A CRITIQUE OF THE PROVISION OF SECTION 47 OF THE LAND USE ACT 1978 ON THE ADEQUACY OF COMPESATION: A CASE STUDY OF KATSINA STATE.

BY

Godswill Oseghale INEGBEDION

LAW1906193

FACULTY OF LAW

UNIVERSITY OF BENIN

BENIN CITY.

FEBRUARY, 2025

A CRITIQUE OF THE PROVISION OF SECTION 47 OF THE LAND USE ACT 1978 ON THE ADEQUACY OF COMPESATION: A CASE STUDY OF KATSINA STATE.

BY

Godswill Oseghale INEGBEDION

LAW1906193

A LONG ESSAY WRITTEN AND SUBMITTED TO THE FACULTY OF LAW, UNIVERSITY OF BENIN IN PARTIAL FULFILMENT OF THE REQUIREMENT FOR THE AWARD OF THE DEGREE OF BACHELOR OF LAWS (LL.B) OF THE UNIVERSITY OF BENIN, BENIN CITY.

FEBRUARY, 2025

CERTIFICATION

I, **Godswill Oseghale INEGBEDION** with Matriculation Number **LAW1906193**, hereby certify that apart from references to other persons' works which have been duly acknowledged, the entire work is a product of my research, and this project has neither in whole nor in part been presented for another degree, elsewhere.

_____

Godswill Oseghale INEGBEDION

LAW1906193

APPROVAL

We certify that this project was written and completed by **Godswill Oseghale INEGBEDION** with Matriculation Number **LAW1906193** in partial fulfilment of the requirements for the award of a Bachelor of Laws (LL.B) Degree.

EDAMWEN FRANCES OGBONNA (MRS) _____

PROJECT SUPERVISOR **SIGNATURE AND DATE**

DR. D.T ACHI _____

PROJECT COORDINATOR **SIGNATURE AND DATE**

PROF. BRIGHT BAZUAYE _____

DEAN, FACULTY OF LAW **SIGNATURE AND DATE**

DEDICATION

I offer my deepest gratitude to the Almighty God for guiding me and granting me the strength and good health to complete this research work. I also dedicate this work to my parents, Mr. and Mrs. Inegbedion and my sisters, Blessing, Favour and Divine.

ACKNOWLEDGEMENT

First and foremost, I would like to specially thank God for giving me good health for the successful completion of this undergraduate programme in this great citadel of learning, Great University of Benin.

I appreciate the dedication of my Supervisor, Edamwen Frances Ogbonna (Mrs) who despite the errors and mistakes I made earlier on in starting this project, corrected me and did not give up on putting me in the right direction, it is my prayer that God Almighty will reward you mightily.

Special appreciation goes to my parents Mr & Mrs Inegbedion for their endless prayers and support. Also to my beloved sister Favour Inegbedion whose unwavering support and encouragement have been the bedrock of my determination during the course of this programme. Also my other sisters, Blessing Inegbedion and Divine Inegbedion, they were always there for me when I was at my lowest and their love kept me going.

To my uncle and my Aunt, Egunmwendia Joseph and Egunmwendia Rosemary, who also supported me on this my journey, I really appreciate and thank you.

To my friends, Osaro, Denis, James, Justice, Jk, Benji, Samuel, Divine, Uyi, Tayo, Ufuoma, Ify, Ronnie, Allen, and all others that I couldn't mention who made this journey less solitary, I say thank you all. To all my mentors, and Lecturers who have guided me with their wisdom and patience. Your belief in me has been instrumental in bringing this project to light. Thank you for being part of this incredible adventure.

LIST OF CASES

LIST OF STATUTES

Public Land Acquisition Act, 1958

Public Lands Acquisition Law, 1973

Public Lands Acquisition, 1976.

The Land Tenure Law of Northern Nigeria of 1962.

Land Use Act 1978.

Constitution of the Federal Republic of Nigeria 1999.

TABLE OF CONTENTS

CHAPTER TWO

CONCEPTUAL CLARIFICATION

CHAPTER THREE

A CRITIQUE OF THE LAND USE ACT OF 1978

CHAPTER FOUR

AN APPRAISAL OF SECTION 47 OF THE LAND USE ACT

CHAPTER FIVE

SUMMARY, CONCLUSION AND RECOMMENDATIONS

ABSTRACT

Land administration systems, largely shaped by legal frameworks like the Land Use Act, play a pivotal role in managing land as a vital natural resource, ensuring its sustainable utilization and development. This research delves into the multifaceted landscape of land management, encompassing social, legal, cultural, economic, and technical dimensions within which land administrators navigate. Focusing on the Land Use Act, this study meticulously evaluates its efficacy in addressing the underlying challenges it was designed to alleviate, with particular scrutiny on Section 47. Emphasis is placed on scrutinizing the limitations arising from the Act's non-justiciability concerning the adequacy of compensation. Employing a doctrinal research methodology, the research examines legal principles and statutes to elucidate these issues. Findings reveal a disjunction between the objectives of the Land Use Act and its practical outcomes, attributing this disparity to inherent flaws within the Act itself and challenges in its implementation. Consequently, the study advocates for legislative amendments to align the Act with contemporary realities, thereby enhancing its feasibility and effectiveness in practice. This research underscores the imperative of legislative evolution to address the dynamic complexities of land administration, advocating for reforms that resonate with the present socio-economic and legal landscape.

CHAPTER ONE

GENERAL INTRODUCTION

1.1 Introduction

This chapter presents an overview and establish a guiding framework for which analysis and arguments shall be presented in the course of the study. This study focusses on evaluating the adequacy of compensation under section 47 of the Land Use Act 1979, within the broad context of land law.

This introduction establishes the framework for exploring the primary theme of the study. This chapter will present the study's background, articulate the problem statement, and identify gaps in the existing literature that the study aims to address.

This chapter will conclude by establishing the working guidelines, primary aims and objectives, and the significance of the study within the existing literature, while also providing clarity on the fundamental concepts that underpin the research.

1.2 Background of the Study

Land administration systems entail the management of land as a natural resource to ensure its sustainable use and development.[1] Stated differently, they focus on the technical, social, legal, cultural, and economic context that land managers and administrators must work within. Effective land management techniques benefit future generations as well as the current one.[2] It

---

1 Mike Otu, Joseph Edet, and Emmanuel Asuquo, 'A Critical Analysis of Land Rights and Interests in Nigeria,' *Journal of Art, Humanity and Social Studies*, 2023, 3(3), 257 – 268.

2 Daniel Steudler, Abbas Rajabifard, and Ian P Williamson, 'Evaluation of Land Administration. Systems' *Land Use Policy*, (2004) 21, 371.

operates as the instrument to ensure equitable access to land by stakeholders within the policy framework of a country[3]. Moreover, it delineates the mechanisms through which the system can ensure security of tenure and the ways in which the government can oversee land markets, execute land reform, safeguard the environment, and impose land taxes to augment the utility and value of land.[4] An effective land administration system ensures not only the assurance of ownership and security of tenure but also bolsters land and property taxation, provides collateral for credit, fosters the development and monitoring of land markets, and mitigates land disputes.[5] Furthermore, it plays a crucial role in facilitating land reform, enhancing urban planning and infrastructure development, and supporting environmental management. The favourable indicators of effective land administration in Nigeria must be acknowledged, especially in light of the necessity to diversify the nation's oil-dependent economy and promote increased private investment, particularly in the realms of agriculture and infrastructure development.[6] Thus, a pristine examination of the law on land administration in Nigeria under the Land Use Act[7] particularly key issues of grave and widespread concern as the adequacy of compensation under the Act is imperative.

The Land Use Decree was adopted in 1978 by the Supreme Military Council.[8] This Land Use Decree (now referred to as the "Land Use Act") was given constitutional endorsement by the

---

3 A, Ukaejiofo, "Perspectives in Land Administration Reforms in Nigeria" *Journal of the Environment,* (2008) 2(1), 43.

4 Ibid.

5 Ibid.

6 Ibid.

7 Cap. 202, ***LFN***, 1990.

8 Decree No. 6, 1978

governing military government when it drafted the Constitution of the Federal Republic of Nigeria in 1979.[9] The purpose of including the provision in the constitution was to assure its continuation after the military had departed the corridors of national administration.[10] This position is now supported by a provision in Section 315 (1) of the Constitution of the Federal Republic of Nigeria 1999 (as altered 2011), which states:

> Subject to the provisions of this Constitution, an existing law shall have effect with such modifications as may be necessary to bring it into conformity with the provisions of this Constitution and shall be deemed to be (a) an Act of the National Assembly to the extent that it is a law concerning any matter on which the National Assembly is empowered by this Constitution to make laws, and (b) a Law made by a House of Assembly to the extent that it is a law concerning any matter on which a House of Assembly is empowered by this Constitution to make laws.

Section 315(5)(d) of the 1999 Constitution (as amended) expressly named the Land Use Act as one of the existing legislation given effect by section 315(1). Although the federal government claims that the Land Use Act was created to address the country's diverse and convoluted property tenure systems and to make land more accessible and inexpensive for investments and development, the Act has altered practically all landowners' rights in Nigeria.[11]

Some of the radical and quite controversial provisions of the extant Land Use Act include the conferment of ownership of all lands on the Governor of a State, the power of the Governor to unilaterally revoke a certificate of occupancy based on public interest, and the preclusion of a judicial ascertainment or determination of the adequacy of compensation paid to owners whose

---

9 Otu, Edet, and Asuquo (n 1).

10 Ibid.

11 Ibid.

land are expropriated by the State.[12] Whilst there are other topical issues embodied in the Act, the peculiar nature of this work shall restrict the research to an appraisal of the governor's powers over federal land in the state.[13]

In accordance with Section 28(4) of the Land Use Act, the Federal Government may appropriate land for public use by merely informing the state government where the land is located. The state governor must then revoke the right of occupancy in the event that the Head of the Federal Government issues a notice stating that the land is needed for public use. Upon receiving the notice, the right of occupation holder's title is immediately dissolved. Use; development for the benefit of the public; and on the basis of maintaining public safety. The holder of the rights of occupancy may pursue legal recourse if the revocation violates section 28 of the Act and the government does not reimburse the statutory rights holder for the forced revocation.[14] Whether such an attempt for lawful remedy is likely to succeed is neither certain nor uncertain. One of the very few protections that private individuals can invoke is section 43 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) which states inter alia: "… every citizen of Nigeria shall have the right to acquire and own immovable property anywhere in Nigeria."

---

12 DLA Piper. 'Expropriation/compulsory purchase in Nigeria.' <https://www.dlapiperrealworld.com/law/index.html?c=NG&q=expropriation-compulsory-purchase&s=real-estate-sales-and-public-law&t=sale-and-purchase>, accessed 7 October, 2024.

13 Ibid.

14 As illustrated by the following cases: *Sule Adukwu And 4 Ors. vs. Commissioner for Works, Lands and Transport, Enugu State & 3 Others [1997] 2 N.WL.R. (Pt. 489) pg.588; A.G. of Bendel v Aideyan (1989) 4 NWLR (Pt. 118); C.S.S. Bookshops Limited v The Registered Trustees Of The Muslim Community In Rivers [2006] VOL. 8 MJSC 16.; Nitel and Others v. Chief Ogunbiyi (1992) 7 NWLR (Pt. 255) 543; and Foreign Finance v. L.S.D.P.C [1991] 4N.WL.R. (Pt. 184) p. 157.*

However, this constitutional safeguard lacks width in that, it fails to protect private landowners against the revocation powers conferred on the governors.[15] Also, section 44 (1) provides that:

> No moveable property or any interest in an immovable property shall be taken possession of compulsorily and no right over or interest in any such property shall be acquired compulsorily in any part of Nigeria except in the manner and for the purposes prescribed by a law that, among other things - (a) requires the prompt payment of compensation therefore and (b) gives to any person claiming such compensation a right of access for the determination of his interest in the property and the amount of compensation to a court of law or tribunal or body having jurisdiction in that part of Nigeria.

Although the Act recognizes the rights of the statutory right holder to assert his rights in court where there is prima facie evidence of a violation of those rights. However, section 47 explicitly barred courts from questioning any provision of the Land Use Act. section 47(2) states: "No court shall have jurisdiction to inquire into any question concerning or about the amount or adequacy of any compensation paid or to be paid under this Act."

As a result, the purpose of this study is to conduct an in-depth analysis of the provision of section 47 of the Act that addresses the preclusion and non-justiciability of questions questioning the appropriateness of compensation under the Act. Initially, we will investigate the primary and secondary sources that are pertinent to the topic at hand, and then we will proceed to use Katsina State as a case study to illustrate the core of the investigation.

1.3 Statement of the Problem

Issues concerning the assessment and judicial evaluation of compensation adequacy under the Land Use Act have prompted extensive legal discourse. Numerous authors have addressed the subject, with the majority asserting that the clause prohibiting judicial examination of

[15] Ibid.

compensation adequacy under the Act is severe, oppressive, and reminiscent of military rule, thus warranting its removal in light of contemporary democratic principles. The majority of commentators have conceded that the current law is effective and should neither be waived nor disregarded, notwithstanding prevalent dissatisfaction with its provisions. Notwithstanding the clarity of the rule, there have been several instances when aggrieved parties have sought to question the sufficiency of compensation, including pursuing redress concerning it. While there exists a substantial body of academic literature on the topic, it has predominantly been examined from a central perspective, with minimal or no focused investigation into the domestic and local trends and implementation of the provision across various states where land users possess and inhabit their properties.

Thus, the study shall answer the following questions;

1. How well has the Act has addressed the mischiefs it was intended to address?
2. What are the implications of the provisions of the Land Use Act, Section 47?
3. What are the restrictions brought about by the Act's non-justiciability of the adequate compensation?
4. What are Katsina State's prevalent and common land practices?
5. What suggestions can be made for enhancing Nigerian land law that are consistent with global best practices?

1.4 Aims and Objectives of the Study

The aim of this study is to critically evaluate how section 47 of the Land Use Act impacts the adequacy of compensation, particularly in Kastina State. More specifically, the objectives of this study are:

1. To assess how well the Act has addressed the mischiefs it was intended to address.
2. To thoroughly review and analyse Land Use Act Section 47.
3. To review and observe the restrictions brought about by the Act's non-justiciability of the adequate compensation.
4. To research Katsina State's prevalent and common land practices.
5. To offer suggestions for enhancing Nigerian land law that are consistent with global best practices.

1.5 Significance of the Study

It is anticipated that this study would make a contribution to the existing body of information concerning land law in Nigeria. Students, researchers, and legal practitioners alike would all benefit tremendously from having this information in order to have a better understanding and appreciation of the land law system that is currently in place in Nigeria.

In this study, various concepts and subjects that are incidental to Nigeria's land law system and vital for a holistic grasp of the system's complexities were investigated. Additionally, the study will incisively consider the adequacy of compensation under the Land Use Act, shedding light on the existing position of the law on the issue by using Katsina State as a case study.

1.6 Scope and Limitations of the Study

The geographical scope of this study is Nigeria. Furthermore, the study elucidates how section 47 of the Land Use Act has impacted the adequacy of compensation in Nigeria, particularly in Kastina State. There are several sections on the Land Use Act touching on compensation, and emphasis will be placed on them` to specifically address the research problem.

This study will be limited to discussing the adequacy of compensation under Section 47 of the Land Use Act 1979 with Katsina State as the focal point. Thus, we will restrict this discussion to the bedrock of Nigeria's land law – The Land Use Act of 1979, as well as decided cases and academic literature. We will also limit ourselves to the jurisdiction already selected for discourse – Nigeria, and Katsina State precisely.

1.7 Research Methodology

We will discuss the several ideas in this long article using the doctrinal research approach. The empirical approach might be used just to support specific points of view and where absolutely needed. Therefore, depending on primary sources such as statutes and case laws and secondary sources include publications, textbooks, and internet sources among others. When needed, the model of research will be descriptive, analytical, comparative, and historical.

1.8 Organizational Layout

The introductory chapter sets the stage for the entire research. It provides a contextual overview of the research topic, delineating its significance and relevance. It also outlines the specific research problem to be addressed, the objectives of the study, and the scope and limitations of the research.

