

REDRESSING THE NEGATIVE IMPACT OF THE LAND USE ACT 1978: REFORM TOWARDS RESTORATION OF PRIVATE OWNERSHIP AND FREE MORTGAGE TRANSACTION IN NIGERIA

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Abstract

The Land Use Act of 1976 was enacted to streamline land administration in Nigeria, reduce land speculation, and ensure equitable access to land for all citizens. However, despite these lofty objectives, the Act has imposed significant constraints on private land ownership and hindered economic development. By vesting all land in the hands of state governors and subjecting land transactions to the Governor's consent, the Act has created bureaucratic bottlenecks, reduced land security, and inhibited the growth of mortgage markets. This paper critically examines the negative impacts of the Land Use Act on property rights and land-based financing. It advocates for comprehensive legal and policy reforms that restore aspects of private ownership and promote a more efficient, decentralized land governance system. Drawing on comparative legal systems from other African countries, this study recommends amendments to the Act to facilitate private land rights, encourage mortgage transactions, and stimulate sustainable economic development in Nigeria

Keywords: Land Management, Land Reform, Land Registration, Mortgage Transactions, Ownership of Land, Security.

1. Introduction

Land is one of the most vital assets for social and economic development, especially in developing countries where access to land can significantly influence income, housing, agriculture¹, and investment opportunities.² In Nigeria, the Land Use Act of 1976 was introduced as a revolutionary legal framework intended to address land inequality, prevent speculative acquisition,³ and standardize land tenure systems across the country. By vesting all land within a state in the hands of the state governor to be held in trust for the people, the Act sought to centralize land control, simplify acquisition processes, and democratize access⁴.

Nevertheless, over four decades after its enactment, the Land Use Act has faced increasing criticism for being outdated, overly bureaucratic, and counterproductive to its original goals.

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¹ A. Abdullahi, *The Challenges of Land Use Act and the Realisation of Housing for All in Nigeria*. Journal of Law and Policy Review, (2018). 10(1), 45–58.

² M. Ajibola, & O. Adewale, *Land Governance Reform in Nigeria: Bridging the Gap Between Statutory and Customary Tenure*. African Journal of Land Policy and Geospatial Sciences, (2017) 4(3), 112–127.

³ B. T. Aluko, *The Impact of the Land Use Act on Property Development in Nigeria*. Journal of African Real Estate Research, (2009). 2(1), 1–12.

⁴ A. Aribigbola, *Urban Land Use Planning, Policies and Management in Sub-Saharan African Countries: Empirical Evidence from Akure, Nigeria*. Theoretical and Empirical Researches in Urban Management, (2007). 2(11), 22–37.

Rather than facilitating development, the Act has had several negative consequences: it has undermined private land ownership rights, created serious bottlenecks in land transactions, and obstructed the development of a functional mortgage system in Nigeria. The requirement for the Governor's consent for virtually all land dealings not only delays transactions but also introduces opportunities for corruption and abuse of power.⁵ Furthermore, the inability to secure land as collateral restricts access to credit, particularly for small and medium enterprises (SMEs) and low-income earners.⁶

This paper seeks to explore these issues by providing a comprehensive critique of the Land Use Act, highlighting its adverse effects on property rights, land markets,⁷ and financial systems in Nigeria.⁸ It proposes a reform agenda that aims to restore private ownership rights, decentralize land governance, and enhance the legal environment for mortgage financing. By drawing on best practices from other African nations such as Ghana, Kenya, and South Africa,⁹ the paper offers feasible solutions for revising the Act to align with Nigeria's current socio-economic realities and developmental aspirations.¹⁰

Against the backdrop of the streams of calls to diversify Nigeria's oil resources dependent economy have been several initiatory efforts by the Federal Government at economic policy making, intended to structure and calibrate Nigeria's economy towards a diversified private sector driven economy. As the letters or literal interpretations of a range of these government policies such as the Nigeria Industrial Revolution Plan (NIRP),¹¹ the National Enterprise Development Programme (NEDEP)¹² and the current Economic Recovery and Growth Plan (ERGP)¹³ indicate, government appears not only to have recognized the significance of public-private sector infrastructure finance¹⁴ but also the need to stimulate the primary mortgage market for the enhancement of private sector access to lending and finance.

Nevertheless, it remains evident, and critically so, that for these strategic economic policies particularly their import substitution component to translate to reality and indeed yield desired economic results, then local industries, MSME's and other corporate stakeholders, which ordinarily cannot compete with their foreign counterparts, require sufficient financing and/or huge credits facilities, obtainable mostly in form of debt capital.¹⁵ Indubitably, such access to

⁵ Federal Republic of Nigeria. (1978). *Land Use Act (CAP L5 LFN 2004)*.

⁶R. Home, *Outside the Law: Informal Land Tenure Arrangements and Housing in Developing Countries*. Legal and Social Change, (2004). 4(2), 31–43.

