OVERVIEW OF LEGAL ISSUES IN LAND TRANSACTIONS IN NIGERIA.

OCHI OSBEN ONYEDIKACHUKWU

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SUPERVISOR: DR. ONWA ALI ONWA

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DECLARATION

I hereby declare that the project work titled OVERVIEW OF LEGAL ISSUES IN LAND TRANSACTIONS IN NIGERIA is an original work done by me under the supervision of Dr. Onwa Ali Onwa. To the best of my knowledge, the work has not been submitted to the institution or any other institution for any degree or other certificates in Nigeria. I have given due acknowledgement to all sources and materials from where the information and knowledge were gathered in the course of this project.

DEDICATION

I dedicate this research to God Almighty, the maker of heaven and earth and the giver of wisdom, for his sufficient grace upon my life.

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I give thanks to the Almighty God because without Him, I would not have been able to complete this work. I acknowledge the efforts of my family members, my mother who always pushed me to achieve what I am determined for and made me see my purpose in life. She works tirelessly to provide support in all ramifications; especially emotional and spiritual support that saw me through these years. I must also appreciate my siblings, who in their own way contributed to my success. I thank the Dean of the Faculty of Law, Professor Frank Asogwa who ensured that we graduate in record time by attending to our needs.

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LIST OF ABBREVIATIONS

AC — Appeal Cases

All NLR — All Nigeria Law Reports

CA — Court of Appeal

CFRN — Constitution of the Federal Republic of Nigeria

FWLR — Federation Weekly Law Reports

LFN — Laws of the Federation of Nigeria

LPELR — Law Pavilion Electronic Law Reports

LUA — Land Use Act

NLR — Nigerian Law Reports

NSCQR — Nigerian Supreme Court Quarterly Reports

NWLR — Nigerian Weekly Law Reports

PC — Privy Council

PCL — Property and Conveyancing Law

SC — Supreme Court

SCNLR — Supreme Court of Nigeria Law Reports

WACA — West African Court of Appeal

ABSTRACT

This study is titled overview of the legal framework governing land transactions in Nigeria. The main objectives is to identify the challenges associated with land acquisition and transfer and assessing the effectiveness of existing laws in protecting the interests of parties to land transactions. Despite the existence of legal frameworks regulating the acquisition, transfer, and registration of interests in land, land transactions in Nigeria continue to be plagued by numerous challenges. These challenges have contributed significantly to the prevalence of land disputes and insecurity of title. The study adopts the doctrinal method of legal research. The study finds that although the Land Use Act and other related laws provide a comprehensive framework for regulating land transactions, several practical and legal challenges continue to undermine their effectiveness. These include bureaucratic bottlenecks in the administration of land, inadequate land registration systems, widespread ignorance of legal requirements, and the persistence of informal and customary land transactions. The study further finds that the requirement of Governor's consent, though intended to regulate land dealings, often causes delays and increases transaction costs. The study recommends, among other things, the reform of land administration processes, the digitization of land registration systems, increased public awareness of legal requirements for land transactions, and a review of the provisions relating to Governor's consent under the Land Use Act. It concludes that effective reform of Nigeria's land administration system is necessary to enhance security of title, reduce land disputes, and promote sustainable economic development.

CHAPTER ONE

INTRODUCTION

1.1 Background to the Study

Land, like the word's meaning, goes beyond real world, literal ground. Under property law, land includes not only the soil but also things attached to it and rights capable of being exercised over it.[1] Because of its economic and social significance, land remains one of the most valuable forms of property and an important factor in national development.[2] In Nigeria, access to land is essential for housing, agriculture, commerce, industrialisation, infrastructure development, and investment activities.[3] Consequently, transactions involving land have become increasingly frequent and legally significant.

In Nigeria pre- the new land laws, land ownership and administration was under the jurisdiction of customary law. Under customary law, land was generally held by communities, families, or lineages for the benefit of their members, although variations existed among different ethnic groups.[4] The communal nature of landholding was recognised by the Privy Council in *Amodu Tijani v Secretary, Southern Nigeria*, where native title was described as a communal usufructuary interest existing under customary law.[5] The authority to allocate family or communal land usually rested in traditional rulers, family heads, or community representatives acting on behalf of the collective owners.[6]

[1] AO Obilade, *A Critical Survey of Nigerian Property Law* (University Press Plc 2008) 11.
[2] BO Nwabueze, *Nigerian Land Law* (Nwamife Publishers Ltd 1972) 1.
[3] IO Smith, *Practical Approach to Law of Real Property in Nigeria* (2nd edn, Ecowatch Publications Ltd 2007) 3.
[4] EO Akanki, *Essays on Land Law* (University of Lagos Press 2015) 27.
[5] *Amodu Tijani v Secretary, Southern Nigeria* [1921] 2 AC 399 (PC) 404.
[6] Y Fawehinmi, *Essential Guide to Land Acquisition in Nigeria* (Poli-G Books 2015) 16..

The advent of the British colonial administration had a profound impact on the land tenure system in Nigeria.[7] However, with the introduction of English law through the reception, principles of common law, equity and of general application of the statute were also brought into Nigeria, resulting in the duality of custom and received English law which in turn gave rise to problems of customary land tenure.[8] It received English land law in respect of ownership, transfer of interests, proof of title and dispute resolution.[9] After independence, the problems of multiple tenure systems further generated demands for general land reform.

The desire to achieve a uniform system of land administration and improve access to land led to the enactment of the Land Use Act 1978. The Act vests all land within a state in the Governor, who holds such land in trust for the use and common benefit of all Nigerians.[10] The legislation sought to simplify land administration, reduce speculative practices, facilitate access to land for developmental purposes, and harmonise the diverse land tenure systems existing in the country.[11] The Supreme Court in *Nkwocha v Governor of Anambra State* recognised the revolutionary impact of the Act on landholding and administration in Nigeria.[12]

Land transactions are legally recognised transactions by which an interest in land is transferred, created, extinguished or otherwise affected. Such transactions often include sale, assignment, lease, mortgage, gift, licence and tenancy.[13] As a result of the value of a land, Nigerian laws impose various requirements to ensure certainty and protect the parties of a land transaction.[14] Some of

[7] TO Elias, *Nigerian Land Law and Custom* (4th edn, Routledge 1962) 45.
[8] GB Aguda, *Principles of Nigerian Land Law* (Heinemann Educational Books 1989) 17.
[9] Omotola JA, *Essays on the Land Use Act 1978* (Lagos University Press 1984) 5.
[10] Land Use Act 1978, s 1.
[11] Land Use Panel, *Report of the Land Use Panel* (Federal Ministry of Information 1977) 7.
[12] *Nkwocha v Governor of Anambra State* (1984) 6 SC 362.
[13] C Nweze, 'Traditional Dispute Resolution and the Limits of Legal Pluralism in Nigeria' (2015) *African Bar Review* 2 (1) 112.
[14] O Olagoke, 'An Examination of the Competing Layers of Rights in Communal and Family Land.' (2017) (8) (1) The *Gravitas Review of Business and Property Law*.

these are the requirement for proof of title, execution of valid instruments, registration requirements, and duties under statutory provisions governing the alienation of interests in land.[15]

Even though there are legal provisions on land transaction, some problems still abound to make land transactions not to be effective in Nigeria. Fraudulent transactions have become increasingly common, particularly in urban areas where competing claims to ownership frequently arise.[16] Cases involving forged documents, impersonation of landowners, multiple sales of the same parcel of land, and fraudulent agents have contributed significantly to land litigation in Nigerian courts.[17]

The next problem is closely related to this one and is known as defective title. This principle of a buyer taking title no better than the seller continues to hold in Nigerian property law and a purported transfer may be set aside, even though it is made in good faith by the vendor.[18] Investigation of title has been consistently stressed by the courts before the acquisition of interests in land.[19]

The requirement for the Governor's consent prior to the validity of an alienation of interest in land is one of the more controversial requirements that affect transactions in land in Nigeria. Section 22 of the Land Use Act states that any transaction or instrument purported to transfer or create an interest in land shall be null and void unless the consent of the Governor is secured.[20] Whilst the provision was designed to limit speculative transactions and dealings in land, it has been criticized for causing delays in the perfection of title, for creating the possibility of perfection of title through

[15] Property and Conveyancing Law, Cap 100 Laws of Western Nigeria 1959; Land Instruments Registration Law, Cap 56 Laws of Eastern Nigeria 1963.
[16] FU Massajuwa and PA Aidonojie, 'The Challenges of the Plain and Unambiguous Legal Interpretation of some the Provisions of Nigeria Stamp Duties Act' (2020) (6) (3) *Kampala International University Journal of Social Sciences* 91.
[17] *Owie v Ighiwi* (2005) 5 NWLR (Pt 917) 184.
[18] *Aromire v Awoyemi* (1972) 1 All NLR (Pt 1) 101.
[19] *Idundun v Okumagba* (1976) 9–10 SC 227.
[20] Land Use Act 1978, s 22.

an arbitrary decision of the Governor, and for imposing a significant amount of paperwork in the process of perfecting a title. In *Savannah Bank Ltd v Ajilo*, the Supreme Court reiterated that such transaction is null and void if the Governor's consent is not obtained, thus emphasizing the strict application of the provision.[21]

