

Enhancing Land Titling and Registration in Nigeria

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Key word: land management, land administration, land registration, best practices.

SUMMARY

Land administration has been defined by Federation of International Surveyors (FIG) as the process of determining, recording and disseminating information about ownership/tenure, value and use of land. This paper reviews the key driven approaches to efficient land registration as against the existing situation in Nigeria, and advocating the need for complete computerization of the process in the country. In addition, the system should incorporate the norms of best practices aimed at improving Nigerian land titling and registration. This will create land markets and enhances accessibility to credit facilities and hence eradicate poverty. A number of alternative land registration policy measures in Nigeria have been suggested; cadastral survey/registration, simplification of customary title registration, adoption of the Social Tenure Domain Model (STDM) and removal of the LUA from the Constitution.

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1. INTRODUCTION

The United Nation (1999) also consider land administration as the process of determining, recording and disseminating information on ownership, value and use of land, when implementing land management policies. The instruments of land administration are focused on the recording of existing land tenure arrangements. Land Registration can be seen as an aspect of Land administration. This facilitates titling, alienation and disposition. It can be regarded as a record, held by the Land Registry, which lists the registered owner of plots and whether there are any legal charges upon it. In other words, it is also the process of recording rights in land either in the form of registration of deeds or registration of title to land. Registration provides a safe and easy means of recording transactions on land since the bench mark of any transaction on land is security of title, which unregistered conveyance does not guarantee. The law prescribes certain methods of registration to assist the conveyance in the course of investigating title on land. This paper aim to review the existing system of land titling, registration and disposition and to make appropriate recommendations that will enhance the system.

2. BACK GROUND TO THE STUDY

Land registration and cadastre play an important role in a community, provided they function effectively. Though, different countries possess country specific land registration regulations. Land registration system in Nigeria involves three principal systems of recording the rights/ownership to land. These include:

- i. Private conveyance
- ii. Registration of titles and
- iii. Registration of Deeds

The title is however a description of a land parcels, details and description contain therein usually includes the followings:

- Description of location or boundary (for instance bearing and distances, survey description, metres and bounds description, public land survey system reference, lot number in platted subdivision coordinates etc).
- Method of conveyance (for example warranty deed, quit claim etc). The cost of providing its essential foundation – plans of sufficient accuracy of the area whereby every parcel registered can be unambiguously identified has delayed its establishment in some countries.

Furthermore, Deeds are instrument and entails registration of land transactions with a public authority (Register of Deeds)

- Land transaction are between individuals or corporate organization

- Registration is essentially voluntary, though typically done to support claim to land and create land market.
- Grantor and grantee (conveyed from, to) used to organize records in a systematic classification basis for ease of retrieval and dissemination.

The global interest now in that system of registration of title should aim at combining the following:

i. Security	ii. Simplicity	iii. Accuracy
iv. Cheapness	v. Expenditure	vi. Suitability

Modern techniques involves the use of GIS tools for land registration, data storage, information management, quick and easy data access, in addition to retrieval of land data and updated information.

3. REGISTRATION OF SYSTEM IN NIGERIA

Land Registration Act No. 36 of 1924 is the law regulating registration of instrument in Nigeria which is enacted for the whole country adopted and re-enacted in some states under different nomenclature. The law prescribes registration of any instrument executed before or after the commencement of this law. To facilitate registration the law establishes in every state a land registry under a land registrar charged with the responsibilities of registering instruments affecting land in the state and to keep registered books and file in relation thereto. Modern methods include computerization of the whole process in addition to the use of Geographic information system (GIS) and Land Information System (LIS). These methods have helped to enhance the process/system of registration and also gives a well defined details, measurements and design efficiency.

1.1 Instruments Registrable

Land registration Act, (1924) defined registrable instrument as a document affecting land whereby one party called the grantor confers, transfers, limits, charges or extinguishes in favor of another party called the grantee any right or title to the interest in land and includes a certificate of purchase, a power of Attorney under which any instrument may be excluded but does not include a will. Registrable instrument includes an estate contract, a deed of appointment or discharge of trustee containing expressly or impliedly a vesting declaration affecting any land.