The chapter concludes with a brief overview of the subsequent chapters, providing a roadmap for the reader.

Chapter two delves into the core concepts underpinning the research. It provides a comprehensive definition of land and title to land, exploring the various legal dimensions and nuances associated with these terms. The chapter also examines the diverse sources of land law in Nigeria, including customary law, statutory law, and judicial decisions. It traces the historical development of land laws in Nigeria, highlighting key milestones and their impact on contemporary land rights. A critical review of existing literature is presented, identifying gaps in knowledge and providing a theoretical framework for the study.

Furthermore, chapter three offers a detailed critique of the Land Use Act of 1978. It examines the extent of government regulation of land under the Act, particularly focusing on the role of the Governor as the custodian of all land. The chapter also analyzes the concept of private ownership under the Act, exploring the limitations imposed on individual landownership. The implications of the occupancy certificate system and its impact on land transactions are also discussed.

Chapter four delves into a specific provision of the Land Use Act, Section 47, which deals with the revocation and compulsory acquisition of land. It examines the circumstances under which the government can exercise these powers and the compensation mechanisms in place. The chapter also assesses the potential impact of Section 47 on land owners and investors, highlighting the importance of balancing public interest with individual property rights.

The final chapter provides a summary of the key findings from the previous chapters. It highlights the strengths and weaknesses of the Land Use Act and identifies areas where reforms may be

necessary. The chapter concludes with specific recommendations for improving land administration and governance in Nigeria. These recommendations may include legislative amendments, policy reforms, and judicial interpretations aimed at enhancing land tenure security, promoting sustainable land use, and facilitating economic development.

CHAPTER TWO

CONCEPTUAL CLARIFICATION

2.1 Introduction

This chapter will examine the historical evolution of land laws in Nigeria, with particular focus on the land legislation in Southern and Northern Nigeria prior to the unification of the legal framework governing land. This chapter will also integrate with the legal frameworks that regulated land during the post-independence period prior to the implementation of the Land Use Act.

This chapter will encompass thematic clarifications of essential subjects, including the definition of land under law, the sources of Nigerian land law, the meaning of title to land, and the plurality of Nigerian land law.

2.2 Definition of Land and Title to Land

It is widely acknowledged that land encompasses more than simply the earth and its subsurface; it also includes all other items that are affixed to the earth's surface, such as buildings, trees, and rocks, whether they are man-made or naturally occurring. However, land in law encompasses considerably more, including more abstract rights and interests such as easements, incorporeal hereditaments, and profits that people enjoy over another person's property or ground.[1]. Where the transaction is regulated by a statute or law, the definition used in the statute will govern the

[1] U. Namnso. 'Land Ownership in Nigeria: Historical Development, Current Issues and Future Expectations' (2014) *Journal of Environment and Earth Science,* Vol.4, No.21. 182

transaction, but where there is no such definition, then the definition in the Interpretation Act[2] is applicable. Land has been defined in the interpretation Act as “including, any building and any other thing attached to the earth or permanently fastened to anything so attached, but does not include minerals”.[3] The definition appears to be lacking since it begins by claiming that it only includes; it does not specify the others, therefore allowing for as many inclusions as possible. Therefore, this might allow for the insertion of incorporeal hereditaments like as easements, profits, and rentals[4].

Permanent trees might be considered to be a part of land, although temporary buildings might not be. The Property and Conveyancing Law 1959 (henceforth referred to as the "PCL") contains a legislative definition of land that has embraced the common definition and appears to be comprehensive and all-inclusive. According to Section 2 of the PCL, "the earth surface and everything attached to the earth, otherwise known as fixtures and all chattels real" are included in the definition of land. It also covers profits made by one individual over another's property and buildings, as well as incorporeal rights such as a right of way and other easements.[5] Land is defined as "land at any tenure, buildings or parts of buildings (whether the division is horizontal, vertical, or made in any other way), and other corporeal hereditaments, as well as a rent and other incorporeal hereditaments and an easements, right, privilege, or benefit in, over, or derived from land, but not an undivided share in land," according to the original version of Section 2 of the PCL. Lloyd in his book[6] makes a distinction between land and improvements thereon under

---

2 Cap 123 LFN 2004

3 Ibid, Section 18.

4 Ibid.

5 100 laws of W.N. Cap.1959, section 2

6 P. Lloyd, *Yoruba Land Law*, (Ibadan, Nigerian Institute of Social and Economic Research, 1962)

Yoruba Customary Law, while Dr. Coker in his book[7] states quite clearly that in customary law, land includes buildings thereon. Olawoye[8] in his book describes land as, including, "the surface of the earth, the subsoil and the airspace above it, as well as all things that are permanently attached to the soil. It includes streams and ponds. On the other land, things placed on land, whether made of the product of the soil or not, do not constitute land. It follows therefore that while a crop or tree is planted it forms part of land, and is regarded as land, but as soon as it is cut and removed it ceases to be land. In the same vein, where a building is standing it forms part of land, but where the building is demolished it ceases to be land. However, as we have noted above, the fixture must be permanently attached to the land to be regarded as forming part of the land; where the fixture is not of a permanent nature, then it is not land, and can be disposed off without affecting land[9].

For the purpose of this work Olawoye's definition[10] is adopted as the best suiting and apposite particularly given its comprehensiveness and expansive coverage.

When it comes to the meaning of title to land, in an action for declaration of title to land, the term "title" refers to "ownership." Furthermore, in an action for declaration of title to land, the party that is claiming title is required to prove facts that will convince the court that the person claiming title is the legitimate owner of the property that is in dispute.[11] On the concept of title, Polllock[12] elucidated thus; "the systematic expression of the degrees of control and forms of

---

7 E. Coker, *Family Property among the Yorubas* 2nd Ed (London, Sweet and Maxwell; Lagos, African Universities 1966) 32

8 C.O. Olawoye, *Title to Land in Nigeria,* (Lagos, University of Lagos, 1974) 9

9 Ibid.

10 Ibid.

11 Namnso (n 1).

12 P. Frederick, *Jurisprudence and Legal Essays*, (London, 1961) 93

control, use, and enjoyment that are recognised and protected by law is, first and foremost, what we call the law of property." Possession has traditionally been linked to title. It is assumed that the person who is entitled to possession is also the one who is entitled to the land's title; therefore, if he can demonstrate facts that will provide him the right to possess or keep possession of an item, he is the one who is entitled to title. "The existence of facts from which the right of ownership and possession could be inferred limitation being only in terms of time," according to Smith, is what is meant by title.[13]

The Ancient Roman Law is the source of the complicated legal notion of ownership. Roman law used the terms "dominium" and "possessio" to refer to possession and ownership, respectively. Possessio meant merely physical control over something, whereas dominium meant ultimate right to it. The idea of ownership encompasses several claims, including immunity, power, and liberty with respect to the property held. Ownership has been defined differently by jurists. They all acknowledge that ownership is the ultimate or total right that can be used over anything. Waldron therefore approached ownership from a private ownership standpoint. According to him, ownership conveys the abstract notion that an item is associated with the names of certain people in connection with a rule that states that in the event of a disagreement regarding what should be done with the object, society will accept that person's choice as final. The individual who has been granted such privilege is the object's owner.[14]

As much as this conception can be true in terms of private property it must be noted that it falls short of the concept of public property. According to Garner, “ownership is a legal relationship

---

13 Ibid.

14 J. Waldron, *The Right To Private Property* (Oxford: Clarendon Press, 1988) 67

between a person capable of owning and an object capable of being owned."[15] Everyone has the capacity to be an owner, whether they are natural or legal individuals. As previously mentioned, material possessions like a land interest and movables, as well as rights to intangible property like stocks, shares, patents, copyrights, etc., are examples of objects that can be possessed. One significant and generally acknowledged aspect of ownership is that there is a person or group whose choices regarding a matter are obligated to be accepted as final by others.[16] Finality of decision making with regard to an object is an important characteristic of ownership. As Katz has rightly stated, "What makes his decision an ownership decision is its quality of finality: no other private person can override his decision in the way that he can override mine"[17].

The concept of ownership also emphasizes non-interference from outsiders (i.e non owners). Katz had held the owner to be the exclusive agenda-setter for a thing and to whose authority others have, at minimum, obligations of deference.[18] On this view, setting the agenda for things is a key part of the exercise of ownership authority. But this does not imply a person-thing relationship;[19] rather, the owner's decision itself concerns the agenda for a thing, and so does not directly concern what others may do with his property. Property law is primarily concerned with the impact of the owner's choice, particularly how it affects non-owners' obligations (they have no right to obstruct the owner's plans). The nature of the owner's decisions themselves is not relational; rather, it is the structure of the owner's right. The exclusivity of ownership, which refers to the unique position of power the owner holds with regard to an item, is another crucial

---

15 J.F. Garner, 'Ownership and the Common Law' *Journal of Public and Economic Law* (1976) p. 403

16 L. Katz, 'The Concept of Ownership and the Relativity of Title' *Jurisprudence* (2012), 2(1) 191–203

17 Ibid.

18 Ibid.

19 Dorfman A, *Legal Theory 1* 'Private Ownership' (2010) 16 (while discussing exclusivity of ownership suggested that "my theory commits me to a person-thing relationship")

aspect of the ownership notion. Although most exclusion-based theories implicitly or expressly acknowledge that ownership is both exclusive and exclusionary, exclusivity is not the same as what we may refer to as "exclusion" or the authority to bar others from something. However, the exclusivity of ownership is not predicated on a person-thing relationship. In fact, the identification of owner with thing as the foundation for property rights is categorically rejected by Kant's explanation, which is among the most significant to insist on the exclusivity of ownership. Exposing the relational aspect of ownership—the manner in which a system of property creates the legal connections between individuals with regard to the objects required for freedom—was one of Kant's most significant contributions to property theory. According to this perspective, ownership creates a domain of exclusive control over an item, meaning that one's decisions are independent of those of others.[20] These three cardinal features traditionally appear to be the pivot upon which the earliest conceptualisation of ownership revolved. Blackstone, in his famous definition of ownership had defined same to mean the "…sole and despotic dominion which one man claims and exercises over the external things of the world, in total exclusion of the right of any other individual in the universe."[21] This absolutistic view of ownership appears to have significantly declined in recent years in view of the instrumentalists' view that individual property rights should be allocated in whatever way that best promotes some societal goal. They take the structure of individual property rights to be up for grabs and to be determined in whatever way that best promotes some societal goal[22] Echoes of the almost discarded absolutistic view of the concept of ownership arose recently in the case of *Attorney General of Lagos State v.*

---

20 A. Ripstein, *Force and Freedom: Kant's Legal and Political Philosophy* (Harvard University Press, 2009) 11

21 Blackstone, W., *Commentaries on The Law of England* (Boston :Beacon Press, 1962)

22 Bell A.B. and Parchomovsky G., 'A Theory of Property' *Cornell Law Review*, (2005) 90, 531.

Attorney General of the Federation & 35 others[23] where Niki Tobi JSC in a minority decision sought to apply the absolutism of the concept ownership to justify his position. He stated thus,

> Title to land is the highest form of land ownership in our tenure system. Ownership is a complete and total right over a property. The owner of the property is not subject to the right of another person, as long as he remains the allodial owner. In so far as the property inheres in him, nobody can say anything. This is because the property begins with him and ends with him.[24]

The position of his Lordship has been justly criticised by Smith. According to Smith, it is difficult to see how the postulation of Niki Tobi JSC could be accepted as the true application of the concept of ownership rights in the 21st century. With due respect, the right conferred by ownership especially of land has much been eroded both at common law and by an increasing regime of statutory provisions. Right like easements, and restrictive covenants which run the land and bind subsequent purchasers without notice, the rule in Rylands v. Fletcher, common law nuisance etc are examples of a plethora of instances where allodial ownership has been eroded. Planning laws particularly impose operationally a system of regulatory restriction upon the general right of every landowner to use or develop his land the way he likes.[25]

The above lends credence to the fact that there cannot be absolutism of the concept of ownership. This is further buttressed by the notion that ownership is constituted by a complex bundle of rights[26]. Thus, it is in this complex nature that one says ownership is made up of specific rights to wit; that for all the claims, liberties, power and immunities enjoyed by him there is also a

---

23 (2003) 12 NWLR (833) 1

24 Ibid, at. 247

25 I. Smith, 'Power to Make Town Planning Laws in a Federation: The Nigerian Experience' *IJL*, (2004). 24(1), 23.

26 A. di Robilant, 'Property: A Bundle of Sticks or a Tree?' *Vanderbilt Law Review* (2013), 66(3), 869

corresponding duty[27]. The exercise of one's right is subject to other persons' rights and this is often expressed in the Latin maxim, sic utere tuo ut alienum non laedas.[28]

Even if ownership is termed indefinable, the concept can better be understood by identifying its incidents. The specific incidents of ownership have been discussed by different scholars.[29] In trying to determine what ownership actually is, Honoré[30] set out an account of what he conceived to be the standard incidents of ownership. Through a review and analysis of the jurisprudence in property, he arrived at a set of 11 rights, duties and other elements which, taken together, give an account of ownership. These incidents of ownership are as follows:

1) the right to possess

2) the right to use

3) the right to manage

4) the right to the income of the thing

5) the right to the capital

6) the right to security

7) the right of transmissibility

8) the right of absence of term

9) the duty to prevent harm

10) liability to execution and

11) the incident of residuarity

---

27 W. Holfeld. *Fundamental Legal Conceptions* (London, Yale, 1977) 158.

28 Garner (n 15).

29 G.W. Paton, and D.P. Derham, *A Textbook of Jurisprudence* 4th ed. (London, Oxford University Press, 1972) 517

30 A. Honoré, *Ownership. Making law bind: Essays legal and Philosophical* (Oxford: Clarendon Press, 1961) 161–92

It is to be noted that these incidents of ownership are cumulative and not disjunctive, though some may have been impacted on by the state incursion into property rights domain and therefore subject to state control.

2.3 Sources of Nigeria Land Law

Under this segment, we are concerned with the source from which Nigerian Land Law took its root. The main sources of Nigerian land law may be classified as follows:

1. Customary Land Tenure
2. Received English Law
3. Nigerian Legislation
4. Nigerian Case Law (Judicial Precedent)
5. Juristic Opinion

2. 3. 1 Nigerian Customary Land Tenure

One type of Nigerian customary law is the country's traditional land tenure system. The social customs and behavioural patterns that Nigerian cultures tend to develop without explicit articulation or deliberate act of creation might be characterised as Nigerian customary law. It is made up of the collection of traditions, standards, and behaviours that people in a certain society acknowledge and accept as necessary.[31] "Custom" is defined as a norm in a particular district that has been in use for a significant amount of time and has established itself as a legal precedent, as stated in section 258 of the Evidence Act of 2011. In the realm of Nigerian land law, it is a significant source. Customary law has continued to be the primary means by which land tenure is

[31] E. Malemi, *The Nigerian Legal Method*, 2nd Edn (Princeton publishing Co, 2012), p. 153

managed and governed, particularly among rural people, despite the fact that statutory intervention has been implemented. According to customary law, the system of land ownership that is based on the family or the community is generally accepted.

It is instructive to note that there is no single system of customary law prevailing throughout the country. Indeed, there are different and diverse systems of customary law as there are ethnic groups. In other words, the system is characterised by its diversity, flexibility, and variation from tribe to tribe.[32] Nevertheless, certain common characteristics may be discernable; for example, customary law is largely unwritten.