Apart from the consent requirement, registration of land instruments is still a very important part of land transaction in Nigeria. The purpose of the Registration Act is to give public notice of interests in land, to help to avoid fraud, and to create priority between different interests. Despite all this, the Nigerian land registration system is in many instances plagued by efficiency, inadequate record keeping, administrative delays, overlapping responsibilities, etc, which adversely affect the veracity of land registers, leading to disagreements on land ownership and priority of land interests.[22]

Moreover, land relations involving customary land are still causing land transactions uncertainty under the law. Customary norms still apply to land in many parts of Nigeria, with the rural areas being the most heavily affected, where family and communal ownership is still prevalent. There are sometimes disagreements over land sale and transfer where parties rely on custom without the necessary documentation or meeting statutory requirements. The Nigerian courts have consistently said that valid title can only be established by established means, particularly in the context of a land dispute, thus emphasizing the evidentiary burden that must be placed on parties to land disputes.[23] The frequency of land disputes in Nigeria is another indication of the difficulties that are faced in land transactions.[24] Problems like boundaries, competing claims of ownership, fraudulent sales, family land disputes, and double allocation often lead to long-term litigation. Although the

[21] *Savannah Bank (Nig) Ltd v Ajilo* (1989) 1 NWLR (Pt 97) 305.
[22] IO Smith, *Practical Approach to Law of Real Property in Nigeria* (2nd edn, Ecowatch Publications 2007) 301.
[23] EO Akanki, *Essays on Nigerian Land Law* (University of Lagos Press 2015) 112.
[24] *Idundun v Okumagba* (1976) 9–10 SC 227.

courts have contributed much to these disputes and the principles to protect bona fide purchasers and maintain land law integrity, the fact that these problems persist suggests that the current legal and institutional framework has not completely removed the risks inherent in land transactions.[25] In the backdrop of these, critical examination of the legal issues in land transactions in Nigeria becomes imperative. Although there are statutory provisions, judicial precedents, and administrative structures for land dealings, problems of defective title, fraud, consent requirements, and registration inefficiencies, as well as disputes with customary law, persist and affect the security and certainty of land transactions. This study will therefore attempt to analyze the legal framework for land transactions in Nigeria, highlight major legal problems that are likely to emerge from land transactions, examine how the judiciary has responded to these problems as they arise, and suggest appropriate reforms to make the land transactions in Nigeria effective and reliable.

1.2 Statement of the Problem

The purpose of land transactions in Nigeria is to establish a legal and safe system of transferring, creating and protecting interests in land. Despite the presence of an extensive legal regime, including statutes and customary rules and institutions, however, land transactions remain marred by ongoing legal and institutional problems that create uncertainty over title and security of transactions. Fraudulent land dealings, such as the sale of land by people without valid documentation on them, the use of forged documents and multiple sales of the same piece of land to different buyers are major issues. This continues to cause land disputes and long litigation in courts in Nigeria which have jeopardized confidence in land transactions and deterred investment in real estate. The closely related defective title problem is that of the buyer acquiring land without

[25] *Ogunleye v Oni* (1990) 2 NWLR (Pt 135) 745.

proof of title and/or the seller being an owner of no legal title that can be passed to the buyer. The *nemo dat quod non habet* rule may render such transactions void even if the buyer is acting in good faith, putting him at a considerable risk.

Governor's consent, as required by the Land Use Act 1978, is another key issue. The consent requirement was intended to control land alienation and to provide state supervision of land transactions, but in practice it has emerged as a major constraint for land transactions for the following reasons: First, it is subject to bureaucracy making it slow to implement; second, it is not consistently applied in land transactions; and third, it is merely an expensive process of perfecting title. The adverse impact has been felt on the efficiency and time of land transactions in Nigeria. In addition, the inefficiency in land registration across different states has been a major cause of uncertainty in land ownership. The lack of proper record-keeping, inadequate digitization, disorganized land registration systems, and administrative delays make it hard to identify the exact record of ownership, and thus introduce the possibility of complicated claims and litigation. Further, customary land tenure systems exist alongside statutory land law, increasing the complexity. Many times, transactions which take place under customary land ownership do not get documented or registered properly, which can result in conflicts when the land is subsequently regulated by statute or transferred to third parties. Although the judiciary have been engaged in attempting to resolve various of these conflicts, these issues still persist, suggesting that the existing legal and institutional framework in Nigeria for regulating land transactions has not fully realised the envisaged goals of certainty, efficiency and security of title. The study aims to critically analyse the law problems inherent in the process of land transactions in Nigeria with a view to uncovering their causes, evaluating the efficacy of the current legal responses and recommending amendments to strengthen Nigeria land administration and land transactions.

1.3 Research Questions

This study is guided by the following research questions:

1. What is the nature and legal framework governing land transactions in Nigeria?
2. What are the major legal issues affecting land transactions in Nigeria?
3. How have Nigerian courts and relevant laws addressed disputes arising from land transactions?
4. What reforms can be adopted to improve the regulation and effectiveness of land transactions in Nigeria?

1.4 Aim and Objectives of the Study

The aim of this study is to critically examine the legal issues arising from land transactions in Nigeria. The specific objectives of this study are to:

1. examine the nature and legal framework governing land transactions in Nigeria;
2. identify and analyse the major legal issues affecting land transactions in Nigeria;
3. evaluate the extent to which Nigerian courts and laws have addressed disputes arising from land transactions; and
4. suggest possible reforms aimed at improving the regulation and effectiveness of land transactions in Nigeria.

1.5 Significance of the Study

This study is significant in several respects. Firstly, it will help to advance the law by offering a complete answer to the legal framework of land transactions in Nigeria and the practical issues facing its implementation. It will also add to the existing body of knowledge of Nigerian property law in the field of land tenure and conveyancing.

Secondly, the study will assist legal practitioners, judges and policy makers by highlighting some of the common problems encountered in the process including defective title, fraud, problems with registration and the requirement of the Governor's consent in the context of land transactions and litigation.

Thirdly it will help investors, property developers and the general public to understand the legal risks that exist in land transactions and the steps that need to be taken to ensure that land dealings are valid and enforceable.

Finally, recommendations for reform will be offered that will help government agencies tasked with land administration, to enhance its efficiency, minimize conflicts and improve the land registration system in Nigeria.

1.6 Scope of the Study

This study is restricted only to an examination of the legal issues that arise in the land transaction in Nigeria. It is narrow in scope and only deals with transactions involving interests in land (sale, lease, mortgage, assignment etc.) recognised under Nigerian law. The study also explores the legal structure of land transactions, such as the Land Use Act 1978, the laws relating to land registration, principles of customary law and judicial rulings of Nigerian courts. The study does not, however, cover in detail comparative analysis with foreign jurisdictions (unless this is required to explain or illustrate). It also focuses on legal issues, and does not discuss economic valuation or technical aspects of surveying land extensively.

1.7 Research Methodology

This study adopts a doctrinal research methodology, which is primarily library-based. The doctrinal approach is the analysis of primary and secondary sources of law to discuss the legal principles underlying land dealings in Nigeria. Primary sources such as the Land Use Act 1978, Land Instruments Registration Laws, Property and Conveyancing Laws, as well as judicial decisions of Nigerian courts. The secondary sources are books on Nigerian land law, journal articles and legal commentaries and scholarly works relating to land transactions and property law. The study is of qualitative nature involving a critical reading and interpretation of the legal materials to identify existing gaps, inconsistencies and challenges in the regulation of land transactions in Nigeria.

1.8 Literature Review

Smith in his work "*Practical Approach to Law of Real Property in Nigeria*" has given a comprehensive exposition of the land transaction law in Nigeria. He clarifies that land transactions have to do with the transfer, creation and extinction of interests in land all of which have to comply strictly with the requirements of the law to be deemed to be valid.[26] Smith draws attention to the fact that land transactions are complicated in Nigeria because the laws include both customary law and received English law as well as the statutory provisions, and adds that the formal aspects of writing, stamping, registration and Governor's consent are critical to the validity of land transactions. He also maps defective title and fraud as significant issues in land dealings,

[26] IO Smith, *Practical Approach to Law of Real Property in Nigeria* (2nd edn, Ecowatch Publications 2007) 3–15, 210–245.

highlighting that poor land registration and verification procedures are able to leave buyers vulnerable to risks. Smith, however, does develop the doctrinal underpinnings but his account is largely descriptive and he fails to really question the flaws of the institutions that underlie land administration practices and give rise to these issues.

In the same manner, Nwabueze in *Nigerian Land Law* has given a historical and analytical background to land tenure in Nigeria. He argues that the Land Use Act 1978's major effect is that it changed the nature of land ownership, moving it from the customary to the statutory system, which resulted in a unified, highly centralised system of land control.[27] He points out that the goal of the Act was to streamline land administration and ensure fair access to land, but in practice, there have been difficulties with the implementation, especially in terms of the bureaucracy and delays in land transactions. However, his analysis is more of a historical analysis than an analysis of current inefficiencies in transactions like fraud, registration delays, or title conflicts.

In his study, *Essays on the Land Use Act 1978*, Omotola critically reviews the effects of the Land Use Act on land administration in Nigeria, and finds that the Act was meant to reform land administration to improve access to land, but has instead introduced additional administrative challenges.[28] The Governor's consent requirement is a key constraint on effective land transaction, which delays the process, is inconsistent, and has multiple bureaucratic hassles, according to Omotola. He also notes that the Act has not stopped the conflicts over land ownership, particularly in areas where customary land tenure is robust. Omotola's contribution, however, is the policy criticism and less of judicial interpretations and applications of the Act in the adjudication of land disputes.