Therefore, it is generally agreed that a registrable instrument is a document, which transfers or creates a right, title or interest in land to or in favour of the grantee. But a will is expressly excluded from the ambit of registrable instruments. Consequently, a sales receipt, purchase receipt is not a registrable instrument if it is a mere acknowledgment of sales or payment and does not confer or transfer interest in land.

A document which split portion of land, which transfer separate interest to the different individuals, is a registrable instrument. But where it does not transfer or extinguish any right in law, it is not registrable. A contract made by a person with an interest in land is registrable

from the date of the contract; equally an instrument creating an equitable mortgage is registrable as an estate contract.

A written agreement for a lease is a registrable instrument except where explicitly expressed otherwise in any legislation or law. A sale agreement is generally not a registrable instrument. But an agreement to mortgage land is a registrable instrument under the various registration laws in Nigeria. A power of Attorney is only registrable where it specifically relates to an interest in land. A registrable instrument for the purpose of registration must be accompanied by a plan of the land. However, in the case of a power of attorney no such plan is required.

4. THE RATIONALE FOR CHANGE IN SYSTEM OF LAND REGISTRATION

Change is a constant action, and it is always called for when there is ineffectiveness and inefficiency. Change of the system of property rights registration is what Dabrundashvili (2007), referred to as the reform in Georgia for Good Governance in Land Tenure and Administration. He started by pointing out the reasons and needs for this reform. To him, the concentration of power over land issues in a single entity as well as poor governance by top management and local government, duplication of work and a lack of consensus oriented decision-making, lack of public awareness and transparency all combined with the weak rule of law to create a basis for corruption. His points were very clear and reasonable. He held the view that these factors are enough to demand for a reform. His passion was that all the above would contribute greatly to the establishment of an effective, efficient and sustainable system with a unified, impartial and non-corruptive registration of ownership rights all over the country.

The objectives of the land registration reform according to Debrundashvili (2007) are:-

- Provision of security of ownership and tenure rights;
- Creation of a unified, modern, customer-oriented, one-stop-shop, transparent, corruption-free public registry system through comprehensive institutional, financial, technological and legislative reform;
- Capacity building of personnel;
- Coordination of donor organization activities;
- Computerization of the processes according to modern standard

In-fact that is a very comprehensive and inclusive objectives for an effective and efficient registration system with a touch of new trend, i.e. computerization. Then the development strategy for the land registration reform involves six main areas:

- Institutional
- Legislative
- Technological
- Administrative
- Financial
- Donor coordination

The final analysis in land registration system globally is to introduce a framework for transparency; set service standards; improve in capacity building and in the development of a human resource policy; improve to systems and processes; secure financing, establish audits; make effective use of information technology and communications; include stakeholders and less positive experience as well as being effective, efficient and consensus-oriented.

5. BACKGROUND OF THE PILOT STUDY AREA

Kongila neighbourhood, the sample study area is located within the Minna city centre. Minna is the capital of Niger State, one of the 36 states of Nigeria. Nigeria has a land area of approximately 923,768 sq.km (less the 3000 sq.km ceded to the Cameroons in Bakassi), a population of approximately 140million, by 2006 national census and more than 250 ethnic groups. It is the most populous country in Africa with a growth rate of 2.4% per annum. It is accounting for about 47% of West Africa's population and is ranked the second largest economy in the sub-Saharan Africa. Nigeria is a petroleum-based economy, ranking among the topmost oil producing countries of the world, but it is still struggling with the problem of infrastructure. Oil provides 20% of the Gross Domestic Product (GDP), 95% of foreign exchange earnings, and about 65% of budgetary revenues. Despite the relative oil wealth, poverty is widespread with about 54-60% of the population living below the poverty line, on less than \$ 1 per day. While it is endowed with enviable land resource and human capital, a large proportion of the population occupy land in both urban and rural areas without marketable title to the land.

