

# THE USE AND THE ABUSE OF THE LAND USE ACT FOR SUSTAINABLE LAND ADMINISTRATION AND MANAGEMENT IN NIGERIA

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**BY**

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# Introduction

Land is fundamental to all human endeavors on the planet, serving as the foundation for all material wealth. To manage the ownership, utilization, and development of land and its resources, countries around the globe have established land ownership systems designed to consistently balance the interests of the government, landowners, and those without land.

## Introduction Cont'd

In order to manage and administer the available parcel of land in Nigeria, for the benefit of the good people of Nigeria, the Land Use Act was promulgated in 1978, in order to harmonize the management and administration of land in Nigeria.

This paper therefore examines the intervention of the Land Use Act in the management, administration and control of Land in Nigeria, and suggested the need for the complete repeal of the Land Use Act or the immediate revision of the Land Use Act to enhance the accessibility of land for diverse purposes, taking into cognizance the doctrine of equity and fairness.

# The Northern Nigeria Land Tenure System

In 1962, the Parliament of Northern Nigeria enacted the Land Tenure Law, which upheld the prevailing Land Tenure System in the region. This legislation designated the Government as the custodian of all land, holding it in trust for the populace, and permitted only rights of occupancy—rather than ownership rights—to individuals or entities. Prior to any transfer of land interests, the approval of the Governor was mandatory.

# The Southern Nigeria Land Tenure System

In Southern Nigeria, the traditional land tenure system regulated land ownership, with land being held by communities, families, and individuals under freehold arrangements. Land could be obtained through various means, including inheritance, initial settlement, transfer, gifting, direct purchase, or prolonged possession. Additionally, there existed crown lands, which were obtained by the British Crown through treaties, cessions, conventions, or agreements. Following Nigeria's independence, these crown lands were reclassified as state lands.

# The effect of the Land Tenure Systems

Despite the presence of laws governing land, issues relating to land tenure and administration continued to be prevalent in both Northern and Southern Nigeria. Challenges such as land racketeering and speculation were widespread. Landowners often demanded excessive compensation when the government sought to acquire land for development purposes. As a result, the process of land acquisition by either the government or private individuals was becoming increasingly difficult in Nigeria.

One significant obstacle identified in the effective execution of the Second Development Plan from 1975 to 1980 was the scarcity of land for development projects. To address this challenge and counteract the monopolistic practices of landowners, the Federal Military Government established several committees to explore solutions to the issues related to land tenure and administration in Nigeria. The findings of one such committee, known as the Land Use Panel of 1977, ultimately laid the groundwork for the enactment of the Land Use Act No. 6 of 1978.

# The major reasons for promulgating the Land Use Act

The first issue was the variety of customary laws governing land tenure, which made it challenging to implement the distinct customs of various communities.

The second issue was the widespread occurrence of fraudulent land sales in southern Nigeria, where the same parcel of land was sold to multiple individuals simultaneously, leading to numerous legal disputes.



## Summary the Land Use Act of 1978

The Land Use Decree, now known as the Land Use Act, was enacted on March 29, 1978, based on the suggestions of a minority report from a panel established by the Federal Military Government to provide guidance on future land policy. This decree immediately transferred ownership of all land within each state of the Federation to the Governor of that state, except those vested in the Federal Government within the States.

## THE LAND TENURE SYSTEM RECOMMENDED BY THE PANEL

The panel emphasized the necessity of adopting the Land Tenure System that was in use in Northern Nigeria, suggesting appropriate modifications to ensure its effective implementation in accordance with the existing circumstances.

The Act assigns ownership of all land within the boundaries of each state, with the exception of land owned by the Federal Government for its agencies (refer to Section 49 of the Land Use Act), exclusively to the Governors of the respective states and the Minister of the Federal Capital Territory in the case of Abuja. These officials were entrusted to manage the land on behalf of the citizens.