⁷ K. Kanyinga, & W. Lumumba, *Land Law Reforms in Kenya: The Historical Context*. Nairobi: University of Nairobi Press. (2008).

⁸K. Kasanga, *Land Administration Reforms and Social Differentiation: A Case Study of Ghana's Land Commission*. Development Policy Review, (2001). 19(4), 355–373.

⁹ R. U. Ukaejiofo, *Improving Land Sector Governance in Nigeria: Implementation of the Land Governance Assessment Framework* (2009). 67

¹⁰ M. M Omirin, *Issues in Land Accessibility in Nigeria*. Paper presented at the International Conference on Land and Resource Tenure, Abuja. (2003). 35

¹¹ Industrial Revolution: Policies, Structures and Industrial Designs in Nigeria' (2016) (2) (6) Igwebuikwe: An AJAH, 116-118 www.academix.ngdocuments>papers? Accessed 23 April 2019; Editorial, 'Nigeria's Industrial-revolution-plan/ accessed 23 April 2021.

¹² Channelstv 'Nigeria's Industrial Revolution Plan and the National Enterprise Development Programme (NEDEP)' www.channetv.comtag>niger...> accessed 23 April 2021.

¹³ Federal Republic of Nigeria, ERGP 2017-2020, (Ministry of Budget and National Planning, February 2017) <https://yourbudget.com2017/03/Econ...>> accessed 23 April 2019.

¹⁴ K. Aremu, 'Leveraging Nigeria's Pension Assets to Bridge Infrastructural Gap' ZEQ (Lagos, October 2016), 36

¹⁵ Chidi E. Halliday, 'Reforming Receivership as Mechanism for Enforcement of property Security in Nigeria' (2017) (6) (1). The Journal of property Law and Contemporary issues, 112.

credits by local industries and business enterprises, it is reckoned, should drive industrialization and economic growth in the various sectors of the economy. Conversely, it is also reckoned that despite government interventions to mobilize and seemingly make accessible financing capital to some key sectors; particularly the agricultural sector,¹⁶ private capital formation and allocation or access to credit for businesses and MSME's on one hand, and the availability and willingness of banks and other financial/institutional lenders to provide such lending and credit facilities on the other, remains a central challenge to the meaningful realization of these major economic policy initiatives.¹⁷

Overall, a recognition that a secured lending and financing business environment is fundamental to any determined effort at economic diversification of Nigeria, as is currently the refrain, without a corresponding recognition that extant laws; in this case mortgage and allied property laws, are the substratum of all interchanges between lenders/mortgagees and borrowers/mortgagors, and so must be periodically overhauled or constantly modernized to fit and support those objectives, portends problematic results for the economic policies.

2. Revocation of Land

Revocation under the Land Use Act is to the detriment of the mortgagee. Revocation is the automatic process of expropriating land or property of a holder or occupier of land by the Governor of the state with the effect that the right of occupancy existing on such property in favour of the holder would stand extinguished.¹⁸ The revocation introduced under the Act is an inherent component of the right of occupancy. It is an unusual but deliberate incident annexed to the right of occupancy system. In short, it is an essential and constituent part of the system. All holders of the right of occupancy enjoy their rights, subject of course, to their inherent revocability at any time within the provisions of the Act, The Act gave the Governor of state very wide powers of revocation. A close and deliberate sanity of the Section shows that it gave the Governor extensive, wide, uncertain and uncontrollable powers of revocation. Hence a revocation could be made:

- a) For alienation by the holder otherwise than in accordance with the provision of the Act; and
- b) For the requirement of the land for public purposes by the Federal or State or Local Government.

Typically, the definition of public purpose for which such property could be requisitioned or revoked remains wide and uncertain. By this provision, the Act deliberately reverses the decisions of the Supreme Court that compulsory acquisition of land for use of private person

¹⁶ Literature on the agriculture sector in Nigeria is replete with data on the boquet of institutional credit schemes initiated by States and the Federal Government(s) at different historical moments. These, include: The Agricultural Credit Guarantees Scheme Fund; and the commercial Agricultural Credit Scheme; the Nigerian Incentive-based Risk Sharing System for Agricultural Lending; See Obasi, P.C. 'Efficacy of Agricultural Lending Schemes in Nigeria' (2015) (3) (2) European Journal of Agriculture and Forestry Research, 8-9; Enoma Anthony, 'Agricultural Credit and Economic Growth in Nigeria: An Empirical Analysis' (2010) (14) BEJ, 103.

¹⁷ A. E. Awah, *Harnessing Nigeria's banking System: Potentials for Sustainable Development* (Inaugural Lecture Series 2014 Nigerian Institute of Advance Legal Studies, Lagos) 98-100; Nicholas Norbrook 'Nigeria Banks Follow up on their Big Bang' *The African Report Quarterly* (N4 October 2006), 88.