The prominent areas of Kongila, are either adjacent or opposite to Minna General Hospital, the Central Business District which is linked through the route from Keteren Gwari, that also serve as one of the entrance and exit arterial to Minna Central area. Kongila is dominated by different ethnic groups of Nigeria such as Nupe, Gwari, Yoruba, Igbo, Edo etc, different ethnicity of the area is also reflected in the street and road naming such as Lagos road, Yoruba road, Igbo road etc. Furthermore, due to the location of the study area in the settlement pattern of Minna, people have taken advantage of this for residential homes, and other location of activities in the area. The situation has thus made the entire area crowded. The physical, social and economic development of every area depends greatly on the proper usefulness of the Land resources since Land has formed the basis of any development, there is a need for good administration of Land resources to avoid the abuse of this resources. It is therefore necessary to formulate and propose a better way of registering the little to Land to encourage a proper use of Land, limit the rate at which people violate Land policies and to enhance a proper transaction on Land. With a proper registration of all the title to Land, government can easily be aware per term, every transaction and development to be carried out on that Land, therefore, some good policies can be put in place to regulate the use of Land resources, and this will eventually lead to a good habitable environment.

6. METHODOLOGY

The data used in this study were collected from the targeted population basically the residents of Kongila in Minna, Niger State. Every questionnaire administered was to property owners

of the area whether it is a commercial property or a residential property. Simple random sampling technique was adopted. The study area is already divided into four parts by the existing major tarred road networks that is James Bawa Pada Way crossing the Aminu Bello Way (Note: the street names used here are the new names given by the present Government 2009). All the questionnaires were shared randomly in all the parts, which amount to 45 questionnaires in total.

There were two times visits to the study area this afforded a great opportunity to see the condition of the environment and hear from the real owners (leaseholders) of the properties in the study area. This method also helped to give judgment to what the responses of the respondents were as given in the questionnaires.

Relevant documents, past research works, seminar papers, textbooks etc. were consulted. Below is the detail summary of the sample size, showing detail questionnaires

Table 2.1: Field Work response rate

Description	Number	Percent (%)
Total target population	50	100
Undelivered Survey (Questionnaires)	5	10
Total Survey Population	45	90
Total Responses	45	90
Unuseable Responses	5	10
Total coded samples	40	80
TOTAL USEABLE SAMPLES	40	80

Source: field analysis, 2009. Note: Total useable sample = 40 out of 50

7. DATA PRESENTATION AND ANALYSIS

The form of ownership of properties

The respondents were asked what form of ownership they have over the land and their responses are shown below.

Table 2.2: Form of Ownership of the Properties

Form of Ownership	No. of Respondent	Percent (%)
Statutory	12	30
Customary	28	70
Total	40	100

Source: field Survey: 2009

This shows that majority of the respondents (70%) possess their lands under the customary form of ownership while few (30%) possess theirs under the statutory form of ownership. It is

an indication that most of the lands in the study area are under the customary form of ownership.

Mode of acquisition

The respondents were also asked on how they acquired the land, and their response is presented on the table below.

Table 2.3: Mode of acquisition of the properties.

Mode of acquisition	No. of Respondents	Percent (%)
First Settler	5	12.5
Inheritance	19	47.5
Purchase/Bought	14	35.0
Gift	2	5.0
Indifference	0	0.
Total	40	100

Source : field survey, 2009.

It could be deduced from table 2.3 that most of the present Landholders in this area got them through inheritance. However, from the interview during our data collection, those that inherited; purchased and those that got as gift, all traced the initial acquisition to be first settler. They all claimed that their forefathers settled there, and those who bought claimed they bought from either the first settlers or their children.

The Level of Compliance with Land registration

The table below shows the response of the respondent when asked if the land has been registered.

Table 2.4: Level of compliance with Land registration.

Status	Number of Respondent	Percent (%)
Registered	33	82.5
Not Registered	7	17.5
Total	40	100

Source: field survey, 2009

This shows that majority (over 82%) of the respondents have their lands registered while very few (less than 18%) did not register theirs. The meaning is that most of the lands in Kongila area are registered but the question here is if they have complied with contemporary registration, have they done it at the right place – state or local government?

Payment of tax on the land

The level of compliance with taxation on land or building was investigated by asking if they pay any form of tax on their property. And their response is shown below.

Table 2.5: Payment of tax

Status	No. of Respondents	Percent (%)
Pays	8	20
Pays not	32	80
Total	40	100

Source: field survey, 2009

The response shows that only 20% of the properties are levied on, while 80% are not levied. This means that some revenue is being lost by the government. Those few who say they pay admitted not regularly defaulting in most occasions.