It is also important to emphasise that before customary law can be applied and enforced by the court, it must be demonstrated to exist and then subjected to the validity test, which states that: (a) the customary law in question must not be incompatible with natural justice, equity, or good conscience; (b) it must not be incompatible directly or indirectly with a statute or rule of law currently in effect; and (c) it must not be against public policy.[33]

The Customary Land Tenure System (which is a nomenclature for customary rules relating to land law) is the indigenous and customary system of land holding and use. It is simply the way customary law of the people regulates their land holding, land use, and interests existing on land within the community. This system is totally unwritten and very flexible. It is flexible because it is changing as the community develops.[34] The system is influenced by social changes and development within the community. The customary law of land tenure is recognized by our laws and the High Courts are to observe and enforce the observance of customary law which is

---

32 Ibid, 154

33 Adaramola F, *Jurisprudence* (Durban, Lexis Nexis, 2008)

34 Malemi (n 31) 154

applicable and not repugnant to natural justice, equity, and good conscience nor incompatible either directly or by implication with any law for the time being in force nor contrary to public policy.[35]

Because it is an unwritten law, the Customary Land Tenure varies from one community to the next. Because it is an unwritten law, it must be correctly proven before the court as the law that is appropriate to regulate the particular scenario. There is a possibility that the evidence will be provided by witnesses, specialists, and historical books that attest to the behaviours of the people. It is a custom that is judicially noticed once it has been proven and accepted by the court. This is due to the fact that it has become extremely well-known and well-established.[36] After the judicial notice, the parties need only refer to the judicial notice in further proceedings before the court. The customary land tenure system will be applied by the courts only if,

1. It is not repugnant to justice, equity, and good conscience;
2. It is not incompatible either directly or indirectly with any law in force in Nigeria; and
3. It is not contrary to public policy.[37]

2.3.2 Received English Law

When we talk about this, we are referring to the portion of the law that is valid in England that has been received into Nigeria and has consequently become applicable there. Through

---

35 Tobi,Niki, *Sources of Nigerian Law*, (Lagos, Professional publishers Ltd, 1996) 103-104

36 Malemi (n 31) 155

37 See the case of *Mariyama v. Ejo* (1961) NRNLR 81, *Edet v Essien* (1932)11 NLR 47, *Meribe v Egwu* (1979)3 SC 23

Ordinance No. 3 of 1863, English law was introduced to Nigeria for the very first time. A re-echo of this position can be found in the dictum of Osborne CJ[38], thus:

> By Ordinance No. 3 of 1863, it has been enacted that all laws and statutes which were in force within the realm of England on the first day of January 1863 not being inconsistent with any Ordinance in force in the Colony or with any rule made pursuant to any such Ordinance should be deemed and taken to be in force in the Colony and should be applied in the administration of justice so far as local circumstances would permit.

The English Law thus received into Nigeria consists of three parts; namely –

i. The English Common Law

ii. The Doctrines of Equity

iii. The Statutes of General Application that were in force in England as of 1st of January, 1900.

All case law that establishes common law concepts and principles of English land law, including the notions of equity on land law, makes up received English land law. Statutes of General Application that were in effect in England by 1900 are among the legislation that were received. The Real Property Act of 1845, the Statute of Fraud 1677, the Fines and Recoveries Act of 1888, the Conveyancing Act of 1881, and the Settled Land Act of 1882 are significant instances of these laws. As persuasive authority, English court rulings are very helpful and appropriate in Nigeria, particularly when our land legislation is lacking. Due to local Supreme Court rulings and other Courts of Record interpreting these laws to fit our local circumstances, the significance and impact of this source of law are diminishing. Additionally, the majority of the received laws

---

[38] *Attorney General v. John Holt* [1915] AC 599.

have been domesticated; one example is Western Nigeria's Property and Conveyancing Law of 1958. Therefore, in those locations where the laws have been domesticated, the received English law on land and property will no longer be applicable. Even while the English Common Law and the Doctrines of Equity are significant elements of our legal system, we must also recognise that local rules and regulations will take precedence over them in cases where they clash.

2.3.3 Nigerian Legislation

Local or indigenous statutes affecting landforms are another source of land law in Nigeria. These consist of laws enacted by both the Federal and State Governments on land matters. Many of these statutes were in force before the enactment of the Land Use Act 1978, and have not been repealed. Some of these are; Land Instrument Registration Law[39], Registration of Titles Law[40], Property and Conveyancing Law[41] , Land Tenure Law[42], and State Land Law[43] . Another example is the Constitution of the Federal Republic of Nigeria, 1999 (as altered), especially section 43 thereof which provides for the Right to acquire and own immovable property anywhere in Nigeria.

One of the most significant pieces of legislation impacting land in Nigeria today is the Land Use Act of 1978, which was passed by Olusegun Obasanjo's Military Government. The Land Use Act of 1978 has a general and statewide application and effect, whereas all prior laws were regional in nature. The Act's Section 1 stipulates,

---

39 Cap 182 Laws of Lagos State 1994
40 Cap 66 Laws of Lagos State
41 Cap 56 Laws of Western Nigeria 1959
42 Cap 59 Laws of Northern Nigeria 1962
43 Cap 122 Laws of Eastern Nigeria, 1959

> Subject to the provisions of this Act, all land comprised in the territory of each state in the Federation are hereby vested in the Governor of that State and such land shall be held in trust and administered for the use and common benefit of all Nigerians under the provisions of the Act.

Since the Act has influenced, changed, and impacted all current laws, its contents are crucial and a significant source of modern legislation. In fact, the Land Use Act preserves current legislation and land tenure, such as customary land tenure, but only to the degree that it does not conflict with it.[44]

2.3.4 Case Law/Judicial Precedent.

One way to define case law or judicial precedent is as a previous court ruling that is used and adhered to by a later court when making a decision in the case at hand. Under this English common law theory, courts also accept earlier rulings where the facts of later cases are comparable to or on par with those of earlier instances. Today's land law is increasingly derived on judicial rulings and case law. Nigerian case law or judicial precedents have established land law principles that future courts will recognise and apply when interpreting land disputes. These principles are a source of Nigerian land law.[45]

On numerous occasions, our courts have been asked to interpret both local and customary laws. They have frequently applied the received laws as well, when appropriate, and these case laws now constitute a sizable portion of the current body of land law. In cases of dispute, local rulings

---

44 E. Omuojine. 'The Land Use Act and the English Doctrine of Estate.' *Journal of the Nigerian Institute of Surveyors and Valuers*. (1999), 22(3), 54-56

45 T.O. Elias, *Nigerian Land Law and Custom* (London: Routledge and Kegan Paul, 1951) 326.

would take precedence over foreign rulings on the same issue, and the rulings of foreign courts are just persuasive and not legally binding on Nigerian courts.[46]

2.3.5 Juristic Opinion

This refers to the opinion of text writers on land law. Such opinions may be contained in law textbooks or journal articles. They constitute veritable sources of Nigerian law relating to land.[47]

2.4 The Nature of Land Laws in Nigeria

The Land Use Act of 1978 is Nigeria's current land administration law. Up until now, the various regions of Nigeria had distinct land regulations and administrations. In southern Nigeria, the English land tenure system, which was enacted as State Land Laws, occasionally overlapped with the customary land tenure system.[48] The Northern policy was characterised by a paternalistic system, which essentially nationalised all lands by turning former owners into tenants as enacted in the Land Tenure Law.[49] The lack of a national land policy for the entire country, regardless of how important land is to the country's development, supported and nourished this fragmented land policy framework. The constitutional view of land matters and management as a residual matter within the legislative jurisdiction of the various states that make up the nation furthered this haphazard arrangement. This view encouraged the development of a wide range of land laws and policies throughout the nation.[50] This state of flux with respect to land policy and management in the country continued until the promulgation of the Land Use

---

46 Ibid, 328

47 Ibid.

48 The Land Tenure Law of Northern Nigeria of 1962.

49 This was the law enacted by states in the southern part of Nigeria prior to the promulgation of the Land Use Act to regulate lands owned by the States as opposed to land owned by private citizen, which was primarily regulated by customary land tenure practice and the principles of the English common law.

50 M.A. Banire, *Land Management in Nigeria: Towards a New Legal Framework* (Ecowatch Publication Lagos, 2006) 84.

Act in 1978, which subsequently introduced uniform land tenure legislation throughout the country but, unfortunately, without a uniform administrative and implementation policy.[51] Another aspect of plurality in Nigeria's land law is the co-existence of customary law and received English law in respects to rights over land.

2.5 Historical Development of Land Laws in Nigeria

2.5.1 Land Legislation of Southern Nigeria.

The British Government obtained authority to legislate on Nigeria by the Foreign Jurisdiction Acts of 1896 to 1913. The Interpretation Act[52], was promulgated as a result of this. By Section 45 of the Act, the English Common Law, Equity principles, and statute of general application that were in force in England on January 1, 1900, were in force in Lagos, subject to Federal Law, to the extent that the local circumstances permitted. The term "Statute of General Application" has been defined as "all statutes in force in England as of 1900."

As a result, the English common law rules relating to land tenures, real property disposition, estates inheritance, perpetuities, and a variety of other topics applied in Nigeria[53]. This also included equity doctrines such as land institution and settlement, legal and equitable estates and interests in land, and notice doctrines. The Frauds Act 1677, the Wills Act of 1837, the Limitation Acts of 1882, the Real Property Act 1845, the Partition Act 1868, the Conveyancing

---

51 P. Datong, 'The Role of State Government in the Implementation of the Land Use Act' in Olayide Adigun. (ed) *The Land Use Act: Administration and Policy Implication; Proceedings of Third National Workshop* (University of Lagos Press 1991) 64.

52 Cap 89, Laws of the Federation and Lagos

53 N. Tobi, *Cases and Materials on Nigerian Land Law*, (Abuja, Mabrochi Books, 1992) 2.

Act 1881, the Settled Land Act 1882, and the Land Transfer Act 1887 were all applicable in Nigeria in the colonial era[54].

Following the colonization of Lagos by the British Government King Docemo of Lagos entered into a Treaty transferring all land in Lagos to the British Government. After this treaty, a series of Legislations were enacted by the colonial government to ensure total control of all lands in Lagos and environs between the years 1863 and 1865[55]. Commissioners were appointed to determine the true and rightful owners of the land within the framework of the Lagos settlement.[56] The commissioners recommend the issue of Crown Grants. With the increase in population especially due to the influx of non-indigenes and foreigners many came to settle down in Lagos, and the increasing quest for land for developmental purposes, the colonial government passed the Ikoyi Land Ordinance of 1908 which declared certain lands as crown lands. In 1939, in spite of the earlier attempts to settle the problems arising on land at that time, the Government appointed Sir Merryn Tew as Commissioner to carry out a comprehensive investigation on the problem. He later advised the Government and recommend the passing of the following laws, Grown Grants (Township of Lagos) ordinance[57], the Arotas (Grown Lands) ordinance,[58] the Epetedo Lands Ordinance[59], and the Glover Settlement Ordinance[60]. These ordinances affected Land Use and Customary Land Tenure in very significant ways[61].

---

54 *Young v Abina* (1940) 6 W.A.C.A. 180; *Apatira v Akande* (1944)17 NLR 149*; Lawal v Younan* (1961) 1 All NLR 245; *Green v Owo* (1936) 13 NLR 43

55 Tobi (n 53).

56 Ibid, 5.

57 No. 18 of 1947

58 No19, 1947

59 No. 20, 1947

60 No.21 of 1947

61 *Ajibola v Ajibola* (1947)18 NLR 125; *Glover & Anor v Officer Administering the Government of Nigeria* (1949)19 NLR 45

One of the earliest laws pertaining to the acquisition of land for public use was passed by the Colonial Administration. The first such law was the Public Lands Ordinance of 1876, which was later re-enacted as Public Lands Acquisition 1917. Other ordinances, such as the Native Lands Acquisition Proclamation 1900, the Native Lands Acquisition Proclamation 1903, the Grown Lands Management Proclamation 1906, as amended, the Native Acquisition Ordinance 1917, the Niger Lands Transfer Ordinance 1916, and the Crown Ordinance 1918, were passed with the intention of acquiring land for government and private development. The Registration of Title Act of 1935 was passed into law. The Registered Land legislation of 1965 was also passed in order to register land titles, and this legislation allowed for the registration of land instruments recognised by the Land Registration Act Cap 99. The State properties Act Cap 45, which was passed in 1958, gave the state ownership of all public properties. Property and Conveyancing Law, Cap. 100; Land Instruments Preparation Law, Cap. 55; Land Instruments Registration Law, Cap. 56; Administration of Estates Law, Cap. 2; Public Lands Acquisition Law, Cap. 105; Registration of Titles Law, Cap. 57; Native Lands Acquisition Law, Cap. 80; and Recovery of Premises Law, Cap. 110, are among the laws that the Western Region has passed. The Land Tenancy Law 1935 was passed in the Eastern Region. Other laws include the Recovery of Premises Law of 1963, the Land Instrument Registration Law of 1963, the Land Instrument Preparation Law of 1963, and the Acquisition of Land by Aliens Law of 1957.

2.5.2 Land Legislation of Northern Nigeria.

Before 1900, area later regarded as Northern Nigeria was administered by the Royal Niger Company by charter of the British Government.[62] The company had during this period acquired all the land along both sides of the Rivers Niger and Benue.[63] On the declaration of the protectorate, the government took it over and it was converted to Grown Lands. Secondly, having conquered the Fulani who were the reigning tribe in the North, all lands that were being administered by them were taken over by the British Government.[64] The land thus taken over from the Fulani Emirs were classified as Native Lands. The distinction between Grown Lands and Native Lands was that whereas crown land was vested in the Governor in trust for Her majesty.[65] Public Land was vested in the Governor in trust for the people. Series of legislations were enacted to effect this fundamental charges. Crown Lands Proclamation 1902 was an agreement between Sir Federick Lugard and representatives of the Royal Niger Company under which all lands, rights and easements were vested in the High Commissioner for the time being in trust for His Majesty. This was followed by the Niger Lands Ordinance of 1916 to the protectorate. A committee was later set up in 1908 to help streamline and recommend the appropriate type of land tenure to be adopted in the Northern Nigeria. The committee came to the conclusion that the whole of the land in the Northern Protectorate should be vested in the Government in trust for the natives and that no title to the use and occupation of land was valid

---

62 McDowell C.M, 'The Interpretation of the Land Tenure Law of Northern Nigeria' *Journal of African Law* (1970), 14(3), pp. 155-177

63 Ibid. 155

64 Ibid 156

65 Ibid. 156

without the consent of the Government. This led to the land and Native Rights Proclamation 1908 being re-enacted with amendments by the land and Native Rights Ordinance of 1916.

This remained the case until the Northern House of Assembly passed the Land Tenure Law of 1962. With a few changes, this law essentially re-enacted the 1916 law. The governor's authority was transferred to the minister (later commissioner) in charge of land problems, and the clause that stated that no occupation was permitted without the governor's approval was changed to include occupation by non-natives. A right of occupation is an individual's potential interest in land. Either a statutory or customary right of occupation may exist. While the customary right of possession is derived by force of customary law, the statutory right of occupancy was awarded by the governor. According to native law and tradition, it was described as the right of a native or a native group to possess property lawfully. A statutory right of occupancy could not be alienated without the governor's approval, according to the legislation. The legislation distinguished between natives and non-natives, stating that alienation to a native is illegal but not void, but alienation to a non-native is void. According to the legislation, a person whose father was a member of a Northern Nigerian tribe was considered a native. As a result, foreigners and other Nigerians are categorised as non-natives and face the same level of prejudice.[66]

2.5.3 Land Legislation Post-Independence (Military Rule).

Various Decrees and edicts were promulgated during the military government affecting land in Nigeria we shall mention a few of these legislations. The Federal Military Government in response to public outcry promulgated the Rent Control Decree No. 15 of 1966; this Decree was

---

[66] C.O. Olawoye., 'Statutory Shaping of Land Law and Land Administration up to the Land Use Act', (1981) *National Workshop on the Land Use Act, 1978* held on May 25, 1981 at University of Lagos.

repealed by the Rent Control (Repeal) Decree No. 50 of 1971. The impact of this Decree on the soaring rents in the country was doubtful. The Requisition and other Powers Decree, No. 39 of 1967 was promulgated to empower the Army and Police to requisition land and other property during the period of the emergency.[67] The Decree was amended in 1975 to create the central and state compensation committee to deal with matters of compensation. This was followed by the state lands (compensation) Decree No. 38, 1968, which deals with issues of compensation in respect of land acquired by the state. It was repealed in 1976 by the Public Lands Acquisition (Miscellaneous Provisions) Decree No.33 of that year.