¹⁸ Section 28 and 5 (2).

or private company is unauthorized under the Public Lands Acquisition Act¹⁹ and therefore, unlawful and void.²⁰

It is therefore not an abuse of statutory power to revoke a right of occupancy of which a private company is the holder and grant same to another private company if the state government has shares or economic interest in the latter company. The Act only forbids a revocation of rights of private company over land only for the Governor to grant the same right to another private company in which it has no shares, or economic interest.²¹ Thus proof by the state that the subsequent private company to which it has re-granted the right of occupancy is one that it has share or economic interest is a complete defence, which would also save the transaction from judicial invalidity.

Another reason for revocation is the acquisition of land by government for mining purposes and in the case of customary right of occupancy for extraction of building material and refusal to accept a certificate of statutory right of occupancy after it has been issued.²² It may also be added that a revocation is implied from a grant of right of occupancy by the Governor under section 5 of the Act.²³ This is misleading of section 9 (l) (b) of the Land Use Act. A statutory right of occupancy automatically extinguishes all existing rights in respect of the parcel of land, over which it is granted."

Six years later, Ayoola J.S.C restated this principle in *Teniola v Olohunkun*²⁴ with greater clarity and force. He said: "the grants of statutory rights of occupancy in which the plaintiff relies are potent to vest the land in him ... where in the exercise of statutory rights of occupancy have been made, without want of authority or capacity, the court will not treat the grants as if they have not been made and proceed to parties as if those grants have ceased to be in existence."²⁵

It would seem that from Section 5 and 47 that "a grant of statutory right of occupancy by the Governor is not defeasible by any adverse claims and the courts are helpless in questions relating such grant."²⁶

The power of revocation is an entirely new kind of incident which is engrained into a right of occupancy under the Act. In the words of the *Privy Council in Nathu v Land Office*:²⁷ The right of revocation conferred upon the Governor is a right which is quite unknown in the law of England and bears no resemblance to the lessor's right of re-entry or forfeiture.

These summaries the nature of a right of occupancy under a right of occupancy system, it is a new right entirely. It is not to be equated to forfeiture under the Town Planning Act. The Court

¹⁹ Cap. 167 Laws of the Federation 1958

²⁰ *Ereku v. Military Governor of Mid-Western State* (1974) 10 S.C 59

²¹ *L.S.D.P.C v. F.F Corp.* (1987) N.W.L.R pt. 50 p. 43

²² Section 28

²³ Emphasis supplied. See also I.A Umezulike, when a revocation is not a revocation under the Act: A rejoinder (1991) Vol. 2 No. 9 JUS p. 63; CF O JUS Vol. 1 No. 8 p. 75

²⁴ (1999) 5 NWLR pt. 602 p. 280

²⁵ *ibid* at p. 298 DF

²⁶ See, LA Umezulike, note 174 (ante)

²⁷ (1963) A.C 177

of Appeal was under this mistaken impression when it announced that it was outrageous for Government to acquire compulsorily the property of a citizen for its own commercial purpose.²⁸

The acquisition of private property for government's own commercial purposes is obviously protected by the provisions of section 51 (1) of the Act which defined "public purpose to include exclusive government use or for general public use." The transaction may be morally unpalatable, but it is not for that reason unlawful. Revocation is superior to and has preemptory effect than forfeiture.

The revocation under the Act has two fundamental characters. There is revocation as an incident of tenure and revocation as an incident of sovereign power.²⁹ When the reason for the exercise of power of revocation is for public purposes as outlined under section 28 of the Act, then such power of revocation is said to have arisen as an incident of sovereign power. But where the power is exercised because the holder or occupier has breached any of the conditions stipulated in the certificate of occupancy or has breached the provisions of the Act against alienation without the consent of the state, and then the exercise of power of revocation in that instance arises as an incident of tenure. That is as a result of the tenurial relationship existing between the holder of right as a tenant of the state and the Governor as owner of the land in the state. Worthy of note, however, is that where revocation is occasioned as an incident of tenure, no compensation is payable to the holder of right of occupancy. But compensation is payable where revocation arises as an incident of sovereign power, namely for public purposes.

Some text writers and judicial decisions have been grossly made in equating revocation with forfeiture. Forfeiture cannot be exerted in the absence of a forfeiture clause except where under customary law; the tenant denies the title of the landlord. But revocability is a component of a right of occupancy under the Act.

Secondly, revocation is preemptory and automatic in its operation and unless a different date is specified in the notice of revocation it operates to extinguish the right of occupancy, upon receipt by the holder of the notice of revocation. But the notice must be signed by the Governor or his delegate. The court recognized the extensive powers of revocation given to the Governor under the Act, but made it clear that in the absence of notice of revocation any purported revocation of right of occupancy would be invalid.³⁰

It is therefore, imperative that the notice of revocation must not only be signed by the Governor or his delegate but must be served personally on the holder or occupier of the right of occupancy.