## The main objectives derivable from the Act are:

- ▶ To align the Land Tenure System in Nigeria
- ▶ To implement structural reforms within the land tenure framework;
- ▶ To facilitate rapid economic and social development;
- ▶ To counteract economic disparities resulting from the accumulation of increasing land values by speculators and landowners;
- ▶ To ensure that land is accessible and affordable for both government and private developers.

## THE COMMENCEMENT/INTENTION OF THE LAND USE ACT

An Act to *Vest ALL Land* compromised in the territory of each State (except land vested in the Federal government or its agencies) SOLELY in the Governor of the State , who would hold such Land in trust for the people and would henceforth be responsible for allocation of land in all urban areas to individuals resident in the State and to organisations for residential, agriculture, commercial and other purposes while similar powers with respect to non urban areas are conferred on Local Governments.

From the commencement of the Land Use Act referred to, it is crystal clear that the right of private individuals, families, communities and corporate bodies over any parcel of land in Nigeria have been extinguished and same have been vested in the Governor of the State and the Minister of the Federal Capital Territory, in accordance with the Provisions of the Act.

Therefore, ALL parcel of land in Nigeria are “Government Acquired Land/Acquisition”

# WHO MANAGES THE USE OF THE LAND

Therefore, it is the Governor of the State and the Minister of the FCT that administer, control, manage and regulate the Use of the Land, in accordance with provisions of the Land Use Act.

No doubt, the intentions of Land Use Act 1978 was to ensure equity and fairness in the distribution of the scarce and limited resources called Land in Nigeria, but unfortunately, this has not been the case.



## THE FUNDAMENTAL HUMAN RIGHTS OF EVERY NIGERIAN CITIZEN OVER LAND IN NIGERIA

Section 43 of the Nigerian Constitution provides that :  
“every citizen of Nigeria shall have the right to acquire and own immovable property anywhere in Nigeria.”

While Section 44 of the Nigerian Constitution is to the effect that the Government (Federal or State) can not seize property for PUBLIC USE, unless prescribed by law, and with prompt adequate compensation, including access to court for the determination of the interest in the land.

# THE LAND USE ACT AS ENTRENCHED IN THE NIGERIAN CONSTITUTION

Section 315(1)(5)(d) of the 1999 Nigerian Constitution states thus: Nothing in this Constitution shall invalidate the following enactments, that is to say - ...

(d) the Land Use Act,

and the provisions of those enactments shall continue to apply and have full effect in accordance with their tenor and to the like extent as any other provisions forming part of this Constitution and shall not be altered or repealed except in accordance with the provisions of section 9 (2) of this Constitution.

## Section 9 (2) of this Constitution

An Act of the National Assembly for the alteration of this Constitution, not being an Act to which section 8 of this Constitution applies, shall not be passed in either House of the National Assembly unless the proposal is supported by the votes of not less than two-thirds majority of all the members of that House and approved by resolution of the Houses of Assembly of not less than two-thirds of all the States.

## THE LAND USE ACT AS A WEAPON TO VIOLATE THE FUNDAMENTAL HUMAN RIGHTS OF THE NIGERIAN CITIZENS OVER LAND

While the Nigerian Constitution grants every eligible Nigerian citizen the right to own immovable property anywhere in Nigeria, the Land Use Act only grants Nigerian citizens the right to be in possession of a parcel of land as a tenant and not the owner of the Land or its landlord.

# THE CERTIFICATE OF OCCUPANCY (C of O)

The Certificate of Occupancy is a document issued to the Nigerian citizens or eligible corporate bodies, by the Governor of the State in respect of parcels within the control of the State, or the Minister of the Federal Capital Territory in respect of parcels of land in the FCT or the designated Minister of the Federal Republic of Nigeria, in respect of the Federal Government parcels of land in any state in Nigeria.

As the name implies, a Certificate of Occupancy means that the Certificate is issued to establish or confirm that the holder of the Certificate is the rightful person in Occupation/Possession of the Land.

Hence the holders of the Certificate of Occupancy are meant to pay Ground Rents and other fees while they remain in possession of the land.