[27] BO Nwabueze, *Nigerian Land Law* (Nwamife Publishers 1972) 12–30.
[28] JA Omotola, *Essays on the Land Use Act 1978* (Lagos University Press 1984) 21–35.

In *Principles of Nigerian Land Law*, Aguda gives the traditional and extensive discussion of the ways to establish ownership of land in Nigeria, such as traditional evidence, documents, acts of ownership, and long possession.[29] Aguda also explores the doctrine of prior appropriation, which governs the land ownership rights of water users. A person cannot give a better title than he has, is the principle of nemo dat quod non habet as it is so emphasised by Aguda. He believes that this rule is fundamental in the nature of conflict over imperfect title in Nigeria. This analysis, however, is doctrinally solid, but fails to adequately address some of the contemporary challenges, like digital land registration systems or inefficiencies in land administration.

In Nigerian Land Law and Custom, Elias offers a basic account of the nature of customary land tenure in Nigeria before the advent of the colonial rule, where land was largely held communally and the custodian was the family or community head, not an absolute owner of the land.[30] While Elias emphasizes flexibility and communalism in the use of customary land, he also recognizes its shortcomings in the realm of contemporary commercial arrangements.. He believes that the advent of English law led to a dual system of law which has remained and which has led to uncertainty in land transactions. But his historical-focused work does not thoroughly cover modern transactional issues like fraud, the inefficiency of registration, and the need for consent.

The principles of land law are also greatly influenced by judicial authorities. In *Idundun v Okumagba*, the Supreme Court expressly stated the acceptable methods for establishing title to land in Nigeria, thus giving clear guidance on how to proceed with land transactions where there is uncertainty about ownership.[31] In *Savannah Bank v Ajilo*, the Supreme Court confirmed that the consent of the Governor was a prerequisite to any land transaction and that without the consent any

[29] GB Aguda, *Principles of Nigerian Land Law* (Heinemann 1989) 45–60.
[30] TO Elias, *Nigerian Land Law and Custom* (Routledge 1962) 40–55.
[31] *Idundun v Okumagba* (1976) 9–10 SC 227.

transaction was void.[32] These cases illustrate the rigorous approach of the courts towards compliance with the requirement of the Land Use Act in land transactions.

From the above literature, it is clear that although scholars have explored extensively land tenure, statutory regulation, and evidential requirement in land law, there is a lack of integrated consideration to the role of the interaction of the various principles of land law, institutional efficiency, and judicial decisions on the effectiveness of land transaction in Nigeria. This study is thus designed to fill this gap by giving a holistic study of the legal challenges confronting land transaction in Nigeria.

[32] *Savannah Bank (Nig) Ltd v Ajilo* (1989) 1 NWLR (Pt 97) 305.

CHAPTER TWO

CONCEPTUAL AND THEORETICAL FRAMEWORK

2.1 Conceptual Framework

2.1.1 Concept of Land

Land occupies a unique position in every legal system because it constitutes one of the most important forms of property capable of ownership, possession, use, transfer and inheritance.[33] In legal contemplation, land extends beyond the ordinary understanding of the physical earth's surface and encompasses a wide range of rights and interests attached to it.[34] The significance of land is particularly pronounced in Nigeria where it serves not only as a means of economic production and investment but also as a source of social status, cultural identity and political influence.[35] Consequently, the legal regulation of land and the transactions associated with it have attracted considerable attention from legislators, courts and legal scholars.

The common law, the principle of which was generally accepted, meant land in its natural state, including everything growing upon it, whether it was useful or not.[36] This is embodied in the saying "*quicquid plantatum solo, solo cedit*", meaning that what is planted on the soil is the soil.[37] Buildings, trees, and other land improvements that are permanently affixed to the land are normally considered to be part of the land.[38] The common law concept of land also covers the airspace above

[33] B O Nwabueze, *Nigerian Land Law* (Nwamife Publishers 1972) 1.
[34] Niki Tobi, *Cases and Materials on Nigerian Land Law* (Malt House Press 1997) 3.
[35] A G Karibi-Whyte, *History and Sources of Nigerian Land Law* (Spectrum Books 1993) 12.
[36] K G and S F Gray, *Elements of Land Law* (5th edn, OUP 2008) 15.
[37] ibid.
[38] Smith I O, *Practical Approach to Law of Real Property in Nigeria* (2nd edn, Ecowatch Publications 2007) 6.

the surface and the subsoil below, with statutory exceptions and rights of the public that are recognized by the law.[39]

This common law concept of land has been largely adopted by the Nigerian law system.[40] The enactment of the Land Use Act 1978 however, changed the law of land administration and ownership in Nigeria.[41] Before the enactment of the Act, there were different systems of land tenure which had been inherited from received English law and regional systems, and this caused uncertainty and complications in land administration and land transfer.[42] The Act made provisions to place the land in the Governor's hands of the state in which the land is located to be held on trust for the use and common benefit of all Nigerians.[43]

2.1.2 Concept of Land Transactions

Land transactions are a key element in property law as they are the means by which the rights and interests in land are created, transferred, altered and terminated.[44] Land transactions are therefore important in Nigeria for economic development, housing delivery, agricultural output, for commercial investment and for urbanisation and their legal regulation is therefore essential for certainty of title, security of tenure and protection of proprietary interest.[45]

In general, a land transaction is any legally recognised dealing of the land or an interest in the land.[46] It includes all arrangements under which any person acquires, transfers, conveys, grants or

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[39] H Ghebru and A Okumo, 'Land administration service delivery and its challenges in Nigeria: A case study of eight states' (2016) Working Paper 39 *International Food Policy Research Institute* 13.
[40] Land Use Act 1978, s 1.
[41] OC Chukwuocha and FI Emoh, 'An analysis of the relationship between the costs of title registration and property investment yields within Owerri, Imo State of Nigeria' (2021) (9) (6) *British Journal of Environmental Sciences* 37.
[42] *Ossai v Victor* (1975) LCN/2041 (SC).
[43] Land Use Act 1978, s 1.
[44] Smith I O, *Practical Approach to Law of Real Property in Nigeria* (2nd edn, Ecowatch Publications 2007) 121.
[45] B O Nwabueze, *Nigerian Land Law* (Nwamife Publishers 1972) 145.
[46] E H Burn and J Cartwright, *Cheshire and Burn's Modern Law of Real Property* (18th edn, OUP 2011) 557.

otherwise disposes of his or her rights in respect of land.[47] In contrast to any other commercial transaction involving movable property, land transaction is subject to specific legal requirements owing to the unique nature and value of land as immovable property.[48] This, along with the provisions of the Statutes and judgments, are collectively governed by the laws governing land transaction in Nigeria.[49]

In Nigeria, land transactions can be in any of various forms depending on the type of interest being transferred or created on the land.[50] A valid sale of land requires an agreement between the parties, the ability of each party to contract, lawful consideration and adherence to the required statutory formalities, as land is considered such a valuable property.[51] The law requires proper documentation and adherence to prescribed formalities to prevent disputes and fraudulent dealings.[52]

An assignment is another significant method of land exchange. Assignment involves the transfer of the assignor's entire interest in land to another person known as the assignee.[53] Under the Land Use Act, where the interest being transferred is a statutory right of occupancy, the consent of the Governor is generally required before a valid assignment can take effect.[54] The requirement for consent was introduced to enable governmental supervision of land dealings and to ensure orderly

[47] Niki Tobi, *Cases and Materials on Nigerian Land Law* (Malt House Press 1997) 165.
[48] Ibid.
[49] A G Karibi-Whyte, *History and Sources of Nigerian Land Law* (Spectrum Books 1993) 214.
[50] Ibid.
[51] C C Nwuba and S R Nuhu, Challenges to land registration in Kaduna State, Nigeria' (2018) 3 (1) *Journal of African Real Estate Research* 162.
[52] Ibid.
[53] A Aderibigbe, 'An assessment of land title registration process in Osun State, Nigeria' (2015) *The 15th AIRES Annual Conference* 85.
[54] Land Use Act 1978, s 22.

land administration.[55] However, the practical difficulties associated with obtaining consent have generated considerable controversy and litigation in Nigeria.[56]

Another important group of land transactions is leasehold transactions.[57] In a lease, the entire interest of the lessor does not pass to the tenant, but rather only a right of possession and use.[58] The lessor and the tenant have reciprocal rights and obligations which are legally binding.[59]

Mortgages are also a significant type of land deal. A mortgage is a security of a debt or performance of an obligation by the transfer of an interest in land.[60] The transaction allows for the borrower to secure credit and the lender to have a proprietary interest that can be enforced should the borrower default.[61] The significance of mortgages in contemporary business activities is becoming more pronounced as land is one of the most valuable securities that financial institutions have at their disposal.[62]

In addition to the statutory transactions, there are different types of land transactions recognised by customary law. Under customary law, transactions involving family or communal land often require the participation and consent of principal members of the family or community.[63] The absence of such consent may render the transaction void or voidable depending on the circumstances of the case.[64] The courts have consistently emphasised the importance of complying with customary law requirements where customary land is involved.[65] This reflects the continuing