It must be pointed out that once the notice of revocation is duly signed and served, it leaves the holder no option, no opportunity for contesting the extinguishment of his right. And there is also no room for judicial relief against revocation.³¹ It is a most drastic and automatic power

²⁸ *L.S.D.P.C. v Banire* (1992) 5 NWLR pt. 243 p. 620 at 639. The opinion cross suits with the clear provisions of section 28 and 51 (1) of the Act.

²⁹ *ibid*; *Lagos v Sowande* (1992) 8 N.W.L.R Pt. 261, P. 589; *Arinze v NNPC* (1991) 1 NWLR pt. 166 p. 256-8; *Haruna v Ladeinde* (1987) 4 N.W.L.R pt. 67 p. 41.

³⁰ It would be quite invidious to regard any substituted service as a proper service of notice of revocation when the residence and whereabouts of the holders are within the knowledge of the party serving the notice. This will hardly accord with good sense of common sense. That would be erecting an imminently dangerous precedent at the hands of mischief makers outside the contemplation of the combined effect of sections 28(6) and (7) and 44 of the Act.

³¹ Section 47 of the Act.

ever invested on any public functionary in Nigeria, the peremptory character of revocation and the fact that the grounds for it are wide and in some cases unconnected with the breach of the covenant or condition attached to the grant of the right, make a right of occupancy precarious and similar to a lease. When the right in the property is extinguished by a revocation, the continued stay on the land by holder becomes illegal and he may be forcibly ejected by the state free from any judicial intervention.³²

Forfeiture which some judges and writers equate to revocation is not a self-operating sanction. It is judicially settled that there is no such thing as automatic forfeiture.³³ Whereas a receipt of notice of revocation automatically extinguishes neither a right of occupancy, in the case of forfeiture, nor a demand for possession has the effect of determining the lease.

The argument that these numerous restrictions on the right of forfeiture which were aimed at increasing the tenants' security of tenure are also applicable to the exercise by the Government of the power of revocation was emphatically rejected by the Privy Council on the ground that a right of occupancy was not a lease, but an entirely new interest in land created by statute. The statute is intended to be a complete code regulating the respective rights of the state and the holder of the right of occupancy. If, at all, the general law of leases applied to land governed by statute, it would so apply not to the state as lessor but only where the lessor and the lessee were both private persons.³⁴ In *Nkwocha v. Governor of Anambra State*,³⁵ Nwokedi J. (as he then was) correctly held that the notice which impels a Governor to exercise the power of revocation is not relevant under the Act.

However, in several cases, the superior courts in Nigeria have mistakenly equated the right of revocation under the Act, to the right of forfeiture at common law and thus wrongly came to the conclusion that the principles which applied in the latter also applied in the former. One tolerable principle discernible from these cases is however, that once a holder whose right has been revoked, turns over the matter to the court, the Governor can no longer validly eject him forcibly. To do so will be contemptuous of our court process and an attack of the hallowed rule of law. If, of course, revocation has been duly effected by proper service of appropriate notice and the holder has not taken the matter to court for resolution, it is submitted that two steps could validly be taken by the state and each is free from judicial supervision or control:

- a) If the revocation arises as an incident of tenure, in which case the holder of the right of occupancy has alienated without the consent of the Governor or has breached one or more of the fundamental conditions of the grant, then a revocation accompanied so soon after with ejection is free from judicial control and justified as part of the incident inherent in the right of occupancy granted or deemed granted to the holder.
- b) If the revocation arises as an incident of exercise of sovereign power such as where the requisition of the land is for public purposes, the holder of the right could be given adequate time, say six months or one year to vacate after he has been paid adequate compensation.

There are however, other problems created in this area of law by the failure of our courts to appreciate the superior and unique status of the Land Use Act in hierarchy of our legislation.

³² Section 28 and 47

³³ See, *Lawani v Tadeyo* (1994) 10 W.A.C.A 37 at 39

³⁴ *ibid.* at p. 189

³⁵ Unreported Suit No. E/16/81

The provisions of the Act dealing with revocation and compensation could not have been subordinate by the Supreme Court to section 33 and 40 of the 1979 Constitution which deals with right to property and payment of adequate compensation respectively.

Under the Public Lands Acquisition Laws, the state must take steps by way of forfeiture proceeding in court to recover possession of its land. But under the Act the right of occupancy is extinguished upon the holder's receipt or notice of revocation. Thereafter, unless the holder has turned the matter over to the court, he can be forcibly ejected, at the convenience and discretion of the state.