In 1977, to further streamline the various enactments and land tenure systems existing in Nigeria, the Military Government set up a Land Use Panel with the following terms of reference: -

> (a) to undertake an in-depth study of the various Land Tenure, Land Use, and land conservation practices in the country, and recommend steps to be taken to streamline them,
>
> (b) to study and analyse all the implications of a uniform land policy for the entire country.
>
> (c) To examine the feasibility of a uniform land policy for the entire country and make necessary recommendations and propose guidelines for implementation;

---

67 A. Namnso, 'Land Ownership in Nigeria: Historical Development, Current Issues and Future Expectations' *Journal of Environment and Earth Science,* (2014) 4(21).

(d) To examine steps necessary for controlling future Land Use and also opening and developing new land for the needs of the Government and Nigeria's population in both urban and rural areas and to make appropriate recommendations.

The panel's report led to the promulgation of the Land Use Decree of 1978, which was later provided for in the Constitution of the Federal Republic of Nigeria 1989[68].

Upon return to civilian rule, the Land Use decree consequently became referred to as an Act, and this Act remains the governing legislation for land in Nigeria till date.

2.6 Literature Review

The sphere of land law is highly inundated with rich literature from writers and scholars on various sub-concepts and arising issues from the extant land tenure system in Nigeria.

According to Udo[69], how land is owned and possessed in a particular society is known as its land system. It is an institutional framework that governs the use of land and embodies the legal or customary arrangement that grants people, groups, or organisations access to land for social and economic possibilities. He said that the laws and policies that regulate the rights and obligations of both persons and organisations in the purchase, use, and management of property also make up the land system. Denman[70] argued that all societies of whatever culture and political creed have land systems woven of property rights. These property rights lend form to the proprietary land units. The proprietary land unit is the decision-making unit that is fundamental to all

---

68 Section 326(5) (promulgation) Decree 1989.

69 G. Udo, *Model Building in Property Valuation*, (Enugu: Institute for Development Studies, University of Nigeria, 2003)

70 D. Denman, *The Place of Property*. (Berkhamstead: Geographical Publications Ltd, 1978)

positive decisions about land use and comprises two elements, the run of property rights and the area of physical land to which they pertain.

In his work, Udo[71] also opined that any land system may portray categories of estates or rights in land. These rights are absolute or non-derivative interests and derivative interests. The absolute interests are those rights in land that confer upon their holder's unconditional interests in perpetuity and terms of quality, it is regarded as the most superior form of ownership. The absolute interests confer absolute ownership rights and as such allow for the highest scope of proprietary decisions as to the use and management of land. The derivative interests on the other hand are interests that have been derived or carved out from the larger estates or superior estates. In this regard, Nwabueze[72] noted that they are inferior in quality and include leaseholds, life interests, kola tenancy, mortgage, borrowed interests, and pledges, among others.

Udoekanem[73] in his paper posits that the land ownership structure in Nigeria is based on absolute and derivative interests. The structure of ownership of these interests in the country has evolved through three major periods. These are the pre-colonial, colonial and post –colonial periods.

Omuojine[74] commented that the predominant land tenure system in Nigeria during the pre-colonial period was the customary land tenancy where land holdings were owned by villages, towns, communities and families. Land was deemed not owned by individuals but by communities and

---

71 Udo (n 69).

72 B.O. Nwabueze, *Nigerian Land Law*, (Enugu: Nwamife Publishers Ltd, 1972)

73 N. Udoekanem and D. Adoga, 'Land Ownership in Nigeria: Historical Development. Current Issues and Future Expectations', *Journal of Environment and Earth Science*, (2014) 4, (21).

74 E.O. Omuojine, 'The Land Use Act and the English Doctrine of Estate', *Journal of the Nigerian Institution. of Estate Surveyors and Valuers*, 1999), 22(3): 54-56.

families in trust for all the family members. He further suggested that the legal estate under customary land tenancy is vested in the family or community as a unit. During this period, land belonged to the community or a vast family of which many are dead, few are living and countless members yet unborn. Thus, individuals had no such interest as the fee simple absolute in possession as the actual ownership of land or absolute interest was vested in the community itself. Interests or rights of individuals in community land were derivative interests

Examining the land tenure under the colonial administration, Udoekanem[75] noted that in 1900, the Land Proclamation Ordinance was enacted by Lord Lugard. The legislation disregarded the principles of native law and custom and provided that title to land could only be acquired through the High Commissioner. The Land Proclamation Ordinance was enacted to kill the institution of family and communal land ownership by facilitating the acquisition of title to land through the High Commissioner. The Land and Native Rights Act was enacted in 1916 to vest in the colonial Governor all rights over all native lands in Northern Nigeria. Sections 3 and 4 of the Act provided as follows "(3) All native lands and right over the same are hereby declared to be under the control and subject to the disposition of the Governor, and shall be held and administered for the use and common benefit of the natives of Northern Nigeria and no title to the occupation and use of any such lands shall be valid without the consent of the Governor. (4) The Governor, in exercise of the powers conferred upon him by his Proclamation with respect to any land, shall have regard to the native laws and customs existing in the district' in which such land is situated".

As presented by Elias[76], later sections of the Act further provided, inter-alia, for the Governor's power

---

75 Udoekanem (n 73).

76 Elias (n 45).

a) To grant rights of occupancy to “natives” as well as to “non-natives”, (

b) To demand and revise rent for such grants;

c) To render null and void any attempted alienation by an occupier of his right of occupancy without the Governor’s consent.

d) To revoke the grants to occupiers for “good cause”.

While summing up the land ownership under the colonial era, he submitted thus;

> As the result, therefore, the Government (the colonial government) has pursued a policy of restricting alienation of land in the former Southern provinces only to dealings among the people themselves, while frowning upon any out-and-out transfer to aliens. No claim to absolute ownership has been made, nor has any rigid distinction has been drawn between crown and other lands except, perhaps that whereas in the case of certain lands taken over from the Royal Niger Company no compensation to any occupier will be paid for their appropriation to public purposes, compensation is as a rule paid in the case of all other lands within the former Southern provinces. This contrasts markedly with the Northern policy of paying only for unexhausted improvement by native occupiers and not for the acquisition of the land itself. A corollary of this has been that while in the North the Government has formally laid down the policy that no freehold title can exist in land but only a right of occupancy, there has been a benevolent neutrality on the part of the Government with respect to the form which titles to land in the former southern provinces should take.

These works and erudition are instructive in this study as they give a historical glimpse of the development of the land tenure system in Nigeria before the era of the Land Use Act, and an understanding of the chronological evolvement of the land tenure system in Nigeria is quite relevant to any thorough academic research or study on any aspect of the system.

Furthermore, Yakubu,[77] believes that the Act has significantly harmonized Nigeria's land tenure rules. According to him, the Act has largely eliminated the multiple state land laws that control the country's land tenure system, making the job of a lawyer and a court to find the appropriate law easier.

Former President Shehu Shagari had previously stated that "the Act has consolidated the tenure structure in the country and has improved government access to land to fulfill its initiatives." Also, in ***Nkwocha v. Governor of Anambra State & Ors***, Irekefe JSC, stated that the Act is the most impactful of all legislations touching upon the land tenurial system of this country and after full nationhood.

It is the opinion of this writer that these opinions while appreciating the degree of certainty and sense of definitiveness brought to the land system by the Act, however, failed to note the downsides of the Act particularly those which are very fundamental to the extent of standing in conflict with the constitutional right to own property by divesting all lands on the Governor. The opinions also fail to take into consideration the passionate subject of adequacy of compensation under the Act. For, it is quite critical of the Act to empower the state to expropriate land under the basis of public interest without specifying adequate compensation to accrue such land owner who relinquished his land to the government. This gap in the existing analysis of the Act is what this study aims to augment.

---

77 Ibid.

Regarding the present system of land administration governed by the Land Use Act, Utuama[78], argued that the promulgation of the Land Use Act was aimed at redirecting the general philosophies of pre-existing land tenure systems in Nigeria through the application of a uniform statutory regulation of ownership and control of land rights and to stimulate easier access to land for greater economic development as well as promote national social cohesion. In an attempt to harmonize the different land tenure systems previously existing in the country, the Act has created multiple forms of tenure resulting in insecurity of the right of occupancy granted under the Act, excessive bureaucracy in obtaining the Governor's consent, and approval for land transactions and certificate of occupancy, among other shortcomings.

According to Udoekanem[79], the vesting of all land comprised in the territory of each state in the Federation of Nigeria in the Governor of that state implies that the Governor holds the absolute interest in land in each state of the Federation. By Section 1 of the Act, individuals cannot own freehold interest in land in Nigeria. Individuals can only be granted a right of occupancy for a maximum holding period of 99 years, subject to payment of ground rent to the government as fixed by the Governor. This has made private land ownership in the country insecure. This is the reason why compensation is not paid for bare land without unexhausted improvements within the provisions of the Act, except for an amount equal to the rent, if any, paid by the occupier during the year in which the right of occupancy was revoked. Besides, compensation payable on revocation of right of occupancy by the Governor is limited to unexhausted improvements as provided in Section 29(4) of the Act and does not include other pertinent claims for severance and

---

78 A. Utuama, 'The Land Use Act and the Challenges of Millennium Development Goals' (31st March 2008, The Guardian), 25 (10,687): 41.

79 Udoekanem (n 45).

injurious affection. He recommended that there is an urgent need for the amendment of the nation's Land Use Act to eliminate all legal ambiguities currently associated with private land ownership in the country and to facilitate access to land with ease for various purposes. Such amendment should ensure that Nigerians can own freehold interest in land in the country and can transact with their land without the consent of the Governor. It should also strengthen the government to effectively exercise the power of eminent domain in the acquisition of land in any part of the country for public overriding purposes. He further deplored the provision of Section 47 of the Act, according to him, the Land Use Act of 1978 lacks adequate capacity for conflict resolution with respect to disputes arising from unjust and unfair revocation of rights of occupancy granted under the provisions of the Act. This is evident in Section 47 of the Act which states as follows

> 1. This Act shall have effect notwithstanding anything to the contrary in any law or rule of law including the Constitution of the Federal Republic of Nigeria and, without prejudice to the generality of the foregoing, no court shall have jurisdiction to inquire into:- (a) Any question concerning or pertaining to the vesting of all land in the Governor in accordance with the provisions of this Act; or (b) Any question concerning or pertaining to the right of the Governor to grant a statutory right of occupancy in accordance with the provisions of this Act; or (c) Any question concerning or pertaining to the right of a Local government to grant a customary right of occupancy under this Act.
>
> No court shall have jurisdiction to inquire into any question concerning or pertaining to the amount or adequacy of any compensation paid or to be paid under this Act. Thus, the court and even the Constitution of the Federal Republic of Nigeria are excluded from inquiring into any question pertaining to the granting of land rights by the Governor and payment of compensation in cases of compulsory land acquisition in any part of the country.

2.7 Summary

In this chapter, we have extensively clarified basic and fundamental concepts which underpin the legal framework for land law in Nigeria. The historical development of land laws in Nigeria from the Southern and Northern protectorates has been examined, scholarly opinions relating to title to land and definition of land were also inquired into as well as other appurtenant subjects.

CHAPTER THREE

A CRITIQUE OF THE LAND USE ACT OF 1978

3.1 Introduction

The Land Use Act of 1978 in Nigeria, as well as its consequences for economic growth and other ancillary themes, are subjected to a critical analysis in this chapter. The population of a country, as well as the economy of that country, is dependent on the land for its continued existence. In order to regulate the use or administration of land in Nigeria, in order to make land accessible to everyone and to guarantee that land is purchased and put to an appropriate use for the necessary development, various land tenure reforms were adopted by governments throughout and after the colonial era. The Land Use Act itself was also adopted in order to regulate the use of land. When it comes to land policy, the economy of a country can be influenced either positively or negatively, depending on how well the policy is carried out. This decision is made based on how well the policy is implemented.

The Land Use Act of 1978 was created with the goal of boosting economic growth in the nation by guaranteeing the efficient and fair exploitation of land and land resources across the country. The achievement of this goal, on the other hand, has been impeded by two key difficulties[1]. The first is due to the inherent inconsistencies and flaws in the legislation, and the second is due to institutional weakness and a lack of political will to ensure that the Act is implemented fairly and equally in practise. Attempts within the purview of this chapter is made to expatiate on the

[1] E.U. Otty, 'Critique of Nigerian Land Use Act of 1978', *IJESC* (2021) 11 (06). 28115 – 28120

fundamental provisions which uphold the essence of the Act and underpin its functionality while also elaborating on founded and long-nursed criticisms of the land use act of 1978. This will be achieved through a profound analytical discourse.

At the end of this chapter, we shall unfold the fundamental doctrines and practices in Nigerian land law that are rooted in the Land Use Act.

3.2 Government`s Regulation of Land

As a result of the provisions of Section 4 and the Second Schedule to the Constitution of the Federal Republic of Nigeria 1999 (as altered), which exempts land from the list of items in the schedule, land administration falls under the exclusive residual jurisdiction of the states of the federation, as opposed to the national government. Several provisions of the Land Use Act, which, although being a federal law, vested authorities to manage lands in the governors of the several states reinforce this position.[2] The Land Use Act, which vests in the governor the authority to use all lands in the state,[3] establishes three separate but uncoordinated regulatory institutions: the National Council of States, the State governor, and the Local Governments.[4]

The National Council of States is vested with the authority to adopt rules on behalf of the aim of putting the Act into effect in a wide variety of situations. There is an expectation that the

---

2 Section 1 of Land Use Act 1978.

3 Ibid. This however excludes all lands belonging to the federal government and its agencies under Section 49 of the Act.

4 Adamu S.J., 'A Review of the Nigerian Land Use Act 1978', (2014) <https://www.researchgate.net/publication/310427121_Adamu_SJ_and_Abubakar_SK_2014_A_Review_of_the_Nigerian_Land_Use_Act_1978> accessed on 20th February, 2022.

governor will outsource the administration of land in the state to local governments, with the assistance of advisory administrative committees that have been established by the authority to assist in this attempt. This is in addition to the fact that the governor will share regulatory responsibilities with the Council. The Land Use and Allocation Committee will offer assistance to the governor, while the Land Allocation Advisory Committee will offer support to local governments. Both committees will work together to give aid.[5]

In order to ensure that there are no gaps in land administration during the transition period, the Land Use Act provides in section 4 that the provisions of the Land Tenure Law or the State Land Law, as the case may be, shall take effect with such modifications as are necessary to bring those laws into compliance with the Act or its general intent.[6]

The Act exempts from the application of the following provisions any lands vested in the federal government and its agencies according to Section 49 of the Act, and vests ownership and administration of all such properties in the President or any of his appointees who have been delegated such authority.[7]

It is clear from the above that the administrative structure established under the Act is a mix of dichotomy and overlap, as shown by the provisions of the Act discussed above. In direct opposition to one of the Act's aims, namely the establishment of an unified land policy, the administrative structure established under the Act lacks uniformity, consistency, and predictability. Each state has the authority to establish its own administrative framework for land

---

5 E. Chianu. *Title to Improvements on Land in Nigeria* (Benin: Ernslee Ltd 1992) 53.

6 Ibid, 54

7 Ibid.

management, which has resulted in the creation of a wide range of land rules across the federation. As a result, there are as many distinct land management systems in Nigeria now as there are states in Nigeria.[8] The land administration system that applies when there is no administrative structure will be determined by whether the land is located in the Northern or Southern regions of Nigeria, or if the land belongs to the Federal government or one of its agencies.

To put it another way, while the land vested in the governor is to be held in trust and administered for the use and common benefit of all Nigerians in accordance with the provisions of the Act[9], there is no similar obligation imposed on the federal government in respect of all lands vested in it by law. Because of this caveat, while the governor's management powers under the Act have been restricted in some respects, the President and his administration can treat the land under their care as if it were personal property to the greatest extent possible. Except for the provisions of the Act that indirectly extend the administrative structure under the Act to the Federal Capital Territory of Abuja, there is no administrative framework in place to supervise the administration of all federal lands.[10] As a result, it is evident from the beginning that the administrative framework and structure left behind by the Act would not be conducive to the advancement of the land management goals set forth in the preamble. The legitimacy or

---

8 B.N. Okafor and E.C. Nwike 'Effects of the Land Use Act of 1978 on rural land development in Nigeria: a case study of Nnobi' *British Journal of Environmental Sciences*, (2016) 4(3), 1-16

9 A.N. Ukaejiofo, 'Perspectives in Land Administration Reforms in Nigeria' *Journal of the Environment* (2008), 5(3), 43.