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[55] *Savannah Bank (Nig) Ltd v Ajilo* (1989) 1 NWLR (Pt 97) 305.
[56] Akinola Aguda, *Principles of Nigerian Land Law* (Heinemann Educational Books 1989) 184.
[57] Ibid.
[58] T G Nubi and A Ajoku, 'Nexus between effective land management and housing delivery in Lagos' (2009) 23 (1) *Environment and Urbanization Journal* 285.
[59] *Street v Mountford* [1985] AC 809.
[60] E I Nwogugu, *Property Law in Nigeria* (Rev edn, HEBN Publishers 2014) 273.
[61] Ibid 275.
[62] BR Adeyinka, 'Transparency in land title registration: Strategies to eradicate corruption in african land sector (2020) (3) (5) *African Journal on Land Policy and Geospatial Sciences* 162.
[63] Ibid.
[64] *Ekpendu v Erika* (1959) SCNLR 186.
[65] *Esan v Faro* (1947) 12 WACA 135.

relevance of customary tenure systems in many parts of Nigeria despite the enactment of the Land Use Act.[66]

It is highly valued that in land transactions, good title has been emphasized by courts in Nigeria many a time, since land is a source of valuable proprietary rights. Normally a purchaser can obtain no better title than the vendor.[67] Defects in title, fraud, forgery, multiple sales, boundary disputes, and failure to comply with the statutory requirements commonly cause disputes to be litigated. These challenges underscore the importance of due diligence and strict adherence to legal procedures in land dealings.[68] The legal framework governing land transactions in Nigeria is derived from multiple sources. These include the Land Use Act 1978, Property and Conveyancing Law, Conveyancing Act, Land Instruments Registration Laws of various states, customary law, and judicial precedents.[69] Together, these sources regulate the creation, transfer, registration, and enforcement of interests in land. The interaction of these laws often raises complex legal issues that continue to shape the development of Nigerian land law.

In essence, land transactions encompass every lawful dealing through which interests in land are acquired, transferred, encumbered, or extinguished. Whether effected through sale, assignment, lease, mortgage, gift, or customary transfer, such transactions must comply with applicable legal requirements to achieve validity and confer enforceable rights. The nature and regulation of these transactions form the foundation upon which an examination of legal issues in Nigerian land law must be undertaken.

2.1.3 Concept of Title to Land

[66] A Didigwu and A Osarenkhoe, 'Automated land registration in Edo State' (2015) (3) (5) *Nigeria British Journal of Environmental Sciences* 13.
[67] *Okelola v Boyle* (1998) 2 NWLR (Pt 539) 533.
[68] J Odili, 'Conveyancing Procedure in Nigeria: Recommendations for Better Land Titles' (2021) Munich, GRIN Verlag http://www.grin.com/document/1064728 accessed 17 February, 2026.
[69] S O Imhanobe, Understanding Legal Drafting and Conveyancing (Lagos: Academy Press Plc 2002) 195.

In land transactions, title is the legal basis upon which a person claims ownership or a proprietary interest in land.[70] The validity of every land transaction depends largely on the existence of a valid title in the person transferring the land.[71] It is the evidence of a person's right to possess, use, control, or transfer land in accordance with law.[72] Therefore, the first consideration before any purchaser can acquire an interest in land is whether the vendor has a good title capable of being transferred.[73]

In Nigeria, land ownership can be achieved by a number of recognised methods as enshrined in law.[74] The manner in which title is acquired often influences the interest that the title holder has in the land.[75] The courts have always recognised these as valid ways in which proprietary interests in land can be acquired, and in which they can be held. It is necessary to differentiate the terms, legal and equitable title. Legal title can be considered as possession known and valid legally whereas equitable title simply means an that even without finalized legal documentation, a legitimate financial or ownership interest is acknowledged if a valid agreement and intent to transfer exist.[76] hence, where a buyer has completed a payment and occupies a land but the statutory deed of assignment has not been executed, equity may regard the purchaser as having acquired an equitable interest in the property.[77] This equitable protection developed to prevent injustice and ensure that a party who has substantially performed his obligations is not deprived of his interest merely because legal formalities remain incomplete.[78]

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[70] I O Smith, *Practical Approach to Law of Real Property in Nigeria* (2nd edn, Ecowatch Publications Ltd 2007) 87.
[71] Y Y Oadem, Property Law Practice in Nigeria (Jos: University Press Ltd 2009) 169.
[72] A Omotola, *Essays on the Land Use Act 1978* (Lagos University Press 1984) 41.
[73] Ibid.
[74] N A Ollennu, *Principles of Customary Land Law in Ghana* (Sweet & Maxwell 1962) 4.
[75] *Idundun v Okumagba* (1976) 9–10 SC 227.
[76] M A El-Hallaq and M I E Eid, 'Development of GIS-Based Land Registry System for the Gaza Strip' (2020) (7) (4) *International Journal of Engineering Technologies and Management Research* 1.
[77] *Savage v Sarrough* (1937) 13 NLR 141.
[78] I A Umezulike, ABC of Contemporary Land Law in Nigeria (Enugu; Snap Press 2013)

The notion of good title is closely connected with this distinction. A good title is one that is free from reasonable doubt and capable of being successfully defended against adverse claims.[79] In every land transaction, a purchaser is entitled to investigate the title of the vendor in order to ascertain whether the latter possesses a transferable interest.[80] The doctrine of *nemo dat quod non habet* has been applied to land transactions, which means a seller cannot sell a better title than he has.[81] Therefore, if a seller does not have title to the land or has a defective title, a purchaser, who has paid for the land, will usually have no valid interest in the land, regardless of the amount paid.[82]

The Supreme Court's ruling in *Idundun v Okumagba* is one of the important decisions on the issue of proof of title.[83] The court stated that there are three ways of proving title to land namely: traditional evidence, evidence in the form of documents of title and acts of ownership stretching over a long period of time.[84] Likewise, in *Piaro v Tenalo*, the Supreme Court reiterated that a claimant wishing to obtain a declaration of title to land must do so on his own merits and not on the weaknesses of the defence.[85] The burden was thus placed on the person asserting title to prove the validity of his claim with credible evidence recognised by the law.[86]

In Nigeria, the Act of Land Use 1978 brought some changes to the nature of title to land.[87] Under the Act, the ownership title was not absolute in the traditional sense.[88] It rather was one of the statutory or customary rights of occupancy recognised by the Act.[89] Nevertheless, it is a valuable

[79] Megarry and Wade, *The Law of Real Property* (9th edn, Sweet & Maxwell 2019) 112.
[80] Ibid.
[81] *Okelola v Boyle* (1998) 2 NWLR (Pt 539) 533.
[82] Ibid.
[83] *Idundun v Okumagba* (1976) 9–10 SC 227.
[84] Ibid.
[85] *Piaro v Tenalo* (1976) 12 SC 31.
[86] ibid.
[87] B O Nwabueze, *Nigerian Land Law* (Nwamife Publishers Ltd 1972) 57.
[88] Land Use Act 1978, s 1.
[89] *Nkwocha v Governor of Anambra State* (1984) 6 SC 362.

proprietary interest that can be transferred, assigned, leased, mortgaged and inherited in accordance with the provisions of the Act.[90]

In reality, one of the most frequent grounds for litigation in Nigeria is disputes over title. The study of title is one of the most significant issues that arise in land transactions, as multiple sales, forged documents, conflicting claims under customary law, defective conveyances, and boundary disputes often cause questions to be raised regarding the validity of title.[91] A prudent buyer is expected to search and ask the relevant questions to verify that the title being conveyed is subsisting, valid and free from encumbrances.[92]

Thus, the idea of title can be said to form the basis of land transactions. No man can legally convey more than he has, and the validity and security of every land transaction is closely dependent upon the existence of a good and marketable title. It, therefore, is impossible to go through any discussion of the legal issues confronting the Nigerian land transaction without appreciating the concept of land ownership.

[90] Land Use Act 1978, ss 21–22.
[91] O Smith, *Practical Approach to Law of Real Property in Nigeria* (Revised edn, Ecowatch Publications Ltd 2013) 211.
[92] M Laughlin & F Nichols, Resource Management: The Land Administration and Cadastral Systems Component. *Surveying and Mapping* (1989) No. 2, p. 77-86

2.1.4 Concept of Land Registration

One of the most important ways of providing certainty, security and transparency in land transactions is through land registration. The essence of registration is to create an official record of interests affecting land so as to provide reliable information regarding ownership and encumbrances.[93] In modern property law, registration serves as a means of protecting proprietary interests, facilitating land transactions, and reducing disputes arising from competing claims to land.[94] Given the importance of land as an economic and social resource, an effective registration system is indispensable for the orderly administration of land rights.