# THE CERTIFICATE OF OCCUPANCY (C of O) Cont'd

It is already settled that tenants pay rent to their landlord, the land owner/landlord can not be paying rent over his own property.

As such, the holders of the C of O are tenants on the land, while the tenure subsists.

It would have been a different thing entirely, if the C of O was a CERTIFICATE OF OWNERSHIP, which is not the case in respect of the Land Use Act.

# THE CERTIFICATE OF OCCUPANCY

## (C of O) Cont'd

To corroborate the this position, the Supreme Court in the case of *Auta v. Ibe* (2003) 13 NWLR (Pt. 837) 247, held thus: “A Certificate of Occupancy is normally the evidence of exclusive possession and the rights provided for in favour of the person in possession of such Certificate. (P. 266, para F).”

See also *Kolo v. Lawan* (2018) 13 NWLR (Pt. 1637) 495

As a result of this bottleneck, the compensation for the revocation of land is only in respect of the improvements/developments/crops on the land and not in respect of the land itself, because the land does not belong to the occupier. See Section 28 of the Land Use Act.



This is also why the Consent of the Governor of the State; the Minister of the FCT or the concerned minister of the Federal Republic of Nigeria in charge of Federal Land outside the FCT must be sought and obtained before any transaction over any land can be valid.

Section 22 of the Land Use Act states thus: “It shall not be lawful for the holder of a statutory right of occupancy granted by the Governor to alienate his right of occupancy or any part thereof by assignment, mortgage, transfer of possession, sublease or otherwise howsoever without the consent of the Governor first had and obtained.”

Section 26 states thus: “Any transaction or any instrument which purports to confer on or vest in any person any interest or right over land other than in accordance with the provisions of this Act shall be null and void.”

In the case of *Owoniboye Tech. Serv. Ltd. v. U.B.N. Ltd*, (2003) 15 NWLR (Pt. 844) 545, the Supreme Court held thus: ...but when he comes to embark on the next stage of alienating or transferring his right of occupancy which is done by a conveyance or deed, culminating in vesting the said right in the purchaser, he must obtain the consent of the Governor to make the transaction valid. If he fails to, then the transaction is null and void under section 26 of the Act.

# THE ABUSE OF THE LAND USE ACT

It is no longer a breaking news, that on the strength of the power vested in the Land Use Act by the Nigerian Constitution, the Government, especially at the State levels, have revoked several titles from the Citizens that have been granted to them by previous Governments, most of them were not even for overriding public interest as contained in the Land Use Act and the Nigerian Constitution, but the parcel of land are transferred to individuals and corporate bodies, who are cronies of the Government of the day or the power that be, for their personal use, which is contrary to the doctrine of equity and fairness, which was the basis of which the Land Use Act was promulgated in the first place.

When Nigerian citizens make efforts to acquire land and develop, some even get the relevant Government approvals to develop such properties from the concerned agencies, a change in leadership within the agency will often amount to change in policy and most of the approvals already issued will be queried and revoked, while the innocent citizens will be plunged into more loss.

More often, the Government lay embargo on several parcels of land in the name of “Government Acquisition” and ensure that citizens are not granted any title to the land in those areas and without any genuine intentions of the Government on the use of the land in many years to come, which is clearly against the intentions of the Land Use Act.

Most of the time, the State Government would have taken over and sold parcel of land belonging to families or communities to investors without the knowledge of the traditional owners of the land, who suddenly see strangers working on their land.

Worst still, is the fact that the bad trends have been extended to professionals, such as the Land Surveyors, whose Survey plans are rejected by the Bureau of Lands & Surveys and at the Lands Registry, when presented for title registration, on the ground that the Surveyors are not eligible to practice on Government Acquisitions, which is clearly against the provisions of the SURCON Act.

In contrast, by virtue of Section 1 of the Land Use Act, all the parcel of land in Nigeria are Government Acquisition and there is no provisions of the Land Use Act or the SURCON Act, which prohibits a Surveyor from working on Government Acquisitions.