10 Ibid.

otherwise of this viewpoint becomes apparent following an impartial investigation and analysis of the relevant sections of the Act, which is the subject of the current chapter.

3.2.1 The National Council of States

To be more specific, the Land Use Act gives the National Council of States the authority to formulate regulations for the purpose of putting the Act into effect. These regulations are specifically pertaining to the transfer of any rights of occupancy, whether through assignment or any other means, and they also include the conditions that must be met in order for such rights to be transferred to individuals who are not Nigerians.[11] In addition, the terms and conditions under which special contracts may be made in accordance with Section 8, the granting of certificates of occupancy in accordance with Section 9, the granting of temporary rights of occupancy, and the method by which compensation is to be assessed for the purposes of Section 29, as well as other matters, are all subject to regulation.

In the first instance, the National Council of States is granted regulatory authority by the Act, according to section 46(2), notwithstanding the fact that the organisation has no legislative or administrative authority over the subject matter. The National Council of States does not have any territory under its control, either under the Act or under the Constitution.[12] Even though the National Council of States never issued any regulations in accordance with this provision, it nonetheless empowers a national body in a federation where land management is the exclusive legislative jurisdiction of the States to issue regulations on behalf of the States in land matters in

---

[11] Section 46(1) of Land Use Act 1978.

[12] Schedule 3 para. 5 pt 1(B) of Constitution of the Federal Republic of Nigeria 1999.

accordance with the provisions of this provision.[13] In light of this, a major constitutional concern arises. Due to the fact that the Council's regulatory powers do not fall within its constitutional responsibilities, and in particular when such regulations are at odds with state land management objectives, the validity and enforceability of any regulations made under this provision by the Council (if any) will always be vulnerable and subject to challenge in the courts. To add to the confusion, there is no provision in the Constitution that empowers the Council to enforce the laws that it has enacted[14].

The provision also gives the National Council of States the authority to adopt rules, particularly with regard to the transfer of any rights of occupation, whether through assignment or in any other manner, as well as the standards that must be satisfied when such rights are transferred to individuals who are not Nigerians. In the event that this particular clause is used, it is anticipated that there will be a conflict with the provisions of the Acquisition of Land by Aliens Laws in each of the states that make up the federation. This is especially true in situations when the rules are in disagreement with the requirements of these laws.[15] The question is whether the terms of a regulation may take precedence over the stated provisions of an enactment, which is debatable.[16] As a result of the Land Use Act, there is a true channel for duality, conflict, and confusion in the management of land in the nation.

---

13 Omotola, J.A. *Essays on the Land Use Act* (Lagos, Lagos University Press, 1978) 4-5.

14 A.L. Mabogunje, *Perspectives on Urban Land and Urban Management Policies in Sub-Saharan Africa* (Chichester, John Wiley and Sons 1992). 52

15 R.K. Udo, *The Land Use Decree 1978 and its antecedents* (University Lectures, University of Ibadan 1985) 44-46.

16 *Comptroller General of Customs and Ors v Gusau* (2017) LPELR-42081(SC).

3.2.2 The State Governor

It is the responsibility of the governor of each state in the Federation to administer the land for the use and common benefit of all Nigerians in line with the provisions of this Act. As a result of this Act, all land that is included within the territory of each state in the Federation is owned by the governor of that state. According to the provisions of Section 3 of the Act, the basis for the control and management of land by the governor or the local government is determined by the designation of land as an urban area and the confining of the undesignated areas to the control of the local governments, with the governor or the local government exercising control over the land. This is the basis for the control and management of land.

According to Section 2 of the Land Use Act, the governor is only permitted to control and manage land that is located within an urban area. On the other hand, the local government is authorised to administer land that is located outside of an urbanised region. Since this is the case, in order for the governor to have the authority to exert control and management over land inside the state, it is necessary to establish a clearly defined region that is referred to as an urban area and publish it in the state gazette. The governor does not have any area of control and administration over land in the state since the Act presumes that all lands in the state are non-urban areas. This is the case unless and until a region is defined or demarcated as urban by the legislature. It is unfortunate that there has not been a norm that is recognised on a national level for this delineation, which the Act intended to have been in place by this point in time. In spite of

the fact that the National Council of States is tasked with this responsibility, the council has not yet recommended any regulations in this regard.[17]

In the lack of precise standards for classifying any place as urban, there is widespread misunderstanding in the nation's land management sector, which is causing considerable concern. In the words of one commentator[18]:

> the absence of clear criteria for qualifying any area as urban breeds the problem of uncertainty as to extent of land under the governor's control; appropriateness of certificate to be issued; jurisdiction of courts in the adjudication of land matters; confused land identification processes and administrative conflicts between the governor and the local government amongst others, in the land management sector of the nation.

The provisions of Section 4 of the Act, which allow state governments to apply a variety of rules and regulations in respect to the identification of sections of the state as urban and non-urban lands, are utilised by state governments who, due to the absence of regulatory norms, are forced to turn to these provisions. Therefore, in order to take the agenda for land reform to the next level and move it ahead, it is necessary to establish defined norms and boundaries for the classification of a territory as either urban or nonurban.[19]

Furthermore, the Act confers vast managerial, executive, and administrative powers on the governor, including the authority to grant and revoke right of occupancy; the authority to issue certificates of occupancy and impose rents on land; and the authority to grant and/or withhold

---

17 F. Adelakun. *Implementation of the Land Use Act*, (Lagos University press, Lagos, 1982)

18 O. Valentine, 'Understanding the Land Use Act,') < http://lawsprings.com/index.php> accessed on 2 January, 2025.

19 Omotola (n 13) 4-5

consent to subsequent transactions under the Act, among other things.[20] The Land Use and Allocation Committee is mandated under the Act to help the governor in the exercise of these duties, although in an advisory role. The committee is appointed by the governor. [21]

3.2.3 The Land Use and Allocation Committee

In accordance with the provisions of Section 2(2) of the Act, the Land Use and Allocation Committee (LUAC) is tasked with providing assistance to the governor in the management and administration of urban areas that fall under his jurisdiction. The LUAC is responsible for three totally separate functions: In the Land Use Act, these responsibilities are stated as follows: (i) advising the State governor on any matter connected with the management of land in an urban area; (ii) advising the State governor on any matter connected with the resettlement of persons affected by the revocation of rights of occupancy on the grounds of overriding public interest; and (iii) determining disputes as to the amount of compensation payable for improvements on land.[22]

The governor retains complete control over the committee's composition and operating procedures, as well as its appointment and removal.[23] One of the members of this Committee will be nominated by the governor to serve as the committee's chairperson, and the committee will

---

20 Ibid.

21 Ibid.

22 O. Akintunde. 'The Land Use Act and Land Administration In 21st Century Nigeria: Need For Reforms' *Afe Babalola University: Journal of Sustainable Development Law & Policy*, (2018), 9(1),, 90

23 Ekpu O.O., 'The Role of the Local Government in the Implementation of the Land Use Act: The Bendel State Experience' in Olayide Adigun (ed) *The Land Use Act: Administration and policy Implication* (Lagos, University of Lagos Press 1991), 49.

have the authority to control its own activities, subject to any orders that the governor may make. It is required that the committee be comprised of a minimum of two members who hold qualifications approved as Estate Surveyors or Land Officers and who have held such qualifications for a period of not less than five years, in addition to a legal practitioner, in order for the committee to be able to fulfil its responsibilities. The governor has the authority to determine the number of members that should be included in the committee.[24] As a result, the governor is unquestionably the most important figure in the state's total land management. On the ground, the committee's makeup, quality, and longevity have all tended to change over time, depending on which government is in power and how the governor is feeling.[25] Omotola[26] made the following observation on the makeup and relevance of the committee:

> It is doubtful whether from the composition and mode of appointment of members of the committees whether any person can ever obtain a satisfactory compensation even for improvements on land compulsorily acquired by government. Since the committee cannot be an independent and impartial tribunal, the provision is not only retrograde but also conflicts with the fundamental principles of natural justice, which requires that a person shall not be a judge in his own cause.

The author of this piece is of the opinion that this clause may be traced back to the military antecedents of the Act, which recognises and oozes the dictatorial power that has been linked with military legacy for a very long time. Both the provision of the Act and its execution and

---

[24] A.B. Muiz, *Land Management in Nigeria: Towards a New Legal Framework* (Lagos: Ecowatch Publication 2006) 84.

[25] P.Z. Datong, The Role of State Government in the Implementation of the Land Use Act' in Olayide. Adigun (ed) *The Land Use Act: Administration and Policy Implication; Proceedings of Third National Workshop* (Lagos: University of Lagos Press 1991) 64.

[26] A.O. Jelila, 'Compensation Provisions of the Land Use Act' XVI *Nigerian Bar Journal*, (1980) 36.

enforcement are not indicative of democracy. The Act is also not democratic in its provision. Due to the fact that there are no requirements for nomination to the committee in line with the laws and regulations that are in effect, members of the public and other segments of society are not automatically represented in the committee.

Members of the committee serve at the discretion of the governor, and it is not guaranteed that they will continue on the committee indefinitely. In addition, there is no assurance that they will be able to maintain their positions for an extended period of time. From this point of view, however, the state legislature does not have the right to rein in the governor's excesses since the Land Use Act, which is a federal statute, does not provide it the authority to amend or review the terms of the act. This author is of the opinion that the Act, despite the fact that it would have been advantageous under a military regime, is entirely totalitarian and undesirable in a democratic society.

3.3 Private Ownership of Land

Although the Land Use Act transferred ownership of all state-owned property to the Governor, residents are still permitted to retain an interest known as a right of occupancy in the lands they have purchased from the state government[27].

The Supreme Court of Nigeria, in *Adole v Gwar*[28], while explaining the purpose and intent of the Land Use Act 1978, held that it was not the intention of the lawmaker that the Land Use Act be

---

27 Namnso Bassey Udoekanem, David Odegwu Adoga, and Victor Onyema Onwumere, 'Land Ownership in Nigeria: Historical Development, Current Issues and Future Expectations' *Journal of Environment and Earth Science,* (2014), 4(21), 182-188

28 (2008) 11. NWLR (PT 1099)562

used to divest citizens of their traditional titles to land. Instead, the Act is intended to reinforce ownership that draws its existence from a long legacy of ownership. It is for this reason that the Land Use Act recognises the existence of a customary Property owner's title over his parcel of land as a considered holder in cases where the land existed prior to the start of the Land Use Act and the customary Land owner's title was not recognised. According to the Act, the government retains the power to revoke the holder's right if the holder's right is contrary to the public interest. As provided in Section 34, where land in an urban area was vested in a person before the commencement of the Act, that land should continue to be held by that person in the same manner as it would if that person had been the recipient of a statutory right of occupancy issued by the Governor under the Act.[29]

The grant of a statutory right of occupancy over a plot or portion of land not exceeding half hectare in area is limited to one plot or portion of land not exceeding half hectare in area in the case of undeveloped land where the person in whose possession it was vested before the Act held more than half hectare[30]. His rights to the extra land were terminated, and the land was transferred to the Governor, who was responsible for administering it in line with the requirements of the Act.

---

29 D.R. Denman, and S. Prodano, *Land Use: An Introduction to Proprietary Land Use Analysis* (London: Allen and Unwin 1972).

30 O.A. Dosumu, 'Land Tenure System in Nigeria and its Effects on Land Administration' *The Map Maker* (1977) 4(1): 23-25.

Land rights over property that was developed or utilised for agricultural purposes at the time of the Act's passage were recognised only when the land is situated in a non-urban region.[31] Such land should be held in the same manner as if the possessor were the grantee of a customary right of occupation granted by the local government.

In accordance with the provisions of Section 3 of the Land Use Act, the Governor is granted the authority to: Subject to such general conditions as may be specified by the National Council of States, the Governor may, by order published in the gazette, designate the portions of the state's territory that constitute land in urban areas for the purposes of this Act.

If the Governor of a state has the authority to grant statutory right of occupancy or customary right of occupancy by the appropriate body, that authority must not be exercised arbitrarily, such that someone who had lawful right or title to a parcel of land prior to the enactment of the Land Use Act is deprived of that right or title[32]. Sections 34 (1), (5), and (6) of the Land Use Act are transitional measures designed to protect rights in land that were held by individuals previous to the beginning of the Land Use Act. The provisions of the Land Use Act are typically protective of the interests of individuals in land that was held previous to the beginning of the Act.

The Land Use Act has not been repealed, however, the idea of land ownership has been reinterpreted. Section 5 (1)(a) of the Property Use Act grants the Governor of a state the authority to grant occupancy to any person for any purpose in respect of land, whether or not it is located in an urban area, under certain conditions. Any existing rights in respect of the parcel of property over which a statutory right of occupancy is issued are immediately terminated when

---

31 Ibid.

32 B.O. Nwabueze, *Nigerian Land Law* (Enugu: Nwamife Publishers Ltd,1972). 571

the right of occupancy is conferred. See *Olagunju v Adeseye*[33] for an example of this. During the period in which the statutory right of occupation is in effect, the holder of the right is considered to be the legal owner of the property. As provided in Section 14 of the Property Use Act, the person who has a statutory right of occupation has exclusive possession of the land against all other parties, with the exception of the Governor. Such rights are transferred to his heirs if he dies before his spouse. Additionally, Section 24 of the Land Use Act, subject to the agreement of the Governor having been sought and secured beforehand, affirms that the holder of a statutory right of occupation has a proprietary interest that may be transferred.

The Land Use Act had as its goal the "nationalisation" of all lands in Nigeria by transferring state ownership in the federal government. The right of occupation is the most valuable kind of interest that may be retained in the hands of persons. According to *Eleeran v Aderoupe*[34], when there is an existing grant of right of occupation over property, any other purported grant in respect of the land would be illegal.

The possession of a certificate of occupancy serves as proof that the bearer has been granted the right to occupy the property. It serves as prima facie proof of the ownership of the land covered by the deed. Its exclusive ownership, on the other hand, is contestable[35].

The presence of a legitimate title to another person with a legal interest in the same property at the time the certificate of occupancy was granted is a requirement for a valid issuance of a certificate of occupancy to be lawful. In other words, there must not be a statutory or customary

---

33 (2009) 9 NWLR (PT 1146) 225

34 (2008) 11 NWLR (PT 1097), p. 50

35 Ibid.

owner of the property in question or dispute at the time the certificate was granted who has not been divested of his legal interest in the land previous to the award of the certificate. When a certificate of occupancy is awarded to a person who has a defective title, the certificate of occupancy is void, and the holder of the certificate of occupancy has no legitimate claim that may be brought before the court.[36]

Section 34 of the Land Use Act is concerned with the titles of individuals who had title to land prior to the implementation of the Land Use Act in 1993. Sections 1 and 5 of the Act do not apply to vested rights, and hence they cannot be overridden.

When it is demonstrated by evidence that another person other than the grantee of a certificate of occupancy had a better right to the land upon which the grant relates, the Supreme Court held that a court would have no choice but to set aside the grant or otherwise discount it as invalid, defective, and / or spurious.[37]

In the event that a statutory right of occupancy is issued in connection with the existence of an unrestricted deemed right that has been terminated, the statutory right of occupancy becomes a worthless document because it is impossible for two title holders to hold concurrently ownership of the same piece of land.

When two rights of occupation in respect of the same property are granted to separate parties at the same time, only one of the rights must be legitimate. It is the latter privilege given without

---

[36] Denman and Prodano, (n 29). 58

[37] D.A. Aniyom, 'An Appraisal of the Land Use Decree and its Effects in its First Five Years' *The Map Maker*. (1983) 9(1): 17-26.

first cancelling the former that is deemed illegal under Section 28. A person does not obtain a title by simple possession of a certificate of occupancy, as provided by Section 28.