The overall purpose of the registration of land instruments in Nigeria is to ensure that land documents are public records and are available for inspection by interested persons, and this is achieved through the provisions of the various Land Instruments Registration Laws in the various states of the Federation.[95] The land instruments registration laws vary slightly from one state to another, though the general aim is to keep land instruments public records which are available for inspection by interested parties.[96]

A land instrument is typically any instrument that has any impact on an interest in land. These instruments are generally needed to be registered during a period specified by the relevant law.[97] This is to enable notice to be given to the public and to afford documentary evidence of interests affecting land.[98]

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[93] I O Smith, *Practical Approach to Law of Real Property in Nigeria* (2nd edn, Ecowatch Publications Ltd 2007) 327.
[94] J Zevenbergen, 'A Systems Approach to Land Registration and Cadastre' *Nordic Journal of Surveying and Real Estate Research* 1, 2004 p. 11
[95] See, for example, the Land Instruments Registration Law, Cap L58 Laws of Lagos State 2015; Land Instruments Registration Law, Cap 72 Laws of Eastern Nigeria 1963 (applicable in some South-Eastern States subject to modifications).
[96] N C Obi, *Modern Nigerian Land Law* (University Press Plc 2013) 214.
[97] Land Instruments Registration Law, Cap L58 Laws of Lagos State 2015, s 2.
[98] Land Instruments Registration Law, Cap L58 Laws of Lagos State 2015, s 16.

The main evidentiary and protective roles of land registration are paramount. Registration helps to ensure that prospective purchasers and those interested in a property can be sure that there is no prior interest or encumbrance on the land, such as a mortgage, lease, pending litigation, acquisition by the government, or other adverse interest.[99] Conducting searches at the relevant land registry helps ensure confidence in land transactions and minimises the possibility of fraud and multiple sales.[100] Despite its significance, registration under Nigerian law does not give title where there is none.[101] The validity of a transaction is still dependent on the validity of the title being transferred.[102] One who acquires the land from the vendor who has no title cannot rely only on the registration of the instrument to establish the land ownership.[103]

This principle is so prominent that it has been the hallmark of the Nigerian courts from time immemorial. In *Ogunbambi v Abowaba*, the court noted that registration does not cure defects in title and a purchaser is required to establish the validity of the interest claimed to have been conveyed.[104] In *Awojugbagbe Light Industries Ltd v Chinukwe*, the Supreme Court restated that registration of a land instrument is not conclusive proof of ownership and cannot transform an invalid transaction into a valid one.[105]

Registration has other important legal implications in evidence. Many Land Instruments Registration Laws hold that an instrument which is required to be registered but is not so registered may be excluded from evidence for land title purposes as being unregistered.[106] This provision is

[99] W Joel, Importance of a Good Land Registration System (1) available at: ibejulekkilawyer.com accessed 15/3/2026

[100] JP Powelson, *The Story of Land: A History of Land Tenure and Agrarian Reform*, The Lincoln Institute of Land Policy(1988), 26 Towbridge Street, Cambridge,

[101] A Omotola, *Essays on the Land Use Act 1978* (Lagos University Press 1984) 96.

[102] ibid.

[103] A Didigwu and A Osarenkhoe, Automated Land Registration in Edo State, Nigeria *British Journal of Environmental Sciences* 3, 5, 1-9, (2015)

[104] *Ogunbambi v Abowaba* (1951) 13 WACA 222.

[105] *Awojugbagbe Light Industries Ltd v Chinukwe* (1995) 4 NWLR (Pt 390) 379.

[106] Land Instruments Registration Law, Cap L58 Laws of Lagos State 2015, s 15.

designed to promote compliance with registration and to keep the registration system in good order. Courts, however, have held that an unregistered instrument can be admissible for limited purposes, including proof that a transaction was occurred, or a proof of an equitable interest.[107]

It is also interesting that the Land Use Act 1978 is linked with land registration. Apart from registration requirements, there are some transactions that need to be accompanied by the consent of the Governor before they are legally effective.[108] This means that parties will need to meet the registration requirements and other statutory formalities required by law.[109]

Although land registration is crucial, the system in Nigeria is beset with a lot of challenges. These include bureaucratic delays, inadequate record-keeping, high registration costs, corruption, loss of records, and the continued prevalence of informal land transactions.[110] These have led to demands for reorganisation of the land registries in an attempt to move them into a modern framework and provide more secure and reliable land information.[111]

Land registration is thus still one of the most important pieces of the law of land transactions in Nigeria. Registration creates certainty and clarity about interests vested in land, safeguards proprietary rights and enables commercial transactions to be carried out. However, registration does not prevent defects in title or remedy non-existent title. In the context of this, while the registration of transactions in land can improve the security of land transactions, it is important that the parties to these transactions also ensure that they adhere to all the legal requirements for acquiring and transferring interests in land.

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[107] *Okoye v Dumez (Nig) Ltd* (1985) 1 NWLR (Pt 4) 783.
[108] Land Use Act 1978, ss 21–22.
[109] *Savannah Bank (Nig) Ltd v Ajilo* (1989) 1 NWLR (Pt 97) 305.
[110] ibid.
[111] P Mayer and A Pemberton, *A Short History of Land Registration in England and Wales*. HM Land Registry, London 2000

2.1.5 Concept of Governor's Consent under the Land Use Act

The Land Use Act 1978 is one of the most peculiar aspects of land transaction in Nigeria, which mandates for Governor's Consent. It was a part of the general changes that formed the basis of the Act and one of the most discussed components of the Nigerian land law, especially in relation to land transactions.[112]

The requirement is primarily contained in Section 22 of the Land Use Act which provides that it should not be lawful for a holder of a statutory right of occupancy granted by the Governor to alienate his right of occupancy or any part thereof by assignment, mortgage, transfer of possession, sublease or otherwise howsoever without first obtaining the consent of the Governor.[113] Whereas, if two parties enter into a contract involving the sale of ordinary property rights, neither party can be prevented from disposing of the property, dealings involving statutory rights of occupancy must be approved by government.

The justification for the consent requirement goes back to the aims of the Land Use Act. Prior to the enactment of the Act, uncontrolled speculation in land, concentration of land ownership in a few hands, and difficulties associated with land acquisition constituted major challenges in Nigeria.[114] The legislature sought to establish a system that would enable government supervision of land transactions while ensuring equitable access to land resources.[115] Governor's Consent was therefore intended to provide a mechanism through which the state could monitor land transfers and prevent transactions considered contrary to public policy or developmental objectives.[116]

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112 A Omotola, *Essays on the Land Use Act 1978* (Lagos University Press 1984) 67.
113 Land Use Act 1978, s 22.
114 B O Nwabueze, *Nigerian Land Law* (Nwamife Publishers Ltd 1972) 301.
115 Niki Tobi, *Cases and Materials on Nigerian Land Law* (Malt House Press Ltd 1997) 241.
116 AU Didigwu & A Osarenkhoe, Automated Land Registration In Edo State, Nigeria. *British Journal of Environmental Sciences* 3, 5, 1-9, (2015).

Governor's Consent is applied to different means of transferring land, such as assignments, mortgages, subleases, and transfers of possession based on statutory rights of occupancy, before they become fully effective.[117] It normally requires that the proper land administration office in the state where the land is located submit required documents to the Governor of that state for assessment and approval.

There has been significant controversy in the courts regarding the meaning of section 22. Of all the decisions in this field, one of the most influential was the one made in *Savannah Bank (Nig.) Ltd v Ajilo*. In that instance, the Supreme Court ruled that a mortgage on land on which there was a statutory right of occupancy but where Governor's Consent had not been secured was unenforceable.[118] This clarified the mandatory nature of section 22 and confirmed that a transaction that did not obtain Governor's Consent would be unenforceable despite its form as a mortgage. The decision in *Savannah Bank v Ajilo* was harsh on commercial transactions and secured lending.[119] This caused major concern among legal scholars and financial institutions regarding the uncertainty in land dealings and the ability to obtain credit facilities.[120]

Later cases attempted to reduce some of the problems with the strict stance taken in the *Savannah Bank v Ajilo case*. This approach was intended to balance a more "practical" reading which would serve to uphold legitimate commercial expectations and yet remain consistent with the statutory requirements, in *Awojugbagbe Light Industries Ltd v Chinukwe*, the Supreme Court explained that where parties had entered into a transaction that requires consent, the transaction could remain "inchoate" until consent is obtained, instead of being void from the outset.[121] This approach

[117] Land Use Act 1978, s 22.
[118] I O Smith, *Practical Approach to Law of Real Property in Nigeria* (2nd edn, Ecowatch Publications Ltd 2007) 289.
[119] *Savannah Bank (Nig.) Ltd v Ajilo* (1989) 1 NWLR (Pt 97) 305.
[120] ibid.
[121] O A Oduwole, 'The Role of Lawyers in Real Estate Transactions in Nigeria' (2021) 9 *Nigerian Property Law Journal* 72.

reflected a more pragmatic interpretation designed to preserve legitimate commercial expectations while maintaining compliance with statutory requirements.[122]

There has been a strong consensus therefore that the consent requirement is one of the major challenges of efficient land administration and investment in Nigeria.[123] This is due to the processes and unnecessary delays in getting consent.[124] Calls have been made for legislative reforms to simplify the process of obtaining consent or limit its application to certain categories of transactions. Many scholars have argued that the requirement has become one of the major obstacles to efficient land administration and investment in Nigeria.[125]

However, although it has been condemned, Governors Consent is still integral to land law in Nigeria. Parties involved in land transactions will have to ensure that where statutory rights of occupancy exist, the necessary consent is obtained, otherwise the transaction may be subject to legal challenges and uncertainty.[126] Governor's Consent is thus a very important part of the statutory process of land transactions in Nigeria. It was intended to make government more effective and orderly land administration, but it has created many legal and administrative problems. It is therefore important to take into account the implication of the consent requirement in the Land Use Act in any study of the legal concerns of land transactions in Nigeria.