Section 28 of the Act carefully laid down the grounds upon which the state Governor can requisition a holder's interest by way of revocation. It is only fair and proper that the state in exercising the power of revocation sets out vividly the reasons which impel its action. If it is for breach of conditions of the grant or for overriding public purposes the holder whose right is being revoked is entitled to be informed on the notice served upon him. This was the decision in the Court of Appeal in Obikoya's case³⁶, court over stated the principle and position when it went ahead to opine that: "in view of Section 33 (2) of the 1979 Constitution, which complements the provisions of the Land Use Act, a holder of right of occupancy must be heard before his right is revoked."³⁷

With the greatest respect, there is no warrant under the Act for subjecting the Governor's exercise of power of revocation to the fair hearing provisions of the Constitution.³⁸ What is the purpose of the hearing and under what provisions of the Act is warranted? We can find none.

The state is bound to give the holder a hearing beyond the particulars it set out in the Notice of Revocation as the grounds for the revocation. And upon the holder's receipt of the notice, his tenure on the land is extinguished. And it would be impractical to begin a hearing with the holder either before or after the receipt of the revocation notice by the holder. Who would be the judge? How would the hearing be controlled? If there is disagreement what happens?

The courts should however, refrain from interpretations of the provisions of the Act which would give the impression that the courts are redrafting them it is exclusively the function of the law maker to redraft, revise or repeal laws. We must of course appreciate that the provisions of the Act are saved from constitutional invalidity by their entrenchment in the constitution shall invalidate them.

The Governor of a state is empowered under the Act to revoke a right of occupancy in the event of the issue of a notice or on behalf of the President, if such notice declares such land to be required by the Federal Government for public purposes. The expression under *Section 28 subsection 4* of the Act that "the Governor shall revoke a right of occupancy."

If the President signifies his need for the land in the state for public purposes, does not seem to leave the Governor of the State with any discretion in the matter. But the reason must be purely connected with public purpose could be referred to as "sympathy without relief which is like a mustard seed without been", and it has never helped to realize the objective of the Act.

³⁶ Obikoya & Sons Ltd v. Governor of Lagos State (1997) 1 NWLR (Pt. 50) 385

³⁷ *ibid.*, Per Nnaemeka Agu (JCA) (as he then was) at p. 404.

³⁸ Section 28(4).

3. Compensation on Revoked Land

When you lend your car to a friend for a specified period and later require it back, you might reimburse them for the unused fuel, not for the vehicle itself. This analogy illustrates the principle of compensation in compulsory land acquisition for public interest.³⁹ Under the Land Use Act of 1978, all land in Nigeria is vested in the governor of each state,⁴⁰ who holds it in trust for the people and may grant rights of occupancy to individuals. When a governor revokes a right of occupancy for overriding public interest, compensation is due for unexhausted improvements on the land, not for the bare land itself.⁴¹

Compensation is calculated based on the unexhausted value of improvements, considering depreciation. The government employs professional valuers to assess the value of these improvements and any associated interests. Interest on delayed compensation is paid at the prevailing bank rate set by the Central Bank of Nigeria. Documentary evidence such as receipts, invoices, bills, and quotations are accepted to aid in the assessment of payable compensation.⁴² If residential buildings exist on the acquired land, the government may offer alternative accommodation elsewhere. If the value of the new settlement exceeds the compensation that would have been paid, the excess is considered a loan to the affected persons, which they must repay to the government. Accepting such alternative accommodation waives the right to monetary compensation.⁴³

Compensation is paid to the holder of the right of occupancy. In cases where the land is owned by a community, the governor may direct compensation to be paid to the community, its chief or traditional ruler, or into a fund set aside for the benefit of the community. If compensation is not paid or there is a dispute regarding the rightful recipients, redress can be sought in a State High Court. It is important to note that no court in Nigeria has jurisdiction to entertain cases concerning the amount or adequacy of compensation. However, courts can determine the rightful persons entitled to compensation.⁴⁴

The government has the authority to compulsorily acquire land but must do so within the confines of the law and procedure.⁴⁵ Compensation or alternative accommodation must be provided where there are unexhausted improvements on the acquired land. If the government fails to compensate, affected persons have legal remedies available in the State High Court.⁴⁶

4. Resettlement and Land Reform

Involuntary resettlement refers to both physical displacement (loss of home or relocation) and economic displacement (loss of access to income-generating resources or livelihoods) that result from land acquisition tied to a development project, including rights-of-way or infrastructure corridors. This concept applies when a client or investee initiates operations that lead to such displacement.⁴⁷

³⁹ *ibid.*

⁴⁰ Land Use Act of 1978, s 28.

⁴¹ *ibid.*, s 29.

⁴² *ibid.*, s 23.

⁴³ *ibid.*, s 39.

⁴⁴ *ibid.*, s 47.

⁴⁵ The Constitution of the Federal Republic of Nigeria, 1999 (as amended), s 44.

⁴⁶ *ibid.*, s 43.