This is against the background that a Survey plan is only to show the location and description of the parcel of land, it does not confer ownership of the land on the client.

Needless to mention the fact that anything that bothers on Professions and/or Professional Occupations is a “NO GO AREA” for any State Government, because the issues of Professional Occupations is an item on the Exclusive Legislative Lists of the Nigerian Constitution. See Item 49 of the Exclusive Legislative List.



# MOVING FORWARD FROM HERE

No doubt the Land Use Act has been explored majorly against its intentions and there is the need to return to the drawing board, to do the needful.

The effect of the Nigerian Constitution on the Land Use Act, and the Land Use Act itself is to the detriment of the citizens, who were supposed to benefit maximally from the statutes, as the Land Use Act has become a tool of mass demolition of properties and the revocations of parcels of land belonging to the Nigerian citizens.

It becomes necessary to work around the rigorous task to either repeal the Land Use Act completely or amend the provisions of the Nigerian Constitution and the Land Use Act that tends to cause more harm than good in the administration, management and control of Land in Nigeria.

# The administration, management and control of Land in Nigeria.

As we all know, land is fixed, it is definite, it is immovable, it does not increase or expand; it remains firm.

Hence the need to engage the appropriate professionals to determine the boundaries of the land for proper sustainable administration, management and control of Land in Nigeria, for the common use and benefits of every Nigerian citizen.

These professionals are the REGISTERED LAND SURVEYORS, with the Surveyors Council of Nigeria.

some of the comprehensive overview of the significance of mapping in land administration by the Surveyors are as follows:

# 1. Establishing and Preserving Land Boundaries:

## Clarity and Precision:

Maps play a crucial role in defining and preserving precise property boundaries, which is vital for avoiding conflicts and ensuring unambiguous ownership.

## Visual Representation:

Maps offer a graphical depiction of land parcels, facilitating a better understanding and management of land resources.

## Land Tenure Mapping:

The process of land tenure mapping, which records land rights and ownership, is essential for effective land management and fostering economic growth.

## 2. Enhancing Land Management and Planning:

### Land Use Planning:

Maps are indispensable for urban development, environmental oversight, and resource management, as they illustrate how land is allocated for various purposes.

### Infrastructure Planning:

Maps assist in the planning and oversight of infrastructure initiatives by indicating the locations of existing facilities and potential areas for new developments.

### Resource Management:

Mapping is instrumental in the stewardship of natural resources, such as forests, water bodies, and soil, by pinpointing their locations and extents.

### **3. Strengthening Land Administration and Governance:**

#### **Property Valuation and Taxation:**

Maps are utilized to evaluate property values and accurately collect land taxes.

#### **Land Records Management:**

Maps are essential for maintaining precise and current land records, which are critical for effective land administration.

#### **Dispute Resolution:**

Maps can aid in resolving land disputes by providing definitive evidence of ownership and boundaries.

#### **Transparency and Accountability:**

Maps enhance transparency and accountability in land administration by offering a public record of land ownership and usage.

## 4. Economic and Social Advantages:

- ▶ Economic Advancement:
- ▶ Establishing secure land rights through precise mapping can stimulate economic growth by fostering investment and trade opportunities.
- ▶ Social Justice:
- ▶ Effective mapping can contribute to fair land distribution, ensuring that marginalized communities gain access to land resources.
- ▶ Environmental Conservation:
- ▶ Mapping plays a crucial role in environmental protection by identifying and managing vulnerable areas, including wetlands and forests.

# EVERY HAND MUST BE INVOLVED

With effective mapping in place, the planning for the management, administration and control of the parcel of land becomes lots easier, while the power absolutely vested in a few individual are removed by the proper instrument of Law, to enhance the concept of equity and fairness in the dealing of land in Nigeria.

All the Professionals in the built environment, the Lawyers and stakeholders must come together to make it work.



# CONCLUSION