2.1.6 Concept of Customary Land Tenure

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[122] Nwakamma, E. "Conveyancing Practice and Land Registration in Nigeria," *Nigerian Law Journal*, 8 (2020), p. 212.

[123] *Awojugbagbe Light Industries Ltd v Chinukwe* (1995) 4 NWLR (Pt 390) 379.

[124] T S Alieke 'Perfection of Title in Land Transaction in Nigeria', 7- 1-2022, https://www.tekedia.com/perfection-of-title-in-land-transactions-in-nigeria/, accessed 15-1-2026

[125] A N Ukaejiofo 'Land information system: Embracing new economic model' https://www.geospatialworld.net/article/land-information-system-embracing-new-economic-model/ accessed on 23-05-2026

[126] *Union Bank of Nigeria Plc v Ayodare & Sons (Nig.) Ltd* (2007) 13 NWLR (Pt 1052) 567.

The custom land tenure is one of the oldest and longest lasting system of land holding in Nigeria. Before the advent of colonial administration and the introduction of received English law, land ownership and administration in most Nigerian communities were governed by customary rules and practices developed over time.[127] Although statutory interventions, particularly the Land Use Act 1978, have significantly altered the landscape of land administration, customary land tenure remains an important component of the Nigerian land tenure system and continues to regulate landholding in many rural and semi-urban communities.[128] Consequently, an understanding of customary land tenure is essential to any examination of land transactions in Nigeria, especially because a substantial proportion of land disputes originate from transactions involving customary land.[129]

Customary land tenure may be described as the body of customary rules, practices, and institutions governing the ownership, use, occupation, transfer, and management of land within a particular community.[130] Unlike the individualistic orientation of English land law, customary land tenure is generally founded upon communal ownership, family ownership, and collective interests.[131] Under the traditional conception, land was regarded not merely as an economic asset but as a heritage belonging to past, present, and future generations of a community or family.[132] Consequently, individual rights over land were often subordinate to the collective interests of the group.

The communal ownership is one of the main features of customary land tenure.[133] Individuals did not have absolute rights over communal land, and instead, the community head, chief, or

[127] B O Nwabueze, *Nigerian Land Law* (Nwamife Publishers Ltd 1972) 1.
[128] Land Use Act 1978, ss 1 and 36.
[129] I O Smith, *Practical Approach to Law of Real Property in Nigeria* (2nd edn, Ecowatch Publications Ltd 2007) 52.
[130] N A Ollennu, *Principles of Customary Land Law in Ghana* (Sweet & Maxwell 1962) 1.
[131] ibid.
[132] *Amodu Tijani v Secretary, Southern Nigeria* [1921] 2 AC 399 (PC).
[133] Niki Tobi, *Cases and Materials on Nigerian Land Law* (Malt House Press Ltd 1997) 87.

traditional ruler would have administrative authority over communal land as a trustee, rather than as the absolute landowner.[134] This allowed for the continued use and enjoyment of communal land by members of the community, and prevented arbitrary alienation of the land by its individual members.[135]

Customary land tenure also has an important role in terms of family ownership.[136] The courts have always made it clear that it is essential that the principal members approve such transactions, which serve as a protection against the wrongful alienation of family land.[137] It also safeguard the interests of all the family land's beneficiaries.[138]

Traditional land rights have been well elaborated on in court decisions. In *Lewis v Bankole*, the court recognised the existence of family ownership of land under native law and custom and affirmed that family property is held collectively for the benefit of all family members.[139] Similarly, in *Amodu Tijani v Secretary, Southern Nigeria*, the Privy Council acknowledged the communal nature of indigenous landholding systems and rejected the assumption that English notions of individual ownership accurately reflected African customary land tenure.[140] The decision remains one of the most authoritative judicial pronouncements on the nature of customary land rights in Nigeria.

Customary law also applies to the transfer of interests in land.[141] Under customary law, the alienation of communal or family land was subject to restrictions, including the requirement for the

[134] ibid.
[135] S Udemezue, 'Requirement of Governor's Consent in Land Transactions in Nigeria: Does *Savannah Bank v Ajilo* Still Reign?' (2023) *SSRN Electronic Journal*.
[136] J O Ezeanokwasa and A I Eze, 'The Requirement of Governor's Consent in the Alienation of Interest in Land under the Land Use Act: A Critical Review' (2021) 2(1) *Awka Capital Bar Journal*.
[137] *Ekpendu v Erika* (1959) SCNLR 186.
[138] *Mogaji v Nuga* (1960) 5 FSC 107.
[139] *Lewis v Bankole* (1908) 1 NLR 81.
[140] *Amodu Tijani v Secretary, Southern Nigeria* [1921] 2 AC 399 (PC).
[141] D C Nwuzor and C N Anyanwu, 'Implications of Restrictions on Alienation of Land under the Land Use Act 1978' (2024) 5 *International Journal of Law and Clinical Legal Education*.

participation of the family head or principal members in transactions involving family land and the requirement of approval by community authorities in transactions involving communal land.[142] Failure of such persons to participate or for communal land to be approved by the authorities could result in an invalid transaction.[143] As the Supreme court stated in *Ekpendu v Erika*, the concurrence of the principal members of the community is an essential requirement for the valid alienation of family land under customary law.[144]

The Land Use Act 1978 had a major impact on customary landholding.[145] Section 36 of the Act recognises the existence of customary rights of occupancy and preserves certain interests previously enjoyed under customary tenure.[146] This has led to considerable debate about whether the Act substantially changed customary tenure, or whether customary rights are still regarded as largely unchanged except as expressly altered by the Act.[147]

Recent academic research has emphasised the ongoing relevance of customary land tenure in the context of ongoing urbanisation and formalisation of land administration. Such views indicate that customary tenure is still a predominant and prevalent manner of land holding in many parts of Nigeria that affects land transactions even when statutory systems are in place, as customary tenure has co-existed with statutory land rights.[148] This has created a pluralistic land tenure framework that often engenders legal uncertainty and conflicts.[149]

[142] D U Ajah and J N Ajah, 'Through the Backdoor, Dressed in Borrowed Robes: The Use of Power of Attorney for the Transfer of Interest in Land in Nigeria' (2023) 18 *The Nigerian Juridical Review* 116–126.
[143] *Esan v Faro* (1947) 12 WACA 135.
[144] *Ekpendu v Erika* (1959) SCNLR 186.
[145] Land Use Act 1978, s 36.
[146] Land Use Act 1978, s 1.
[147] A Omotola, 'The Land Use Act and Customary Tenure in Nigeria' (1982) 26 *Journal of African Law* 76.
[148] O V C Okene, 'Customary Land Tenure and Land Rights in Nigeria: Contemporary Issues and Challenges' (2015) 9(2) *Nigerian Bar Journal* 135.
[149] E C Duruigbo, 'The Land Use Act and Indigenous Land Rights in Nigeria: A Critical Assessment' (2007) 15 *African Journal of International and Comparative Law* 189.

Although customary land tenure is relevant, some of the challenges in the current Nigeria are encountered. However, customary tenure is still relevant for land ownership and is very much entrenched in the socio-cultural landscape of many Nigerian communities, though it has become more and more commercialised by the year.[150] This has created conflicts and uncertainties with statutory provisions.[151]

Customary land tenure hence, is a basic component of land tenure system in Nigeria. Its principles still shape the ownership, management and transfer of land despite the establishment of the statutory land administration system introduced by the Land Use Act. For any meaningful analysis of land transactions in Nigeria, knowledge of customary land is essential, as many legal problems that may arise in land transactions relate to customary land.

2.2 Theoretical Framework

2.2.1 Property Rights Theory

In the Property Rights Theory, land is not just physical but a bundle of rights that can be legally enforced. The theory views property as consisting of rights such as the right to possess, use, exclude others, and transfer.[152] It is closely associated with classical legal and economic thought which emphasises that clearly defined and enforceable property rights are essential for efficient resource allocation and economic development.[153]

[150] C I G Agwor and N Amadi-Harry, 'Consent of the Governor in Land Transactions: Whose Duty and When' (2024) 10 *Imo State University Journal of Commercial and Contemporary Law* 1.
[151] I O Oyeyemi, 'An Appraisal of Issues and Challenges of Operation of Leases in Nigeria' (2025) 12(1) *Nnamdi Azikiwe University Journal of Commercial and Property Law*.
[152] Honore, *Making Law Bind* (OUP 1987) 161.
[153] R Cooter and T Ulen, *Law and Economics* (6th edn, Pearson 2012) 73.

The theory is especially relevant in the field of land law, where land deals are about transferring and safeguarding property rights. Legal conflicts inevitably arise as a result of an unclear, defective, or fraudulently transferred property right.[154] The theory helps explain why there are defects of title, failure to get Governor's consent or improper registration affecting the validity of land transactions in Nigeria.[155] The powers for land is vested in the Governor, and the holders of the rights of occupancy are given rights that are legally recognised property rights as they can be transferred, assigned and mortgaged subject to statutory conditions.[156]

Scholars have also linked weak enforcement of property rights in land to insecurity of tenure and frequent litigation in Nigeria.[157] Where rights are uncertain, parties are more likely to engage in informal transactions, multiple sales, and fraudulent dealings, all of which constitute major legal issues in land transactions.