8. SUMMARY OF FINDING

From the inspection survey, it was noticed that many of the land occupiers have no title to define their ownership and it was discovered that some of inhabitants that have customary right of occupancy do not even know the difference between the Statutory and Customary right of occupancy. They attach no value to land registration.

From the pilot study area, the analysis of the data gotten from the survey, some issues were discovered, and these are that:

- Even though Kongila is an urban area and so should have statutory right of occupancy, most of the leaseholders there, still have customary right of occupancy.
- Most people claim ignorance of the provisions of Land Use Act which provides that Urban Lands should be controlled by the state government.
- Most of the Lands were acquired by first settlers of whom most are late thereby resulting to inheritance by their successors, though almost one-third of the Lands have been sold to fresh owners.
- Most of the sold or purchased Lands are along the major routes which are used for commercial purposes.
- Most of the Lands were registered long ago with either the local government or with the district heads but have not been converted to statutory right of occupancy to conform with the LUA, 1978.
- Most of the Lands were first acquired over thirty (30) years ago.
- About 50% of the respondents claimed to have obtained approval before the development from the district head who was in charge of the Land administration then though no documentation/documents to such claims.

9. CONCLUSION

It should be noted that, registrable instrument that is not registered is inadmissible in evidence as proof of a transfer of an interest though it may be admitted as acknowledgement of payment. Where there is more than one instrument executed by the same grantor relating to the same land priority is determined by the date of registration where there are rival claimants. In all cases where registration of an instruments it required by status, the fact of such

registration does not cure a defect in the title of the grantee. Thus, where such grantee had no valid title in law before registration of his title, it cannot be validated by registration. Enhanced land registration system will improve the socio-economic condition of the inhabitants since the system will incorporate the norms of best practices aimed at improving Nigerian land titling and registration. This will create land markets and enhances accessibility to credit facilities and hence eradicate poverty.

10. RECOMMENDATION

It is recommended that;

- 1) Provision of new infrastructure; this will greatly create awareness for the people that government to really showing some interest in the development of the area.
- 2) Government should try and educate the people in the area to create a clear understanding of Land policy. In particular, there individual responsibility, there right of ownership, how to register therein little and the benefit of Land title registration.
- 3) Government should stimulate land title registration interest and conversion of customary titles to statutory right of occupancy at a very low rate with minimum delay.
- 4) Introduction of alternative land registration policy measures in Nigeria to include; cadastral survey/mandatory land registration, simplification of customary title registration, adoption of the Social Tenure Domain Model (STDM) as a technique and removal of the LUA from the Constitution.
- 5) Review of existing paper-based data classification and management procedures, including the formats in which data is submitted to the land registry and cadastre.

11. PROPOSED IMPLEMENTATION STRATEGIES

There are several steps through which the proposed guidelines can be implemented.

1. Making available a free title registration in the first instance.
2. Educating the people on need and benefit of land registration
3. Setting up a coordinated team for Land registration in all the 36 state capitals of Nigeria.
4. House to house registration and adoption of Social Tenure Domain Model (STDM) whereby land ownership will be captured.

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LAND REGISTRATION LEGISLATIONS IN NIGERIA

1. “Registration ordinance No.12 of 1883” was enacted which applied to the Gold Coast Colony of which Nigeria then formed a constituent part.
2. In 1888 “General Registry Ordinance No.9 “established a general registry for land, marriage, births, death, etc.
3. Ordinance No.2 of 1894 made the “Registration Ordinance No.2 of 1883” applicable to Nigeria when Nigeria became a separate Colony. It also established a registry in Lagos and had power to establish others elsewhere it made it compulsory that all crown grants must be registered within 30 days or become void.
4. General Registry Ordinance No.9 of 1895 extended the coverage of the General Registry for land, marriage, births, death, etc.
5. Lands Registry Proclamation No.16 of 1900 of the protectorate of southern Nigeria was the first to deal exclusively with instruments in land and it also included wills, copy of judgments of Supreme Court, Judge’s title, Judge’s certificate to land sold in execution, affidavit or solemn declaration of ownership and any other writing affecting land situated in the protectorate.
6. The Registration Ordinance No.5 of 1901 as amended by the registration ordinance No.12 repealed, consolidated and made more comprehensive the General Registry Ordinance of 1888 for lands, marriage, births, death, etc.
7. In 1901 “Land and Native Right Proclamation Act” No.10 was also enacted in the former Northern Nigeria Protectorate.
8. Registry proclamation No.30 of 1903 amended the law relating to the
 - (i) Registration of Deeds in the Southern protectorate and brought ‘Land
 - (ii) Registry Regulation No.42 of 1896 of Royal Niger Company and all
 - (iii) Registers under the ‘Land Registry Proclamation’ of 1900
9. The ‘Land Registry Proclamation No.18 of 1901 as amended by ‘Land
 - (i) Registry proclamation No.30 of 1903 amended the law relating to the.
 - (ii) Registration of Deeds in the Southern protectorate and brought ‘Land
 - (iii) Registry Regulation No.42 of 1896 of Royal Niger Company and all
 - (iv) Registers under the ‘Land Registry Proclamation’ of 1900
10. The “Land Registration Ordinance” was enacted in 1907 for the colony and protectorate of Southern Nigeria with land registration offices in Lagos, Calabar, Warri and other parts appointed by the Governor.
11. In 1908, “Land Registration Ordinance” No.3 became operational, repealing the 1907 law.