⁴⁷ *ibid.*

- a. **Grievance Mechanism:** To address potential conflicts or dissatisfaction among affected populations, the project proponent is expected to establish a grievance mechanism. This system provides a formal avenue for displaced individuals or host community members to express concerns related to compensation, relocation, or entitlements.⁴⁸
- b. **Social Impact Assessment and Planning:** If involuntary resettlement is unavoidable, the project must begin with a baseline census to identify affected persons. This process is followed by a social impact assessment and the development of a resettlement plan, including an entitlement framework that outlines who qualifies for compensation and the type of assistance provided.⁴⁹

Since affected populations may not experience improved living standards immediately, their dissatisfaction can become a reputational risk for the investor or government agency involved.⁵⁰ It is therefore essential that livelihood restoration and improved living conditions be built into the project outcomes.

Land reform in Nigeria is aimed at creating a structured system of land administration to ensure that all citizens urban and rural have documented rights (titles or leases) to land. This documentation allows people to leverage land for economic empowerment and fosters a broader cultural respect for property rights.⁵¹

Federal Land Information System (FELIS): FELIS is a centralized digital database developed to record, manage, and allocate land titles issued by the Federal Government of Nigeria.⁵² It contains spatial data about ownership, land use, and historical transactions. This initiative has significantly improved title issuance rates, increasing from roughly 100 annually to approximately 1,500 per year⁵³ Federal Ministry of Lands, Housing and Urban Development, (2015).

Cadastral Geographic Information System (CADGIS): To resolve inefficiencies in geospatial data handling, the Cadastral Survey Unit introduced CADGIS. This laboratory supports the National Cadastral Township Mapping Program, improving data storage, retrieval, and the accuracy of cadastral maps necessary for land reforms.⁵⁴

National Technical Development Forum (NTDF): Established in 2005 by the National Council on Housing and Urban Development, NTDF fosters uniformity in land administration across Nigeria. It includes officers from state land departments, surveyors, and deed registrars, coordinated by the Federal Ministry.⁵⁵ These reforms are crucial to improving transparency,

⁴⁸ Federal Ministry of Lands, Housing and Urban Development. National Land Policy Framework (Draft). Abuja: Government of Nigeria. (2015).

⁴⁹ Geospatial World. Land administration: A catalyst to economic development in Nigeria. (2020). Retrieved from <https://www.geospatialworld.net/article/land-administration-a-catalyst-to-economic-development>

⁵⁰ International Finance Corporation (IFC). Performance Standard 5: Land Acquisition and Involuntary Resettlement. (2012). Retrieved from <https://www.ifc.org>

⁵¹ C. Nwocha, The Imperative of Land Reform for Economic Empowerment in Non-Urban Areas in Nigeria. (2019). Retrieved from <https://www.academia.edu/42000724>

⁵² *ibid.*

⁵³ M. M.Omirin, Issues in Land Accessibility in Nigeria. In Proceedings of the 4th FIG Regional Conference, Abuja, Nigeria. (2003).

⁵⁴ World Bank. Involuntary Resettlement Sourcebook: Planning and Implementation in Development Projects. Washington, D.C.: World Bank Publications. (2004).

⁵⁵ *ibid.*

supporting private investment, and creating a harmonized land administration system accessible nationwide, including via web platforms in the future.

5 Restoration of Private Ownership and Free Transactions

Private ownership legally empowers individuals or organizations to possess, use, sell, or transfer property with full control under the law. To restore this in Nigeria, the **Land Use Act** would need revision or replacement to allow conversion of state-issued rights of occupancy into freehold titles.⁵⁶ Such a change can be financially neutral for states by capitalizing ground rents and requiring lump-sum payments for freeholds. Areas designated for public infrastructure should be retained if owners were previously compensated. Where no cash compensation was paid, governments might issue treasury bills or bonds to ease fiscal pressure.⁵⁷ Previous owners of undeveloped peripheral lands should be able to repurchase these at fair prices, with proceeds reinvested into infrastructure, land information systems, and computerized land registries. This process requires community involvement to resolve disputes and verify ownership claims on vacant lands, fostering transparency and trust.⁵⁸

6. Cancellation of Requirements for Consent or Concurrence to Private Transactions

The mandatory governor's consent for land transactions inflates costs, delays processes, and renders many dealings technically illegal, undermining land rights security. Removing this requirement would lower transaction costs, promote transparency, and reflect real market prices, reducing informal and corrupt practices. Consent fees have underperformed as revenue sources, indicating inefficiency⁵⁹. Public lands should be limited to areas earmarked for public projects, while government should prioritize enabling infrastructure investments rather than competing with private residential developers. Privatization aligns with global best practices for efficient resource management, ensuring governments focus on regulatory and enabling roles rather than direct market competition.⁶⁰

7. Simplification of Land Title Registration and Regularization Procedures

Accurate land records are essential in deregulated markets for validating ownership and transactions. Existing registration systems are overly complex, discouraging the poor and illiterate from formalizing ownership. Simplifying procedures and lowering costs can promote inclusivity and market efficiency.⁶¹ Technological advances such as Geographic Information Systems (GIS) enable comprehensive, reliable land databases. Lagos State's GIS-based property database initiative exemplifies progress, facilitating swift, affordable validation of

⁵⁶ A. O. Alagbe, & O. Ojo, Level of use of GIS for land registration, Lagos State, Nigeria. (2021), *African Journal on Land Policy and Geospatial Sciences*, 4(4), 467–479. <https://doi.org/10.48346/IMIST.PRSM/ajlp-gs.v4i4.22929>.