2.2.2 Legal Positivism Theory

According to the Legal Positivism Theory, the basis of the law's validity is because it has been written by the legal authority that is recognised, not because it is just or equitable.[158]

This theory is very applicable to Nigeria's land transactions, given the fact that land transactions in Nigeria are subjected to a statutory framework, such as the Land Use Act 1978, Land Instruments Registration Laws and other conveyancing laws.[159] Regardless of the purposes for which the land is intended, transactions are invalid unless they comply with these laws.

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[154] N Iroaganachi, ‘Governor’s Consent: A Challenge to Land Alienation in Nigeria’ (2021) *Journal of Commercial and Property Law*.
[155] Land Use Act 1978, s 1.
[156] Land Use Act 1978, ss 5–28.
[157] O V C Okene, ‘Customary Land Tenure and Land Rights in Nigeria’ (2015) 9(2) *Nigerian Bar Journal* 135.
[158] H L A Hart, *The Concept of Law* (2nd edn, OUP 1994) 94.
[159] Land Use Act 1978, s 22.

Under a positivist approach, where the consent of the Governor is a legal prerequisite for alienation of the statutory rights of occupancy, a transaction lacking in such consent is legally null and void, even if it is done on the basis of an agreement and it is fair to all concerned. This was apparently evident in judicial decisions like *Savannah Bank v Ajilo* where the Supreme Court took the provision literally as per the statute.[160]

The formalistic nature of Nigerian land law is therefore explained by the legal positivism and why courts prescribe strict compliance with the statutory requirement in land transactions, despite the hardship or commercial inconvenience caused by such strict compliance.

2.2.3 Theory of State Control of Land (Trusteeship Theory under the Land Use Act)

The State Control or Trusteeship Theory originates with the concept that land is in the hands of the State and the land is administered by the state in the interests of the people. The theory is echoed in the Land Use Act 1978 which entrusts the Governor with the ownership of all land in each state for the benefit of the people.[161]

According to this theory, people are not the owners of land, but only have rights derived from the land that are granted and controlled by the government. The state is thus a trustee having the power to allocate, regulate, revoke and control interests in land for public interest.

The theory is very relevant to land transactions in Nigeria because it offers a legal explanation of the necessity of Governor's consent, control over alienation and regulation of land instruments. It also provides justification for governmental intervention in land markets to prevent speculation, ensure an equitable distribution of access and development, and promote orderly development.

[160] *Savannah Bank (Nig) Ltd v Ajilo* (1989) 1 NWLR (Pt 97) 305.
[161] Land Use Act 1978, s 1.

The theory has been criticised for causing bureaucracy, corruption and inefficiencies in land administration while requiring state approval for private land transactions is often regarded as a major barrier to free market transfer of land and a source of legal uncertainty in Nigeria.[162]

However, in spite of these criticism, the theory holds the ascendancy in the law and is grounded on the constitutional and statutory provisions of land ownership and transactions in Nigeria.

[162] V Ilechukwu and D Akinpelu, 'Perceived Effects of 1978 Land Use Act Provisions on Sustainable Housing Development in Lagos State, Nigeria' (2025) 11(2) *Ibadan Planning Journal*.

CHAPTER THREE

LEGAL FRAMEWORK FOR LAND TRANSACTIONS IN NIGERIA

3.1 Introduction

The legal framework in Nigeria for land transactions, which includes both statutory provisions and customary law rules, is itself a complex one with judicial decisions and principles of received English law. The multiplicity of sources of law is the result of the evolution of land administration in Nigeria over the years and the various tenure systems in existence in Nigeria. Thus, transactions involving lands are frequently subject to a mixed body of statutes, principles of customary law and judicial decisions to determine their validity and enforceability.

Existing laws on land transactions are mainly focused on: ensuring certainty of title, protecting proprietary interests, preventing fraudulent dealings, and promoting orderly administration of land. The law sets out different conditions and formalities that must be satisfied for the interests in land to be considered to be validly transferred, assigned, leased or mortgaged or otherwise alienated, with the aim of ensuring the safeguarding of both of the private interests and public policy interests concerning the management and development of land.[163]

The Land Use Act 1978 is a key element of this framework. Under the provisions of the Act, it has been the main law governing land ownership and land deals in Nigeria since its promulgation.[164] The Act completely changed the traditional land ownership concept by making all the land in each state vested in the Governor but held in trust for the use and common benefit of Nigerians and also introduced statutory and customary rights of occupancy.[165] The Act further contains provisions

[163] I O Smith, *Practical Approach to Law of Real Property in Nigeria* (2nd edn, Ecowatch Publications Ltd 2007) 121.
[164] Land Use Act 1978, s 1.
[165] *Nkwocha v Governor of Anambra State* (1984) 6 SC 362.

concerning the transfer of interests in land that are governed by its provisions in relation to Governor's consent, revocation of rights of occupancy and control of alienation.[166]

Apart from the Land Use Act, the various Land Instruments Registration Laws in different States of the Federated Republic govern land transactions. These laws provide for registration of instruments relating to land and aim to ensure proper documentation and registration of interests in land.[167]

In addition, conveyancing transactions are still subject to the Property and Conveyancing Law in States in which it is in force and to the Conveyancing Act 1881 in jurisdictions in which it is still in operation.[168] Customary law is also a significant source of regulation with regard to land transactions. Today, there is still a significant amount of land use transactions that are governed by customary law, even after the enactment of the Land Use Act.[169] Customary law continues to play an important part in land law in Nigeria because of its role in stipulating customary rules as part of the conditions for the validity of land transactions.[170]

The law on land transactions also has been largely influenced by judicial rulings. Nigeria's courts have fashioned principles which inform land transactions and address areas of uncertainty through the interpretation of the provisions of the various statutes and the resolution of disputes over title, registration, consent and customary ownership.[171] Most of the great minds on land law are the result of judicial efforts to resolve the conflict between the statutory provisions and the customary practices and commercial realities.[172]

[166] Land Use Act 1978, ss 21–22.
[167] Land Instruments Registration Law, Cap L58 Laws of Lagos State 2015, ss 2 and 15.
[168] Property and Conveyancing Law, Cap 100 Laws of Western Nigeria 1959; Conveyancing Act 1881.
[169] A Omotola, 'The Land Use Act and Customary Tenure in Nigeria' (1982) 26 *Journal of African Law* 76.
[170] *Ekpendu v Erika* (1959) SCNLR 186.
[171] *Savannah Bank (Nig) Ltd v Ajilo* (1989) 1 NWLR (Pt 97) 305.
[172] Niki Tobi, *Cases and Materials on Nigerian Land Law* (Malt House Press Ltd 1997) 214.

The legal regime of land deals in Nigeria is thus explored in this chapter. Special focus is given to the statutory framework provided by the Land Use Act 1978 and other legislation, the customary law framework for land dealings, judicial decisions in the development of land law and the legal requirement to ensure that a land transaction is valid.

3.2 Statutory Framework Governing Land Transactions in Nigeria

3.2.1 The Land Use Act 1978

The primary legislation that governs land ownership, administration and transaction in Nigeria is the Land Use Act 1978. The Act has featured prominently in the Nigerian land tenure system since its enactment, and has had a major impact on how interests in land are acquired, held, transferred, and extinguished.[173] The main purpose of the Act was to solve the problems of multiple land tenures, land speculation, lack of equitable access to land resources and problems of land acquisition for public purposes.[174] Therefore, it was designed to provide for a territory-wide uniform framework for effective land administration and equitable access to land resources.

Before the coming into force of the Land Use Act, the land holding rights in Nigeria were governed by a mixture of customary law, received English law, regional laws, and local practice.[175] This pluralistic system frequently led to uncertainty in land transactions and complications for individuals, corporations and government agencies wanting to purchase land.[176]

This situation was especially problematic in urban areas where land was becoming commercialised, causing disputes, speculative practices and conflicting claims of ownership, and the Federal Military Government responded with the Land Use Act within the wider context of a

[173] Land Use Act 1978.
[174] A Omotola, *Essays on the Land Use Act 1978* (Lagos University Press 1984) 1.
[175] B O Nwabueze, *Nigerian Land Law* (Nwamife Publishers Ltd 1972) 301–310.
[176] I O Smith, *Practical Approach to Law of Real Property in Nigeria* (2nd edn, Ecowatch Publications Ltd 2007) 275.

programme of land reform.[177] Perhaps the most basic of the Act is section 1 which places all land within the jurisdiction of each state of the Federation in trust for the use and common benefit of all Nigerians.[178] This was an important innovation over the existing system of absolute ownership and was the first to include the idea of state trusteeship over land.[179] The Act did not do away with the concept of private interests in land, but changed the basis on which these interests are recognized from being absolute to being statutory and customary rights of occupancy.[180]

Judicial attention has been given to the effect of section 1 upon the law. The Supreme Court in *Nkwocha v Governor of Anambra State* stated that the Act did nationalise land in the sense that existing possessory and proprietary interests recognized under the law were not affected by the act to the detriment of the owners, but that the act vested radical title over land in the Governor.[181] Likewise, the court noted the Act did not take private property but simply changed the mechanism or context for exercising and regulating land rights.[182] The Act includes a significant new feature, the system of rights of occupancy. According to the Act, two main categories of rights of occupancy exist, that is, statutory rights of occupancy and customary rights of occupancy.[183] A statutory right of occupancy exists over land located in urban areas and a customary right over land located in non-urban areas is normally granted by Local Governments.[184] These rights are interests that may be assigned, leased, mortgaged, inherited and otherwise disposed of, and are recognized by law.[185]

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[177] A Omotola, 'Land Reform and the Land Use Act' (1980) 24 *Journal of African Law* 53.
[178] Land Use Act 1978, s 1.
[179] Niki Tobi, *Cases and Materials on Nigerian Land Law* (Malt House Press Ltd 1997) 231.
[180] ibid.
[181] *Nkwocha v Governor of Anambra State* (1984) 6 SC 362.
[182] ibid.
[183] Land Use Act 1978, ss 5 and 6.
[184] ibid.
[185] Land Use Act 1978, ss 21–22.