3.4 Occupancy Certificate

The Land Use Act empowers the governor to grant statutory right of occupancy and no more.[38] The governor can only issue a certificate of occupancy in respect of land rights preceding the promulgation of the Land Use Act.[39] All other powers of the governor flowing from this power of grant are restricted to statutory right of occupancy so granted. The provision of section 5 of the Act is clear and unambiguous in this respect. It reads:

> It shall be lawful for the Governor in respect of land, whether or in an urban area-(a) to grant statutory rights of occupancy to any person for all purposes; (b) to grant easements appurtenant to statutory rights of occupancy; (c) to demand rental for any such land granted to any person.

In this way, the governor's authority to issue easements, demand and evaluate rent, and otherwise use his or her authority is confined to granting the statutory right of possession.[40]

Despite the fact that the governor is not authorised to impose penal rents for violations of covenants contained in certificates of occupancy, the governor has the authority to impose penal rents for failure to develop or make improvements on land that is subject to the certificate of occupancy. Additionally, the governor has the authority to revise the penal rent in accordance

---

38 Section 5(1) of Land Use Act 1978,

39 Ibid, s 34.

40 A. Umezulike, 'Easements and the Problems of Some Startling Presumptions' *IJL* (2004) 25 (1).

with the provisions described in the Act. In spite of the fact that this latter capability can be utilised independently of whether or not the property is subject to a legislative right of occupation, the most important need is that the land in question be subject to a certificate of occupancy.[41]

Section 5(1) (f) of the Act provides that if a condition stated or implicit is breached, the governor may impose punitive rent on the property only if the land is covered by a statutory right of possession given by him.

The clause has the consequence that rights of occupation that are not statutorily granted under section 5(1) are exempt from the implementation of the requirements. In essence, the governor is primarily concerned with the governance and administration of properties that have been allocated to him under state law. As a result of this postulation, Omotola's theory[42] that the Land Use Act intended a dual administrative and management structure, one for real grant and the other for presumed grant of right of occupation, is strengthened even more.

It should also be stated that, in accordance with the provisions of Section 14 of the Act, the governor obtains possession of the property concurrently with the occupier when the governor grants the right to occupy the property. The Act also provides the governor or any public official lawfully authorised by him with the authority to enter and examine any property that is subject to a statutory right of possession or any improvements made thereon at any reasonable time during the daylight hours. This authority is granted to the governor or any public official. The language that is mentioned in Section 14 of the Act makes it abundantly evident that a trespass action

41 N.N. Chinwuba, 'Easements and the Problems of Some Startling Presumptions: A response.' *IJL* (2009) 27.

42 A.O. Jelila, *Essays on Land Use Act 1978* (University of Lagos Press 1984).

against the governor or his legally authorised official for such access cannot be maintained. This is due to the fact that the occupier's ownership is not exclusive of the governor's possession, which is the situation that exists in this particular instance.[43] This makes it abundantly clear that the governor's authority over the administration and control of property differs depending on whether the land is subject to a statutory right of occupation or not, and on whether or not the land has been issued with a certificate of occupancy. This paradox, which encourages irrationality in land administration in Nigeria, has far-reaching consequences for landholders, land administration, and the development of the Nigerian property market.[44]

In the administration of the Act, the governor has the authority to withdraw the award of the right of possession in meritorious circumstances, as defined by the Act, if the situation warrants it.[45] Revocation is an option available regardless of whether the property is in an urban region under the direct supervision of the governor or in a non-urban area under the administration of the local governments. It likewise makes no difference whether the right of possession has been given or is assumed to have been granted. Exceptions to this rule include situations in which the land is necessary for overwhelming public interest/public reasons or if the revocation resulted from the governor using his or her punitive powers under the Act, which are both covered by the Act.[46] Due to the fact that compensation is given for overriding public interest/public objectives revocations, the difference between the two revocation powers of the governor is necessary.

---

43 Akintunde (n 22)

44 B. Okafor and C. Nwike 'Effects of the Land Use Act of 1978 on Rural Land Development in Nigeria: A Case Study of Nnobi' *British Journal of Environmental Sciences* (2016) 4(3), 1-16

45 Ibid. 94

46 Aniyom (n 37). 21

However, compensation is not payable for penal revocations. As an additional point, although revocation for overwhelming public interest/public reasons affects all property owners/occupiers, punitive revocation affects only rights of possession given by the governor or proved by a certificate of occupancy. The exercise and examples of the two powers will be examined in further detail below.

3.4.1 Revocation for Overriding Public Interest/ Public Purposes.

In the event that a notification is given by or on behalf of the president declaring that the property in question is required by the government for public purpose, the governor is required to remove a right of occupancy in accordance with the provisions of Section 28(4) of the Act. On the other hand, the Act did not include any provisions about the consequences that would result from the governor's refusal to cooperate with a request made by the federal government. Even in circumstances in which the governor has not yet terminated any existing rights of occupation on the land, the federal government has the authority to put into effect the provisions of this section. In the event that the planning rules and zoning ordinances of the state in which the property is located are in contradiction with the public purpose use of the land by the federal government, what are the consequences? These are questions that are no longer relevant and challenges that were brought about by the provisions and administration of the Act, which have been resolved. During the time when the Second Republic in Nigeria was in power, there were situations in which the federal government and the states had issues regarding the utilisation of this authority.[47]

---

[47] C.O. Olawoye, 'Statutory Shaping of Land Law and Land Administration up to the Land Use Act', (1981), *National Workshop on the Land Use Act, 1978* held on May 25, 1981 at University of Lagos.

Recently, the Supreme Court confirmed that state governments had superior authority over the federal government in respect of properties located inside their borders, even though the areas are federal grounds.[48] The federal government's purchase of land for its own purpose is made impossible without the participation of the state governments, according to this position of law. It is as a result of this that the federal government's requirements are subject to the politics and bureaucracy of the appropriate state governments in this regard. There is a need for cooperative federalism and inter-governmental connections in order for this provision to be implemented smoothly and efficiently.[49]

3.4.2 Penal Revocation.

The Act, under certain circumstances, confers powers on the governor to revoke or compulsorily acquire land and land rights without compensation. All these are referred to as penal revocation and covers situations where the occupier/holder alienates the right of occupancy without the requisite consent;[50] where there is a breach of any of the provisions deemed to be contained in the certificate of occupancy;[51] where there is a breach of any terms in the certificate of occupancy or special contract made by the governor;[52] and where a person to whom a certificate of occupancy is issued refuses or neglects to accept and pay for such certificate.[53]

---

48 *AG Lagos State v AG Federation & 35 Ors (2003) NWLR 6 SC (Pt 1) 24.*

49 Muiz (n 24).

50 Section 28(2)(a) and (3) (d) of Land Use Act 1978.

51 Section 28(5)(a), *supra*

52 Section 28(5)(b), *supra*

53 Section 28(5)(c), *supra*

The Act prohibits[54] and makes it unlawful for any person granted a right of occupancy by the governor to alienate his right of occupancy or any part thereof without the consent of the governor. Any purported transfer of possession without the requisite consent is null and void. In addition, following such transaction, the holder of the right could forfeit it by outright revocation without any compensation. In *Savannah Bank v. Ajilo*[55], the court extended the application of the foregoing provisions to include a deemed grant of a right of occupancy. The application of this provision imposes double jeopardy on the parties to the transaction. The parties would not only have incurred losses on the account of the transaction being declared void for lack of requisite consent of the governor, but will also forfeit the land and the development thereon to the state without any corresponding obligation to pay compensation.[56] It is enough for the law to invalidate the transaction without the parties suffering the loss of their property without compensation.

By virtue of section 28(5) (a) of the Act, the governor may revoke a statutory right of occupancy if there is a breach of the provisions which by virtue of section 10 of the Act, the certificate is deemed to contain, including provision on rent. The governor has the exclusive powers to fix and review rents and may revoke the right of occupancy for failure to pay the imposed rents.[57] This makes the governor the lawgiver and enforcer at all times. This is equivalent to executive judgement, which is contrary to the tenets of separation of powers and the rule of law. It is one of

---

54 Section 22, *supra*

55 (1989) 1 NWLR (Pt 97), 305.

56 Akintunde (n 22)

57 A. Utuama, 'The Land Use Act and the Challenges of Millennium Development Goals' (2008, 31st March). *The Guardian*. 25 (10,687): 41

the incidences of insecurity of title and tenure under the Act as it leaves the holder of the right of occupancy at the mercy of the governor.[58] The governor is empowered under Part III of the Act to determine and collect rents on rights of occupancy granted under the Act. It is to be noted that this power is exercisable both on statutory right of occupancy granted by the governor and any other right of occupancy once covered by a certificate of occupancy[59].

However, under section 17 of the Act, the governor may grant a statutory right of occupancy free of rent or at a reduced rent in any case in which he is satisfied that it would be in the public interest to do so. The implication of this provision is furthering the dual administration and dichotomy in property rights under the Act as only parties with a grant of statutory right of occupancy can benefit from the exercise of the governor's discretion to the exclusion of others, particularly holders of customary rights and deemed grantees. To buttress the argument of dual administration under the Act, there is no provision for the payment and/or review of rents in respect of lands covered by customary rights of occupancy or other lands not covered by a certificate of occupancy; there is no concrete administrative and enforcement structure in respect of such lands in the least. In essence, the greater parts of the lands in the states are not covered by this rent requirement. In fact, the Act seems to be more interested in lands in the urban areas, specifically land covered by certificate of occupancy in so far as the rent provisions do not capture other lands in the state.[60] Unfortunately, this is a drain on the revenue profile of the state

---

58 E.O. Omuojine, 'The Land Use Act and the English Doctrine of Estate' *Journal of the Nigerian Institution of Estate Surveyors and Valuers* (1999) 22(3): 54-56.

59 K. Davies, *Law of Compulsory Purchase and Compensation* (2nd edition, Butterworths, London 1975)

60 *Ibid.* 28

and unfair taxation on the part of parties caught by the provisions. Such uncovered lands continue to remain dead assets both to the individual occupant and to the state.

CHAPTER FOUR

AN APPRAISAL OF SECTION 47 OF THE LAND USE ACT

4.1 Introduction

In the course of this investigation, the position of the law will be taken into consideration with regard to issues such as revocation, compulsory acquisition, compensation, adequacy, grounds and procedure for revocation, the jurisdictional competence of the Court to hear matters concerning the adequacy of compensation, and other ancillary issues.

There will be a significant amount of effort put forth in this chapter with the intention of providing a comprehensive analysis of section 47 of the Land Use Act of 1978. In order to accomplish this evaluation, an analytical discourse will be utilised throughout.

4.2 Revocation and Compulsory Acquisition of Land Pursuant to the Land Use Act of 1979.

The promulgation of the LUA on 29th March 1978 had the effect of bringing the whole of Nigeria under one statutory land law.[1] Prior to the LUA, there was the problem of uncertainty of title particularly under the customary land tenure system in the south.[2] Beside this problem of uncertainty of title, the government was finding it extremely difficult to get: land for development.[3] The compensation demanded by individuals for government acquisition of their

---

1 M. Yakubu. 'Fundamentals of Nigerian Law' in Nigerian Institute of Advanced Legal, Studies (*Law series N0, 2*) 1989, Ajomo M.A. ed. 63

2 *Ogunbanlbi v Abowaba* [1951] 13 WACA 222 and *Alli v Ikusebialla* [1985] 5 S.C 93.

3 T. Niki, *Cases and Materials on Nigerian Land Law*, (Mabrochi Books, 1992) 5.

lands most times were more than the cost of the public project. It became very imperative that government should intervene through legislation to correct the ills.[4] The preamble to the LUA sums up its objective, and it reads thus: Whereas it is in the public interest that the rights of all Nigerian to the Land in Nigeria should be asserted and preserved by law and whereas it is also in the public interest that the right of all Nigerians to use and enjoy land in Nigeria and the national fruits thereof in sufficient quantity to enable them to provide for the sustenance of themselves and their families, should be assured, protected and preserved.

In place of the radical title (or ownership, communal or otherwise), the LUA established a right of occupation as the greatest proprietary interest that could be granted. The LUA's establishment of right of occupancy effectively rendered all forms of ownership (both customary and common law) obsolete in favour of a right of occupancy. Section l of the LUA vests in the Governor of each state of the federation all lands within that state's boundaries, to be held in trust and managed for the common good of all Nigerians. When Section 1 is combined with the laws pertaining to right of occupancy, the result is that it is no longer feasible to possess land without governor`s consentsince the LUA's inception. The Supreme Court ruled in *Salami v Oke*[5] that "absolute ownership of land is no longer possible" because "all lands comprised in the territory of each state in the federation are hereby vested in the Governor of the state and such land shall be held in trust and administered for the common benefit of all Nigerians," according to Section

---

4 O. Ojo. *Effect of Land Use Act on the Institution of Customary Tenancy' in the Land Use Act — Twenty-Five Years After*, (Lagos, University of Lagos, 2003) 330.

5 [1987] 9-11 SC 43

1 of the Act.[6] It is worth noting that the right of occupancy, rather than ownership, is now possible.[7]

Under the LUA, two types of rights of occupancy were created. These are: statutory right of occupancy and customary right of occupancy. Both statutory right of occupancy and customary right of occupancy are of two classifications. The first is the statutory right of occupancy granted by the state Governor pursuant to Section 5(1) (a) of the LUA and the customary right of occupancy granted by the Local Government under section 6 (1) (a) of the LUA. The second classification is the statutory right of occupancy deemed to have been granted by the state Governor pursuant to Section 34 (2) of the LUA and the customary right of occupancy deemed to have been granted by the Local Government under Section 36 (2) of the LUA[8]. In both cases of Statutory rights of occupancy and customary rights of occupancy there exist an actual grant as well as deemed grant. An actual grant is naturally a grant made by the governor of a state or a local government, while a deemed grant comes into existence automatically by the operation of law.[9]

By Section 5 of the LUA, the Governor can grant statutory right of occupancy to any person for all purposes in respect of land whether or not the land is situate in an urban area.[10] A person in

---

6 Ibid per Kawu J.S.C. at 11

7 A. Oluyemi. 'Revocation of Rights of Occupancy: Legal Framework in Nigeria', *Lagos State Ministry of Justice*, (2005), 22.

8 *Kyari v Alkali* [2001] 11 N.W.L.R. (pt 724), 412 at 440 per Iguh JSC and *Provost, Lagos State College of Education & Ors v Edun* [2004] 6 N.W.L.R (pt 869) 476, at 499 per Iguh J.S.C.

9 *Savannah Bank (Nig) Ltd v Ajilo* [1989] NWLR (pt 97) 305*, Adisa v Oyinwola & Ors*[2000] 10 NWLR (pt 674)116

10 N. Tobi 'The Land Use Act and Judicial Activism' *Journal of Parliamentary and Political Law* (2003) 23.

whom a land is vested by virtue of section 34(2) of the LUA is deemed to be a holder of a statutory right of occupancy issued by the governor under the LUA.[11] Section 5 (2) of the LUA provides that:

> "upon the grant of a statutory right of occupancy under the provisions of subsection (1) of this section, all existing rights to the use and occupation of the land which is the subject of the statutory right of occupancy shall be extinguished." The Supreme Court held that the rights that will be extinguished are mere licence or usufruct but not rights which are capable in law of being alienated. The Supreme Court puts it thus:" …Section 5 (2) is not concerned with the extinguishment of legally vested rights. The meaning of 'all existing rights' as used there is limited. It is the right to the use and occupation of land which are for less than an inferior to property rights. They may be mere licence but are never rights which are capable in Law of being alienated. Legally vested rights cannot simply be extinguished."[12]

It is also important to note that where there is a subsisting statutory right of occupancy, the grant of another statutory right of occupancy over the same piece of land is invalid. In *Ilona v Idakwo*,[13] the right of occupancy granted to the appellants on 24th April1984 over the land in dispute was held invalid by the Supreme Court because there was already a subsisting statutory right of occupancy over the land which had not been revoked. A Governor has inherent powers

---

11 *Teniola v Olohunkin* [1999] 5 NWLR (pt 602) 280 and *Jukoyi v Adesina* [1999] I0 NWLR (pt 624) 633.

