership and possession of the land. It must be carefully traced who the predecessor in title are up to the present vendor. If the property is allotted by government it is still necessary to discover whether the land had always been in possession of the government or whether the government had compulsorily acquired the land for public purposes following due process of law. Such acquisition ought to be in a gazette, to this end such gazette need to be referenced by the registry. It is necessary to dig to know the root of title of the land before government acquisition. The reason being that if government acquisition is overturned in the future by court then the purchaser will be left with no foundation. The steps in unraveling the root of founder of the land may lie in checking the recitals in the title document if it was documented. The check in the recital shows that a good procedure of registration should encompass a competent draftsmanship of the land instrument by lawyers well versed in land law and registration. A careless draft of Deed of Conveyance with scanty recital should be redrafted after visit to land and interview. In situations where the founder of land is late or not available the founder's family or relative can be interviewed. Where the primary root of title is traditional evidence or documents of title and

acts of ownership which are dependent on that main root of title, failure to prove main root of title will be fatal. It is imperative even when proving title to land using titled documents that the founder of land is proven to authenticate the process. It is not only the duty of the intending purchaser of land to dig into archives at the point of purchase to prove root of title, most intending purchasers do not even know what that means. They stop only after payment of the land purchase price. The registrar of title under the registration of titles usually undertakes investigation of title before particulars of the property submitted for registration are entered in the register. This is to ascertain the veracity of information made available to the Registrar. In the registration of instruments, since the State does not guarantee the validity of the entries in the register, investigation of title by the Registrar before registering the instruments becomes utterly unnecessary. This thesis put forward that both the registrar of title and Chief land registrar should make it a condition precedence to verify root of title of land before it is publicly recorded or registered digitally. The verification here contemplated will include visit to the physical site of the land, interview with the vendor and predecessors in title and recording of the history of the land in the public domain. The reason for this stemmed from incessant land title disputes in court due to so many reasons including improper registration of land or even the dearth of digital registration, trespass, land grab, irregularities in issuance of Certificate of Occupancy, non capturing of land boundaries amongst others. The authority for review of land titled document already issued was earlier discussed in the case of *Abba v Abaiji*.^[54] Another relevant case that validate the need for due diligence for land registry before registration of title is *Malami v Ohikhuare*^[55], the case involved the contest over the ownership of Plot No 1809, Asokoro, Federal Capital Territory, Abuja formerly known as Plot No. 865. The first appellant/plaintiff, Malami was a holder of Certificate of Occupancy dated 20th August 1984. on 7th May 2005, the plaintiff through Kabiru Ladan submitted the original copy of his C of O to the Abuja Geographic Information System for re-certification, but instead of being given a re-certified C of O, a purported notice of revocation was served on the party who assisted plaintiff in the regularization process. The notice of revocation was never served on the plaintiff. The 1st and 2nd defendants officers dumped it on Kabiru Ladan at AGIS seven months after same was purportedly made. This *ex-facie*^[56] evidence was *mala fide*. The plaintiff paid for the re-certification and his payment was accepted by the 1st and 2nd defendants through the AGIS. This payment was not at any time rejected or refunded. The 1st and 2nd defendants issued the plaintiff with a re-certification acknowledgment dated 7th day of May 2005. The FCT and FCDA subsequently revoked the plot in favour of Aliyu. Aliyu had in 2006 sold the landed property to Ohikhuare, the latter perfected all instruments on it (he registered a deed of assignment and obtained a Certificate of Occupancy) and he built residential apartments valued at about one billion naira on the land in dispute. The Plaintiff had executed a Power of Attorney in favour of Sir Emeka Offor to take possession, manage and administer the said property on his behalf. So Mr Emeka went to court to challenge the illegal revocation of his land rights and counter claimed for title to land. The trial court gave judgment in favour of Malami and granted all his reliefs. Ohikhuare appealed and the decision of the trial court was set aside on grounds that Ohikhuare was a *bonafide* purchaser for value without notice of any defect in title. At the Supreme Court, the Court painstakingly highlighted the need for due diligence and what a thorough search at the land registry should include. The Court held that the lawyer's finding in the search report constituted constructive notice, he had more than enough to get alarm bells ringing that defects existed over the title to the land. The Court maintained that a thorough search should include paying careful attention to dates, discrepancies and cancellation in the search report. The fact that the plot of land was vacant for so many years ought to have been another danger alarm that respondent's lawyer ought to have asked boundary neighbours to verify. The Court went further to hold that the power to revoke a certificate of occupancy is not an automation when it is not exercised in conformity with the provisions of the Act; that the transaction on which the plea was founded rested on a non-existent title of the purported vendor, and as a result, the purchaser has purchased nothing and the transaction has been blown into the air. The Supreme Court highlighted that where a right of occupancy is granted over land while there is still a subsisting grant of occupancy over the same land, the subsequent right of occupancy as evidenced by the certificate of occupancy is invalid, null and void by reason of the existence of the subsisting grant. To this end, it is not prudent for the Land Registries officers to hastily conclude that title is good and secure, just because the title

document has a Certificate of Occupancy or registered deed. The Chief Land Officer must conduct search at the relevant land registries respecting such registered deed; pay careful attention to dates on relevant documents, signatures regarding dealings on the land or property in the researched files. The land registries need to verify, confirm the original customary or deemed right holders before the certificate of occupancy was issued. They must prepare an abstract of title, listing various dealings on the land and relevant documents evidencing through the intervening periods. If it is a state or government allocation, the land registries should lift the veil, dig further how the land was obtained by the government; ascertain whether the land acquired, revoked or excised? Investigate what was the purpose of the acquisition? Confirm whether the current grant in harmony to be registered is in accordance with the stipulated purpose? Find out if due processes for revocation was complied with and compensation paid to original land owners? Chief Land officer must obtain documentary evidence for due diligence review and reference.

RECOMMENDATIONS

The article proposes the following as recommendations for the improvement of land registration in Nigeria.

1. The Land Use Act should be amended and land registration should be made compulsory in all the state land registration laws to serve as the legal regime for enforcement of land registration in Nigeria. All other necessary land registration regulations and rules needed to support the primary legislation should be enacted.
2. It is suggested that state lands yet to be surveyed and divided into clearly identifiable plots in consonance with cadastral mapping should as a matter of urgency be mapped.
3. The geographical information system should be introduced in all the states in Nigeria and should be made functional. This system will enable the land information of titleholders to be linked to their plot, such information will be stored permanently on database and easily accessible for search.
4. Land registry officials should conduct thorough investigation of title and due diligence should be made a condition precedent before presentation of land title documents for Governor's consent and subsequent registration as this will go a long way in remedying the status and validity of registered title including the Certificate of Occupancy.
5. The cost of registration should be streamlined and reduced by the Government to enable all land holders register their lands. Competent staff with requisite knowledge of computer, geographical information system and land title registration and investigation should be recruited in all state and national land registries to reduce the issues and challenges affecting land registration in Nigeria.

FOOT NOTES

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- [9] (2021) LPELR-55584 (CA)
- [10] (2019) 17 NWLR (Pt. 1701) 198 (SC).
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- [12] (2022) LPELR-58848 (CA).
- [13] (2021) LPELR-54778 (CA).
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[53] Meaning: the legal basis or warrant or authority.

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[55] (2019) 7 NWLR (Pt. 1670) 132 (SC).

[56] A Latin word meaning on the face of it.