12. Following the amalgamation of the two protectorates, a single land registration law (The Land Registration Ordinance No.12) of 1915, which was an amendment and consolidation of the two earlier laws separately existing in the protectorates, came into force.
13. The Federal Land Registry was administered under the Land Registration Act of 1924 Cap 36 as amended by Registration of Title Ordinance No.13 of 1935 to register all land comprised in the then Federal Capital Territory of Lagos.
14. The “Land Registration Act” No.36 of 1924, as was amended by Registration of Title Ordinance No.13 of 1935, was subsequently enacted and remained the law on registration of instruments affecting land throughout Nigeria until Nigeria adopted the federal system of government.
15. Laws of the Federal Republic of Nigeria. The Land Use Act, 1978.

BIOGRAPHICAL NOTES

Muhammad Bashar Nuhu is currently a Lecturer and first School of Environmental Technology (SET) alumnus Head of Estate Management Department, Federal University of Technology, Minna, Nigeria. He possesses Diploma in Public Administration, National Diploma (ND)/Higher National Diploma (HND) in Architecture, Bachelor of Technology Degree in Estate Management, Postgraduate Diploma in Management (PGDM), Postgraduate Diploma in Education (PGDE), Masters of Technology Degree in Construction Management and presently, he is undergoing his Ph.D programme in Estate Management and equally teaches Feasibility and Viability studies and Comparative Land Policies in the same University in addition to being external examiner to many tertiary institutions in Nigeria.

He is an Estate Surveyor and Valuer, and, a Member of the National Council of the Nigerian Institution of Estate Surveyors and Valuers (NIESV) by virtue of being the State Chairman of NIESV-Niger State, Nigeria; Member, Nigerian Institute of Management (NIM); Member, Nigerian Environmental Society (NES), and Associate Member, Association of Architectural Educators in Nigeria (AARCHES), Associate Member of Centre for Human Settlement and Urban Development (CHSUD) – Federal University of Technology-Minna and has published in reputable journals. He had over 15 years experience in Lands Management and Administration at the Local Government (LG) level of Niger state, Nigeria, and rose to the rank of Director, Public Works, Lands, Survey and Housing. He was the pioneer National Secretary of the Federation of LG Directors of Works in Nigeria (2000-2005) and equally engages in consultancy work in Nigeria. He is the Chief Consultant to M.B.Nuhu & Company, a firm of Estate Surveyors and Valuers and Home front Consultants Ltd.

He was a participant and resource person in an International Training Programme on ***‘Financing and Management of Local Infrastructure Initiatives’***, under the auspices and sponsorship of Swedish International Development Co-operation Agency (SIDA) at Sweden, Zambia and Kenya. He has served as Guest Speaker and presented papers at different fora

nationally and internationally. Some of which are paper presented at the **Joint Seminar on Compulsory Purchase and Compensation in Land Acquisition and Takings**, September 6th to 8th 2007, in Helsinki, Finland; **FIG/ FAO International Seminar on State and Public Land management** in Verona, Italy 9 – 10 September 2008 and at **Joint Seminar on Appraisal and property protection**, 18 – 20 October, 2008 in Beijing, P. R. China.

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