12 *Ibrahim v Mohammed* [2003) 6 NWLR (pt 817), 615 at 663 and *Dantsoho v Mohammed* [2003] 6 NWLR (pt 817), 457 at 493-494.

13 [2003] 11 NWLR (pt 830), 53 at 83-84.

to revoke a right of occupancy if granted in error. By the same token a Governor can cancel such a revocation on discovering that the revocation was made in error.[14]

In *Dielu v Iwuno*[15] the Supreme Court held that by virtue of Section 6(1) of the LUA, 1978, a Local Government is empowered to grant a customary right of occupancy in respect of land not in an urban area for agricultural and other purposes. In *Awaogbo v Eze*[16], the Supreme Court also held that Section 6, of the LUA, 1978 deals with the power of a Local Government in relation to land not in urban area. Section 6(3) makes it lawful for a Local Government to enter upon, use and occupy land within its area of jurisdiction for public purpose.

4.2.1 Grounds for Revocation

The system of coercive public takeover of private land in Nigeria was before 1978, governed primarily by the Public Lands Acquisition Legislation[17] and the Land Tenure, Law, 1962.[18] The former applied to the south and the latter in the northern states; the operation of the Public Land Acquisition Legislation was based on the concept of acquisition of land for public purpose. The operation of the Land Tenure Law, on the other hand, was premised on the concept of revocation of rights of occupancy for good cause.[19] The enactment of the LUA in 1978 has witnessed a

---

14 *Ilona v Idakwo* supra.

15 4 NWLR (pt 445) 622

16 (1995) 1 NWLR (pt 372) 393

17 Public Land Acquisition Act, Cap 167 Laws of the Federation of 1958; Public Lands Acquisition Law, Cap-113 Laws of Lagos State, 1973. Public Lands Acquisition Cap 126 Laws of Bendel State, 1976.

18 N.N. No. 25 of 1962

19 A. Utuama. 'Compulsory Acquisition and Revocation Process', *Nig. J. Contemp-Law*, (1990-1993), 17 28

change in these concepts.[20] The LUA in fostering uniform Land Tenure System in the southern and northern parts of the country introduced the notion of the revocation of the rights of occupancy for overriding public interest applicable countrywide. Compulsory takeover of land by government is now through revocation of right of occupancy. It is important to note that revocation of rights-of occupancy under the LUA is not limited to public purpose. Rights over land can be revoked for breach of conditions of a grant. The word "revocation" was not defined by the LUA, but it has the effect of extinguishing all rights of a holder of right of occupancy.[21] The Governor of a state has power to revoke a right of occupancy. Section 28(1) of the LUA provide thus: "It shall be lawful for the Governor to revoke a right of occupancy for overriding public interest".[22]

Apart from "overriding public interest as a ground for a Governor's exercise of the power of revocation, a Governor may also revoke a statutory right of occupancy on the following grounds; a breach of any of the provisions which a certificate of occupancy is by Section 10 of this LUA deemed to contain; a breach of any term contained in the certificate of occupancy or in any special contract made under section 8 of the LUA; a refusal or neglect to accept and pay for a certificate which was issued in evidence of a right of occupancy but has been cancelled by the Governor under S.9 (3) of the LUA. A Governor is also empowered under the LUA to revoke a right of occupancy in the event of the issue of a notice by or on behalf of the president, if such

---

20 *Saude v Abdullahi* [98914 NWLR (pt 116) 387 pp. 416-417.

21 A Otubu, 'Private Property Rights and Compulsory Acquisition Process in Nigeria: The Past, Present and Future' *European and International Law* (2012) 8 (2) 5

22 Section 28(2) and (3) of Land Use Act.

notice declares such land to be required by the Federal Government for public purposes.[23] The problem here is that the LUA did not state who should pay the compensation, leaving the holder of the right of occupancy in respect of such a land in a dilemma. It is important to note that where a Certificate of Occupancy is issued as a result of mistake or inadvertence on the part of the issuing official or concerned authority it cannot be said to be fake, false or fraudulent. The apparent reason for this according to the Supreme Court is that there is no fraudulent intent.[24]

The LUA expressly laid down the procedure for a valid revocation and they include:

1) The revocation should be signified under the hand of a public officer duly authorized in that behalf by the Governor.[25]

2) Notice shall be issued stating the purpose of revocation that is either for public purpose or for breach of conditions of grant.[26] Any revocation for purposes outside those prescribed can be declared void.

3) Notice shall be served on the holder.[27] As regards mode of serving the Notice, section 44 of the LUA provides that: a. by delivering it to the person on whom it is to be served or; b. by leaving it at the usual or last known place of abode of that person; or c. by sending it in a prepaid registered letter addressed to that person at his usual or last known place of abode; or d. in the case of an incorporated company or body, by delivering it to the

---

23 Otubu (n 21).

24 *Yakubu v Jauroyel* [2014] 11 NWLR 205 at 223.

25 Section 28(6) of Land Use Act and *Majiyglpe v A.G.* [1957] NRNLR 158

26 *Obikoya & Sons Ltd v Governor of Lagos State* [1997] 1 NWLR (pt 50) 385.

27 Section 28(6) of Land Use Act.

secretary or clerk of the company or body at its registered or principal office or sending it in a prepaid registered letter addressed to the secretary or clerk of the company or body at that office. If it is not practicable after reasonable inquiry to ascertain the name or address a holder or occupier of land on whom it should be served, by addressing it to him by the description of "holder" or "occupier" of the premises (naming them) to which it relates and by delivering it to some person on the premises or, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

4) Notice must be proved to have come to the knowledge of the person concerned i.e. there must be proof of receipt of such Notice.

5) The holder's title only becomes extinguished on the receipt by him of the Notice or on such later date as will be stated in the Notice.

6) Where the revocation is for public purpose (as against penal revocation under Section 28(5) of the LUA, the holder and the occupier shall be entitled to compensation for the value at the date of revocation of their unexhausted improvements or under the Minerals Act or the Petroleum Act or any relevant legislation as the case may be.[28]

4.3 Remuneration Pursuant to the Land Use Act of 1979.

The requirement to pay the right holder is one issue worthy of examination. Only unexhausted improvements[29], not bare land, are eligible for compensation under the LUA when a right of occupation for public purpose is revoked, or when government extracts construction materials.

[28] Section 29(1) and (2) of Land Use Act.

[29] *Ibid.*

Compensation must be provided to the bearer of a revoked right under Section 44 (l) of the Constitution[30]. It states;

> No moveable property or any interest in an immovable property shall be taken possession of compulsorily and no right over or interest in any such property shall be acquired compulsorily in any part of Nigeria except in the manner and for the purposes prescribed by a law that, among other things.
>
> (a) requires the prompt payment of compensation therefore; and
>
> (b) gives to any person claiming such compensation a right of access for the determination of his interest in the property and the amount of compensation to a court of law or tribunal or body having jurisdiction in that part of Nigeria.

The Constitutional provision above when read in conjunction with Section 29 of the LUA makes it mandatory for payment of compensation to the holder of the revoked right. The Supreme Court also recognizes the right of a citizen to compensation. In *Osho v Foreign Finance & Anor*[31] it opined thus: When a revocation of a right of occupancy is validly done under the Land Use Act, the citizen whose right of occupancy is so revoked is under Section29 (1) of that Act entitled to compensation for the value of the land at the date of revocation of their exhausted improvements…In the instant appeal and having regard to the findings of the learned trial Judge on the existence of buildings and installations on the land in dispute, it is difficult to see how the appellants could have escaped liability to pay compensation for the structures put on the land by pleading revocation under the Land Use Act. The only difference is in the method of proof.[32] It should be noted that payment of compensation is not a prerequisite to valid revocation but only a

---

30 Constitution of the Federal Republic of Nigeria 1999. (as altered)

31 [1991] 4 NWLR (pt.184) 157

32 *Osho v Foreign Finance & Anor supra* per Obaseki JSC. at 197-198

fall out of it. Where the right of occupancy revoked is in respect of land required for mining purpose or oil pipelines or other purposes connected with the mining and oil pipeline, the occupier will be entitled to compensation under the appropriate legislation of the Mineral Act or Mineral Oil Act or any legislation replacing it.[33]

One key aspect of the LUA is that where the right of occupancy is revoked for public purpose, only the "holder" and "Occupier" that are entitled to compensation for the value at the date of the revocation of their unexhausted improvements on the land.[34] The meaning of "holder" and 'occupier" under the LUA does not include the mortgagee.[35] This may have the effect that though the mortgagee has the right to the improvements on the land, (which is the security for, his debt) yet on revocation, the mortgagee has no right to the compensation money.[36] It appears that there is no judicial pronouncement on the point in Nigeria. However, the issue arose in the Tanzanian case of *Manyara Estates Ltd &Ors v. National Development Credit Agency*,[37] where under the Land Ordinance[38] compensation for improvements on land upon a revocation of aright of occupancy was only payable to the "Occupier". The Court held that the mortgagee was not in the position of the "Occupier" and therefore was not entitled to receive the compensation, and that the charge created by the mortgage did not attach to the compensation into which the right of

---

33 Section 29(2) of Land Use Act.

34 Ibid.

35 Section 51 of Land Use Act.

36 E. Essien. 'Land Use Act and Security in Real Estate in Nigeria' in the *Land Use Act — Twenty-Five Years after* (Lagos, Department of Private and Property Law; Faculty of Law, University of Lagos, 2003) 279-300.

37 [1970] E.A. 177.

38 Cap. 133 (of Tanzania)

occupancy had been converted. The court also started further that the doctrine of tracing could not be applied in the circumstances because of the absence of any fiduciary relationship on the part of the paying authority to the mortgagee. The non-entitlement of compensation to a mortgagee under the LUA shows the precariousness of the right of occupancy as a mortgage security. Prof R.W James[39] has suggested a way out of such problem when he said that:

> …It is necessary for legislation to state clearly that in the event of revocation of a right of occupancy the compensation payable in respect of unexhausted improvements or any alternative property granted to the right holder in lieu of compensation shall be applied towards the satisfaction of mortgage debts (if any), in order of priority. In the absence of legislation to this effect it would be prudent for conveyancers to include a covenant in the mortgage document to the following effect: In the event of the right of occupancy being revoked, the mortgage debt shall be secured additionally on any compensation payment due to the mortgagor in respect of the unexhausted improvement or any land granted to him, in lieu of compensation.[40]

4.4 Scope, Applicability, and Limitations of Section 47 of the Land Use Act, 1979.

> 47.—(1) This Act shall have effect notwithstanding anything to the __ contrary in any law or rule of law including the Constitution of the Federation or of a State and, without prejudice to the generality of the foregoing, no court shall have jurisdiction to inquire into : —
>
> (a)any question concerning or pertaining to the vesting of all land in the Military Governor in accordance with the provisions of this Act ; or
>
> (b) any question concerning or pertaining to the right of the Governor to grant a statutory right of occupancy in accordance with the provisions of this Act ; or
>
> (c) any question concerning or pertaining to the right of a Local Government to grant a customary right of occupancy under this Act.

---

39 R.W. James, *Nigerian Land Use Act: Policy and Principles*, (University of Ife Press Ltd, 1987) 177-179

40 Ibid at 179.

> (2) No court shall have jurisdiction to inquire into any question concerning or pertaining to the amount or adequacy of any compensation paid or to be paid under this Act.

The above provision is a quite inimical to a progressive society with respect to the exclusion of the courts in the determination of the adequacy or otherwise of the compensation payable any dispute between the "occupier" or "holder" and the government regarding the amount of compensation payable is to be finally determined by The Land Use Act and Allocation Committee.[41] Commendably enough, the courts have extricated itself from this provision and have consistently held, that the ouster clause in section 47 in so far as it conflicts with the provisions of the constitution is void.[42]

Where a right of occupancy has been revoked for overriding public interest and is not a revocation of the occupier's right for alienating without the Governor's consent compensation is payable to the holder of the right of occupancy. The compensation payable in respect of the land is an amount equal to the ground rent paid by the occupier during the year the right of occupancy is revoked.[43]

This means that if a person paid no rent he is not entitled to compensation but his piece of land is taken away compulsorily' by the government.[44] The implication of this provision is that compensation cannot also be paid for bare land. This is unfair and inadequate. If the

---

41 Section 30 and 47 of Land Use Act.

42 *Kanada v Governor of Kaduna State & Anor*. [19861 4 NWLR (pt 38) 361, *Letnboye v Ogunsiji* [1990] 6 NWLR (pt 155) 210.

43 A Taiwo, *The Nigerian Land Law*, (Lagos, Princeton & Associates Publishing Co. Ltd 2016) 48

44 Ikpe F. 'Discussions: Land Value and the Question of compensation' in *National Workshop on the Land. Use Act*, 1978, (Lagos, Lagos University Press, 2001). 47.

Constitution[45] provides for compensation both movable and immovable property, and bare land is an immovable property, then compensation should be paid for its acquisition. In relation to buildings, installations and improvements on the land, the amount of compensation payable is the cost of replacement as determined on the basis of the prescribed method of assessment as determined by the appropriate officer less any depreciation together with interest at the bank rate for delayed compensation.[46]This will only be adequate if the officer that determined the cost of replacement adopts the current market value of such property. In relation to crops on land, the compensation payable is an amount equal to the value as prescribed and determined by the appropriate officer.[47] This also is not adequate, it is suggested that an alternative land should be provided in addition to payment of the crops. This may be important in encouraging agriculture. Generally, it is, suggested that, compensation should be paid for loss of use of the right of occupancy and for "disturbance" for all the instances of S. 29 (4) of the LUA. On the issue of resettlement of displaced persons, where land in respect of which a customary right of occupancy is revoked was used for agricultural purposes by the holder, he is entitled to an alternative land for the same purpose.[48] This is fair enough or else many farmers will be displaced and sent out of job where they are not provided with any other alternative and this can lead to social upheaval. Furthermore, where the right of occupancy of any developed land, on which a residential building is erected is evoked the governor or the local government may in lieu Of compensation resettle the owner in any other place or area by way of a reasonable alternative accommodation.

---

45 S.44 of the Constitution of the Federal Republic of Nigeria 1999

46 S. 29 (4)(b) of the Land Use Act

47 S. 29 (4) (c) of the Land Use Act

48 O. Adigun. 'The Land Use Act and the Principles of Equity' (Akoka: Lagos University Press, 1978) 47

While it is agreed that alternative accommodation may prevent homelessness, this is not adequate because where the value of the land for resettlement is less than the acquired land, no reimbursement to the displaced person, i.e. the LUA is silent on cases where the value of the land for resettlement is less than the acquired land. On the other hand, where the land for resettlement is of higher value, the displaced person is required to pay the "excess value" as a loan.[49]

4.5 Consequences and Ramifications of Section 47 for Kastina State

Katsina State, like all states in Nigeria, abides by the Land Use Act of 1978. This Act centralizes land ownership by vesting all land within a state's territory in the governor, who holds it in trust for the people and administers it for their common benefit.

Section 47 of the Land Use Act contains provisions that have significant implications for all Nigerian states, including Katsina. Specifically, Section 47(2) restricts the jurisdiction of courts concerning matters related to the amount or adequacy of compensation paid under the Act. This means that individuals dissatisfied with compensation for compulsory land acquisitions have limited legal recourse to challenge the compensation amount in court.

The consequence of this provision is that it can lead to disputes and dissatisfaction among landowners, as they may feel inadequately compensated without the opportunity for judicial review. This has been a point of contention and has led to calls for amendments to the Act to allow for more transparency and fairness in compensation matters.[50]

---

49 E. Emudainohwo, 'A Critical Appraisal of the Method of Revocation in the Nigerian Land Use Act and Government's Compliance' *Beijing Law Review*, (2021) 12 (3)

50 U. Chukwuloba, 'The Legality Of Government Restrictive Compensation Under The Land Use Act (LUA),' (2022), <https://www.mondaq.com/nigeria/real-estate/1254914/the-legality-of-government-restrictive-compensation-under-the-land-use-act-lua?utm_source=chatgpt.com>, accessed 13 January, 2025.