⁵⁷ *ibid.*

⁵⁸ S. Famoriyo, Land reform, land settlement, and cooperatives. (1979). *FAO Land Reform, Land Settlement and Cooperatives*, 1997/2. <http://www.fao.org/4/W6728T/w6728t14.htm>

⁵⁹ Federal Ministry of Lands, Housing and Urban Development. (2015). *National Land Policy Framework (Draft)*. Abuja: Government of Nigeria.

⁶⁰ *ibid.*

⁶¹ M. M. Omirin. Issues in land accessibility in Nigeria. Proceedings of the 4th FIG Regional Conference, Abuja, Nigeria. (2003).

land transactions, which builds investor confidence and enables banks to accept land titles as collateral.⁶²

8. Land Rights Adjudication and Dispute Resolution

Land management struggles with corruption and lack of transparency, especially in dispute resolution. Encouraging community-based organizations including women's groups and NGOs to participate in adjudication promotes accountability. Making their activities publicly available enhances transparency and trust. Democratic governance frameworks facilitate these participatory approaches, ensuring land disputes are resolved fairly and inclusively, which is crucial during land tenure transitions.⁶³

9. Reorientation of Land Management Officials

Bureaucrats handling land issues often lack awareness of their actions' long-term urban and social impacts, leading to market distortions and inefficiencies.⁶⁴ Comprehensive retraining emphasizing ethical land management, professionalism, and long-term planning is necessary. Introducing performance-based remuneration would improve motivation and reduce petty corruption.⁶⁵ Reducing unnecessary bureaucratic controls encourages officials to innovate and adopt efficient practices. Educational curricula for land administrators should include ethics and professional standards to cultivate a culture of integrity and service excellence.⁶⁶

10. Official Recognition of Hitherto 'Illegal' Rights and Settlements

To promote equitable development, informal land rights should undergo adjudication and, if free from disputes, be formalized at minimal cost. This approach enhances tenure security, facilitates access to formal financing, and encourages private investment in housing. Additionally, it integrates informal and formal land markets, fostering inclusive economic growth.⁶⁷

11. Establishment of a Unified Federal Land Registry

At present, several Nigerian states lack formal land registries, and the federal government operates a fragmented system where agencies like the Nigerian Railway Corporation and NTA maintain separate land records. This decentralization has led to asset misappropriation and

⁶²ibid. (n 60).

⁶³A.D.S. Suleman Atyap Community Development Association. (2021). *Wikipedia*. https://en.wikipedia.org/wiki/Atyap_Community_Development_Association

⁶⁴ International Finance Corporation (IFC). (2012). *Performance Standard 5: Land Acquisition and Involuntary Resettlement*. Retrieved from <https://www.ifc.org>

⁶⁵ World Bank. *Involuntary Resettlement Sourcebook: Planning and Implementation in Development Projects*. Washington, D.C.: World Bank Publications. (2004).

⁶⁶V.C. Uchendu, Agrarian reforms. (1979). *CJ Okoye Law View*. <https://cjokoyelawview.com/law-422-land-law-ii/topic-8-agrarian-reforms>

⁶⁷ T. Agbola., & M.E Agunbiade. Urbanization, Slum Development and Security of Tenure: The Challenges of Meeting Millennium Development Goal 7 in Metropolitan Lagos, Nigeria. (2009). In A. de Sherbiniin, A. Rahman, A. Barbieri, J. C. Fotso & Y. Zhu (Eds.), *Urban Population-Environment Dynamics in the Developing World: Case Studies and Lessons Learned* (pp. 77–106). Paris: Committee for International Cooperation in National Research in Demography (CICRED).

weak coordination.⁶⁸ A centralized Federal Land Registry is essential to consolidate records, prevent land fraud, and improve transparency in land administration.⁶⁹

The proposed National Land Digital System (NLDS), supported by the World Bank, is intended to harmonize land records across the 36 states and the FCT, helping to build a comprehensive national land database.⁷⁰ This system will enable efficient land tracking, boost property tax revenues, support lending through secured land titles, and streamline land management processes.⁷¹