In summary, while Katsina State adheres to the Land Use Act of 1978, the limitations imposed by Section 47 can result in challenges related to land compensation disputes, affecting both the state's administration and its residents.

4.6 Conclusion

It is clear that section 47 of the Act which precludes the court from inquiring as to the adequacy of compensation paid for a land that was compulsorily acquired by the government, provides ground for serious conflicts and injustice to be perpetrated. As such, it is necessary for this clause be reviewed and subsequently modified or struck out. This is more so as allowing the court to entertain such matters makes for effective check and balance of the executive arm of government where land is compulsorily acquired without adequate compensation.

CHAPTER FIVE

SUMMARY, CONCLUSION AND RECOMMENDATIONS

5.1 Summary

The purpose of this study was to evaluate the Land Use Act of 1978's Section 47 on the sufficiency of compensation. By providing background information on Nigeria's land law system and outlining the research's goals, rationale, and methods, chapter one sets the tone for the study. It's also critical to keep in mind that gaps for additional scholarly research were identified and existing literature pertinent to the topic of the study was reviewed.

The research then moved on to examine the historical development of Nigerian land laws in chapter two, with a focus on the land laws of Northern and Southern Nigeria before the legal framework governing land was unified. In order to give a solid foundation for evaluating certain Act sections, the chapter also examined the laws that governed land in the post-independence era prior to the passage of the Land Use Act of 1978. The chapter also included theme definitions of key terminology, including the legal definition of "land," the history of Nigerian land law, the concept of "title to land," and a detailed explanation of the many types of Nigerian land law.

The research analysed the Land Use Act of 1978 in Chapter 3 by looking at some of its noteworthy features and patterns. The chapter heavily relied on constitutional and statutory provisions as well as judicial pronouncements to examine provisions pertaining to the residual nature of land matters as specified in the Constitution, the governor's powers over land, private interest in land, certificate of occupancy, revocation, and other topics.

Chapter 4's goal was to examine in detail the legal standing of a number of topics, such as revocation, compulsory acquisition, compensation, adequacy, grounds and procedure for revocation, the Court's jurisdiction to hear cases pertaining to the adequacy of compensation, and other related issues. A lot of work went into providing a clear and succinct analysis of section 47 of the Land Use Act of 1978 in this chapter.

5.2 Conclusion

The general regulations pertaining to the payment of compensation for property that the State compulsorily acquired for a public purpose that took precedence over all others were changed when the Land Use Act went into effect. This had a significant impact on private property rights and altered the direction of property rights in the nation since it did more than just expropriate property rights; it also established clauses that excluded compensation in specific situations. Except for the value of any improvements made to the land and any rent paid, land has no legal value under the Act. State ownership of lands in the nation was essentially established by the combined stipulations of sections 1 and 29. In several cases covered in this study, the Act expropriated land and property rights without paying compensation, which made the already dire situation much worse. The anti-democratic nature of military administration and the Act's military origins are the reasons for its strict stance on private property rights.

During this study, the following conclusions were drawn:

i. It was discovered that making land easily accessible and reasonably priced for all Nigerians is one of the main goals of the Land Use Act. Because of the Land Use Act's inherent issues and implementation challenges, the stated goals of the law have

not been met. The Land Use Act's inherent issues include the absence of implementation guidelines, the Act's constitutional entrenchment, the inalienability of land in rural areas, the conveyance of all land for the sole use and benefit of Nigerians, insufficient compensation provisions, compensation outside the purview of the courts, ambiguity surrounding the rights to land for grazing, and the Act's age. The governor's misuse of authority, the ineffective public sector, excessive bureaucracy, and a lack of political will are the main causes of the implementation issue. The exponential increase in land value and the rise in land speculation in Nigeria are said to be caused by institutional weakness.

ii. The study also concluded that a thorough review of the Act is long necessary. In order to make its alteration more practical and less onerous, a sizable number of authors and academics have also frequently demanded that the Act be taken out of the Constitution. claiming that if land remains firmly in the hands of state governors, there won't be any significant expansion in the real estate industry. The study concluded that the primary cause of the unsuccessful attempts to alter the Land Use Act is constitutional requirements, as attempts to do so were unsuccessful. Past Presidents Umaru Musa Yar' Adua and Good luck Jonathan during their administrations attempted to alter the Act but their efforts did not generate expected results as a direct result of intrinsic obstacles involved in amending the Constitution. Experts have argued that land has gotten so expensive because unlike in the past, you could acquire a piece of land from either the community, a person or from even a company and you go and register that title at the Land Registry. It becomes a bankable document after registration. But now the procedure is different. After

paying the standard price, you present the government with the papers you were given and the survey plan, and they will issue you a Certificate of Occupancy, or C of O.

iii. The transfer of land ownership and title from individuals and communities to the governors, who hold the land in trust but have a history of abusing the authority and privileges granted to them by the Act, was identified as another flaw in the Land Use Act. When title is transferred from a vendor to a buyer, Section 22 mandates that the governor's approval be obtained before a statutory right of occupancy can be alienated.

iv. The study also discovered that, despite the fact that State High Courts are the only courts in Nigeria with the authority to hear cases involving land disputes and non-payment of compensation, no court in the country has the authority to hear cases involving the amount of compensation that must be paid or over land that the government has forcibly acquired. Some contend, however, that this clause in the Land Use Act violates the constitution's guarantee that the courts have the authority to decide all disputes. However, Section 315 of the 1999 Constitution of the Federal Republic of Nigeria, as amended, makes the Land Use Act a part of the Nigerian Constitution.

5.3 Recommendations

The recommendations derived from the research are as follows:

i. In order to set Nigeria on the path to economic progress, the legislation must be completely changed to remove some outdated and incoherent clauses. It must then be replaced with sensible, effective, and simple-to-implement policies.

ii. The introduction of a land policy that considers the traditional values of Nigerian society is also advised.

iii. Section 8 of the Act should be amended to reflect the permanent nature of granting a statutory or customary right of possession. Any modifications made to land that is the subject of a right of occupation or economic interests would be safe and consistent as a result.

iv. In addition, the amount of compensation must be commensurate with the land's market value and the improvements made to it. The courts must have the statutory authority to assess whether the compensation provided by the Act is enough in order to implement this.

BIBLIOGRAPHY

Books

Adaramola F, *Jurisprudence* (Durban, Lexis Nexis, 2008)

Adelakun F.. *Implementation of the Land Use Act*, (Lagos University press, Lagos, 1982)

Adigun A, 'The Land Use Act and the Principles of Equity' (Akoka: Lagos University Press, 1978).

Aniyom D.A., 'An Appraisal of the Land Use Decree and its Effects in its First Five Years' *The Map Maker*. (1983) 9(1).

Banire M.A., *Land Management in Nigeria: Towards a New Legal Framework* (Ecowatch Publication Lagos, 2006).

Blackstone, W., *Commentaries on The Law of England* (Boston: Beacon Press, 1962)

Chianu E, *Title to Improvements on Land in Nigeria* (Benin: Ernslee Ltd 1992).

Coker E*, Family Property among the Yorubas* 2nd Ed (London, Sweet and Maxwell; Lagos, African Universities 1966).

Davies K., *Law of Compulsory Purchase and Compensation* (2nd edition, Butterworths , London 1975)

Denman D, *The Place of Property*. (Berkhamstead: Geographical Publications Ltd, 1978)

Denman D.R., and Prodano S, *Land Use: An Introduction to Proprietary Land Use Analysis* (London: Allen and Unwin 1972).

Dorfman A, *Legal Theory 1* 'Private Ownership' (2010)

Dosumu O.A., 'Land Tenure System in Nigeria and its Effects on Land Administration' *The Map Maker* (1977) 4(1).

Elias T.O., *Nigerian Land Law and Custom* (London: Routledge and Kegan Paul, 1951) 326.

Frederick P, *Jurisprudence and Legal Essays*, (London, 1961)

Holfeld W. *Fundamental Legal Conceptions* (London, Yale, 1977).

Honoré A, *Ownership. Making law bind: Essays legal and Philosophical* (Oxford: Clarendon Press, 1961).

Ikpe F. 'Discussions: Land Value and the Question of compensation' in *National Workshop on the Land Use Act*, 1978, (Lagos, Lagos University Press, 2001).

James R.W., *Nigerian Land Use Act: Policy and Principles*, (University of Ife Press Ltd, 1987).

Jelila A.O., *Essays on Land Use Act 1978* (University of Lagos Press 1984).

Katz L., 'The Concept of Ownership and the Relativity of Title' *Jurisprudence* (2012), 2(1).

Lloyd P, *Yoruba Land Law*, (Ibadan, Nigerian Institute of Social and Economic Research, 1962)

Malemi E, *The Nigerian Legal Method*, 2nd Edn (Princeton publishing Co, 2012)

Muiz A.B., *Land Management in Nigeria: Towards a New Legal Framework* (Lagos: Ecowatch Publication 2006).

Niki T, *Cases and Materials on Nigerian Land Law*, (Abuja, Mabrochi Books, 1992).

Niki T, *Sources of Nigerian Law*, (Lagos, Professional publishers Ltd, 1996).

Nwabueze B.O., *Nigerian Land Law* (Enugu: Nwamife Publishers Ltd,1972).

Olawoye C.O., *Title to Land in Nigeria,* (Lagos, University of Lagos, 1974) 9

Omotola, J.A. *Essays on the Land Use Act* (Lagos, Lagos University Press, 1978).

Paton GW, and D.P. Derham, *A Textbook of Jurisprudence* 4th ed. (London, Oxford University Press, 1972).

Ripstein A, *Force and Freedom: Kant's Legal and Political Philosophy* (Harvard University Press, 2009)

Smith I, 'Power to Make Town Planning Laws in a Federation: The Nigerian Experience' *IJL*, (2004), 24(1).

Taiwo A, *The Nigerian Land Law*, (Lagos, Princeton & Associates Publishing Co. Ltd 2016) 48

The Guardian. 25 (10,687)

Udo G, *Model Building in Property Valuation*, (Enugu: Institute for Development Studies, University of Nigeria, 2003)

Udo R.K., *The Land Use Decree 1978 and its antecedents* (University Lectures, University of Ibadan 1985)

Utuama A., 'The Land Use Act and the Challenges of Millennium Development Goals' (2008, 31st March).

Waldron J, *The Right To Private Property* (Oxford: Clarendon Press, 1988) 67

Yakubu M.. 'Fundamentals of Nigerian Law' in Nigerian Institute of Advanced Legal, Studies (*Law series N0, 2*) 1989

Journal Articles

Adigun O, *The Land Use Act: Administration and Policy Implication; Proceedings of Third National Workshop* (Lagos: University of Lagos Press 1991).

Akintunde O., 'The Land Use Act and Land Administration In 21st Century Nigeria: Need For Reforms' *Afe Babalola University: Journal of Sustainable Development Law & Policy*, (2018), 9(1).

Bell A.B. and Parchomovsky G., 'A Theory of Property' *Cornell Law Review*, (2005) 90, 531.

Chinwuba N.N., 'Easements and the Problems of Some Startling Presumptions: A response.' *IJL* (2009).

Datong P, 'The Role of State Government in the Implementation of the Land Use Act' in Olayide Adigun. (ed) *The Land Use Act: Administration and Policy Implication; Proceedings of Third National Workshop* (University of Lagos Press 1991).

Ekpu O.O., 'The Role of the Local Government in the Implementation of the Land Use Act: The Bendel State Experience' in Olayide Adigun (ed) *The Land Use Act: Administration and policy Implication* (Lagos, University of Lagos Press 1991).

Emudainohwo E, 'A Critical Appraisal of the Method of Revocation in the Nigerian Land Use Act and Government's Compliance' *Beijing Law Review*, (2021) 12 (3)

Essien E, 'Land Use Act and Security in Real Estate in Nigeria' in the *Land Use Act — Twenty-Five Years after* (Lagos, Department of Private and Property Law; Faculty of Law, University of Lagos, 2003) 279-300.

Garner J.F., 'Ownership and the Common Law' *Journal of Public and Economic Law* (1976)

Jelila A.O., 'Compensation Provisions of the Land Use Act' XVI *Nigerian Bar Journal*, (1980).

Mabogunje A.L., *Perspectives on Urban Land and Urban Management Policies in Sub-Saharan Africa* (Chichester, John Wiley and Sons 1992).

McDowell C.M, 'The Interpretation of the Land Tenure Law of Northern Nigeria' *Journal of African Law* (1970), 14(3).

Namnso, U,. 'Land Ownership in Nigeria: Historical Development, Current Issues and Future Expectations' (2014) *Journal of Environment and Earth Science,* Vol.4, No.21. 182

Niki T, 'The Land Use Act and Judicial Activism' *Journal of Parliamentary and Political Law* (2003).

Ojo O.. *Effect of Land Use Act on the Institution of Customary Tenancy' in the Land Use Act — Twenty- Five Years After*, (Lagos, University of Lagos, 2003) 330.

Okafor B, and Nwike C., 'Effects of the Land Use Act of 1978 on Rural Land Development in Nigeria: A Case Study of Nnobi' *British Journal of Environmental Sciences* (2016) 4(3)

Olawoye C.O., 'Statutory Shaping of Land Law and Land Administration up to the Land Use Act', (1981) *National Workshop on the Land Use Act, 1978* held on May 25, 1981 at University of Lagos.

Oluyemi A.. 'Revocation of Rights of Occupancy: Legal Framework in Nigeria', *Lagos State Ministry of Justice*, (2005).

Omuojine E.O., 'The Land Use Act and the English Doctrine of Estate', *Journal of the Nigerian Institution of Estate Surveyors and Valuers*, 1999), 22(3).

Otty E.U., 'Critique of Nigerian Land Use Act of 1978', *IJESC* (2021) 11 (06). 28115 – 28120

Otu M, Joseph Edet, and Emmanuel Asuquo, 'A Critical Analysis of Land Rights and Interests in Nigeria,' *Journal of Art, Humanity and Social Studies*, 2023, 3(3), 257 – 268.

Otubu A, 'Private Property Rights and Compulsory Acquisition Process in Nigeria: The Past, Present and Future' *European and International Law* (2012) 8 (2) 5

Robilant A di, 'Property: A Bundle of Sticks or a Tree?' *Vanderbilt Law Review* (2013), 66(3)

Steudler D, Rajabifard A, and P Williamson I, 'Evaluation of Land Administration. Systems' *Land Use Policy*, (2004) 21, 371.

Udoekanem NB, Adoga DO, and Onwumere VO, 'Land Ownership in Nigeria: Historical Development, Current Issues and Future Expectations' *Journal of Environment and Earth Science,* (2014), 4(21).

Ukaejiofo A, "Perspectives in Land Administration Reforms in Nigeria" *Journal of the Environment,* (2008) 2(1), 43.

Umezulike A, 'Easements and the Problems of Some Startling Presumptions' *IJL* (2004) 25 (1).

Utuama A, 'The Land Use Act and the Challenges of Millennium Development Goals' (31st March 2008, The Guardian).

Utuama A,. 'Compulsory Acquisition and Revocation Process', *Nig. J. Contemp-Law*, (1990-1993).

Online Sources

Adamu S.J., 'A Review of the Nigerian Land Use Act 1978', (2014) <https://www.researchgate.net/publication/310427121_Adamu_SJ_and_Abubakar_SK_2014_A_Review_of_the_Nigerian_Land_Use_Act_1978> accessed on 20th February, 2022.

Chukwuloba U, 'The Legality Of Government Restrictive Compensation Under The Land Use Act (LUA),' (2022), <https://www.mondaq.com/nigeria/real-estate/1254914/the-legality-of-government-restrictive-compensation-under-the-land-use-act-lua?utm_source=chatgpt.com>, accessed 13 January, 2025.

DLA Piper. 'Expropriation/compulsory purchase in Nigeria.' <https://www.dlapiperrealworld.com/law/index.html?c=NG&q=expropriation-compulsory-purchase&s=real-estate-sales-and-public-law&t=sale-and-purchase>, accessed 7 October, 2024.

Valentine O, 'Understanding the Land Use Act,') < http://lawsprings.com/index.php> accessed on 2 January, 2025.