Beyond urban centers, improved land registration is critical for rural development and economic transformation. Land is a primary asset for most Nigerians, especially in rural areas where informal tenure limits access to credit and investment. A unified registry would allow more Nigerians to leverage land as capital for enterprise, especially in agriculture, housing, and small-scale business.⁷²

For Nigeria to transition from a post-colonial structure to a modern market economy, land governance reform is non-negotiable. Centralizing registries would provide the basis for effective land use planning, urban infrastructure development and transparent transactions for both private and public actors.⁷³

12. Recommendations

In light of the challenges identified, the following recommendations are proposed to enhance mortgage transactions in Nigeria:

- a) **Amendment of the Land Use Act 1978:** The Land Use Act, enacted in 1978, has been a significant barrier to the development of a robust mortgage market in Nigeria. Its provisions, particularly those requiring gubernatorial consent for land transactions, have led to administrative bottlenecks, increased costs, and uncertainties in land ownership. To facilitate secured lending, it is recommended that the Act be amended to streamline land acquisition processes and reduce the state's control over land transactions. This would involve removing the Act from the Constitution to allow for easier amendments and aligning it with modern economic practices.
- b) **Streamlining and Harmonization of Secured Lending Laws:** Currently, Nigeria's legal framework for secured lending is fragmented, with separate laws governing real and personal property. It is recommended that states, such as Rivers State, repeal outdated laws like the Conveyancing Act 1881 and the Bills of Sale Law of 1999, replacing them with modern, commercially-oriented legislation. These new laws should be harmonized

⁶⁸ A.M. Dangiwa, March 6). FG tasks states on land reforms, to unlock \$300b assets. (2025) *The Guardian Nigeria News*. <https://guardian.ng/news/fg-tasks-states-on-land-reforms-to-unlock-300b-assets/>

⁶⁹ A.M. Dangiwa, November 14). FG partners with World Bank to develop digital land system for modern land administration in Nigeria. (2024, *Nairametrics*. <https://nairametrics.com/2024/11/14/fg-partners-world-bank-to-develop-digital-land-system-for-modern-land-administration-in-nigeria/>

⁷⁰ *ibid*.

⁷¹ World Bank *Modernizing Land Administration for Growth in Africa: Policy Brief on Digital Land Reforms*. Washington, D.C.: World Bank Group.(2023).

⁷² Deininger, K., Selod, H., & Burns, A. *The Land Governance Assessment Framework: Identifying and Monitoring Good Practice in the Land Sector*. World Bank. (2008).

⁷³ N. Ukaejiofo, N. *Reforming Land Administration for National Development: Key Issues and the Way Forward*. National Council on Lands and Urban Development. (2010).

- with federal statutes, such as the Secured Transactions in Movable Assets Act (STMAA), to create a cohesive legal environment for secured lending.
- c) Establishment of Electronic Property Recording Systems: To improve transparency and efficiency in land transactions, it is recommended that states establish automated property registries that interface with the National Collateral Registry (NCR). This would enable real-time electronic searches across states, facilitating secure and efficient mortgage transactions. Additionally, creating a centralized database for real property would aid in land administration and reduce the risks associated with land disputes.
 - d) Reduction of Transactional Costs: High transactional costs, including consent fees, taxes, and informal payments, have been identified as significant barriers to mortgage accessibility. It is recommended that state governments eliminate or reduce these costs to make mortgage transactions more affordable. This would lower the cost of credit, reduce risks for lenders, and increase access to financing for borrowers.
 - e) Regulation of Charges and Corporate Taxes on Lenders: To create a conducive environment for secured lending, it is recommended that regulatory agencies impose reasonable charges and corporate taxes on mortgage lenders. This would encourage financial institutions to offer more competitive mortgage products, thereby expanding access to housing finance.
 - f) Strengthening the Judicial System and Establishing Arbitration Mechanisms: The inefficiency of the judicial system in enforcing mortgage contracts has been a deterrent to lenders. It is recommended that the legal process for adjudicating mortgage disputes be expedited, with set timelines for resolution. Additionally, establishing arbitration mechanisms for mortgage-related disputes would provide alternative avenues for conflict resolution, preserving commercial relationships and reducing the burden on courts.
 - g) Implementing these recommendations would create a more efficient and accessible mortgage market in Nigeria, promoting homeownership and contributing to economic development.

13. Conclusion

The enactment of the Land Use Act in 1976 significantly restructured property ownership in Nigeria by transferring control of all land to the state. This move curtailed individual land rights and imposed major restrictions on the use of land for private mortgage transactions. Although the law was intended to ensure fair access to land and curb speculative practices, it inadvertently created administrative hurdles, reduced security of land tenure, discouraged private sector investment, and limited the use of land as loan collateral. These issues have negatively impacted economic development, constrained urban expansion, and weakened the functionality of land markets. Therefore, implementing reforms that reinforce private land ownership and ease restrictions on land-based transactions is essential for driving Nigeria's economic growth and improving its land governance systems.