The right of occupancy has been considered as the 'cornerstone of the Land Use Act' as it is the main proprietary interest granted by the Act.[186] A right of occupancy holder has both the right to exclusive possession and enjoyment of the land subject to the terms and conditions of the grant.[187] These rights, however, unlike the absolute rights at common law, are not absolute, but are controllable by the government and subject to cancellation or withdrawal according to the terms of the Act.[188] Another crucial feature of the Land Use Act is that it controls alienation of interests in land. Sections 21 and 22 limit the transfer of rights of occupancy and restrict transactions in certain cases until the consent of the Governor or Local Government authority is obtained.[189]

The provisions were intended to facilitate government regulation of land transactions and to stop "untouched" dealings in land.[190] Assignments, mortgages, subleases and transfers of possession of statutory rights of occupancy usually do not become fully effective without the consent of the Governor.[191] The Supreme Court brought attention to the importance of these provisions in the case of *Savannah Bank (Nig.). Ltd v Ajilo*, the court ruled that such a mortgage was unenforceable as it was not done by the Governor's consent.[192] The ruling caused a great deal of controversy in academic and commercial circles, but served to reinforce the compulsory nature of the consent requirement for the Act.[193] Later decisions have attempted to be more flexible but also to ensure compliance with statutory requirements.[194]

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[186] N N Ogbu, 'Digitisation of Land Registries and Security of Title in Nigeria' (2024) 19 *Nigerian Journal of Property and Commercial Law* 33

[187] Land Use Act 1978, s 10.

[188] Land Use Act 1978, s 28.

[189] Land Use Act 1978, ss 21–22.

[190] F O Akinola, 'Revisiting the Land Use Act: The Need for Reform' (2017) 11 *Nigerian Bar Journal* 61.

[191] Land Use Act 1978, s 22.

[192] *Savannah Bank (Nig.) Ltd v Ajilo* (1989) 1 NWLR (Pt 97) 305.

[193] J O Ezeanokwasa and A I Eze, 'The Requirement of Governor's Consent in the Alienation of Interest in Land under the Land Use Act: A Critical Review' (2021) 2(1) *Awka Capital Bar Journal* 61.

[194] *Awojugbagbe Light Industries Ltd v Chinukwe* (1995) 4 NWLR (Pt 390) 379.

The Act also allows for the revocation of rights of occupancy for public interest.[195] This can be made under certain circumstances, including the need for land for public use, infrastructure development, mining operations, or for other reasons recognised by law.[196] The Act also makes provisions for the compensation of affected holders to ensure their interests are protected in certain situations.[197]

However, some issues of compensation and revocation still remain to be a major part of land litigation cases in Nigeria.[198] The Land Use Act, despite its goals, has been subject of many criticisms from legal scholars and practitioners. Critics say that the consent rule has made it difficult to get projects on the ground and has made property investments more expensive.[199] Others argue that the centralization of broad powers in the Governor's office has resulted in inefficiency in land administration and the opportunity for abuse.[200] Thus, there have been constant demands to change some of the provisions of the Act for more efficiency and simplified land transactions.[201]

However, despite these criticisms, the Land use Act is the most important law governing land transactions in Nigeria. These provisions impact on almost all land transactions, both directly and indirectly. The nature of interests which can be held in land, conditions of transfer, regulation of governmental control over land and legal basis for modern land administration in Nigeria are

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[195] Land Use Act 1978, s 28.
[196] ibid.
[197] Land Use Act 1978, ss 29–30.
[198] C I G Agwor and N Amadi-Harry, 'Consent of the Governor in Land Transactions: Whose Duty and When' (2024) 10 *Imo State University Journal of Commercial and Contemporary Law* 1.
[199] D D Fiderikumo, 'A Query of the Legality of Consent Fee Charged by Governors Pursuant to Section 22 of the Land Use Act' (2025) 12(2) *Nnamdi Azikiwe University Journal of Commercial and Property Law* 44.
[200] O V C Okene, 'Land Administration under the Land Use Act: Issues and Prospects' (2018) 14 *Nigerian Bar Journal* 97.
[201] D U Ajah and J N Ajah, 'Through the Backdoor, Dressed in Borrowed Robes: The Use of Power of Attorney for the Transfer of Interest in Land in Nigeria' (2023) 18 *The Nigerian Juridical Review* 116.

determined by the Act. Therefore, it is essential to have a knowledge of its contents to any worthwhile consideration of land transfer and the legal issues arising from it.

3.2.2 Land Instruments Registration Laws

Land instruments are crucial documents in land transactions in Nigeria and the process of registering them is an important part of the land sector's legal framework. Registration is a method of documenting land transactions and giving notice of interests created, transferred, or extinguished by such transactions.[202] All the Land Instruments Registration Laws adopted in the various States of the Federation have the purpose of ensuring certainty of land transactions, investigation of title, and minimising any risk of fraud and competing claims to land.[203] The registration of documents affecting land and the consequences of failure to register are governed by these Land Instruments Registration Laws.

The history of land registration law suggests that the current need is for an organised method of recording interests in land. Before the adoption of registration laws, the lack of an effective system for recording land transactions could make it difficult to establish land ownership and to establish competing claims.[204] Registration was therefore put in place to create a record of transactions and to provide parties dealing with land with reliable information about interests that may exist over the land.[205] The land instruments registration laws have as a general rule, provided that instruments that are to affect the land are registered in the appropriate land registry. While the provisions differ from state to state, generally, a land instrument is a document of interest in land which gives or disposes of a right or title to another party.[206] Typical instruments subject to registration are deeds of

[202] I O Smith, *Practical Approach to Law of Real Property in Nigeria* (2nd edn, Ecowatch Publications Ltd 2007) 327.
[203] Land Instruments Registration Law, Cap L58 Laws of Lagos State 2015.
[204] B O Nwabueze, *Nigerian Land Law* (Nwamife Publishers Ltd 1972) 189.
[205] N Tobi, *Cases and Materials on Nigerian Land Law* (Malt House Press Ltd 1997) 312.
[206] Land Instruments Registration Law, Cap L58 Laws of Lagos State 2015, s 2.

assignment, leases, mortgages, subleases, powers of attorney over land and other conveyancing documents relating to proprietary interests.[207] Registration serves as a means of giving public notice of land transactions.[208]

Registration allows prospective purchasers, mortgagees, lessees and others interested in the property to search and determine if the property is subject to any encumbrance or adverse interest.[209] This registration system promotes transparency and helps to prevent multiple sales, fraudulent conveyances, and potential disputes over undocumented interests.[210]

In the Nigerian land law, a significant issue that has consistently come up is the status of land where it has been registered. The courts have always held that registration is not sufficient of itself to give title over land.[211] Registration is not a cure of defects in the title of the transferor or a confirmation of an imperfect transaction, but only a record of what is being registered.[212] This means that someone who buys land from someone who has no legal ownership cannot use registration as proof of his ownership. The validity of the transaction is based on the validity of the transfer of the title.[213]

The principle that registration does not constitute title was well established in *Ogunbambi v Abowaba*, where the court stated that a registration could not cure an imperfect root of title.[214] The rulings in *Awojugbagbe Light Industries Ltd v Chinukwe* also highlighted the difference between the registration of a document and the proof of ownership of land.[215]

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[207] ibid.
[208] A Omotola, *Essays on the Land Use Act 1978* (Lagos University Press 1984) 102.
[209] ibid.
[210] O V C Okene, 'Land Documentation and Security of Title in Nigeria' (2019) 15 *Nigerian Bar Journal* 83.
[211] *Ogunbambi v Abowaba* (1951) 13 WACA 222.
[212] ibid.
[213] O A Aluko and A O Amidu, 'Urban Land Delivery and Land Administration Challenges in Nigeria' (2006) 23 *Journal of Land Use and Development Studies* 89.
[214] *Ogunbambi v Abowaba* (1951) 13 WACA 222.
[215] *Awojugbagbe Light Industries Ltd v Chinukwe* (1995) 4 NWLR (Pt 390) 379.

Nevertheless, due to the evidentiary effect that registration carries, it is legally significant notwithstanding the foregoing. An instrument that must be registered under a law of a jurisdiction may be made unavailable for admittance to evidence as a proof of title if it is not registered.[216] The principle behind this rule is to ensure that the rule of registration is being complied with and that the integrity of the registration system is maintained.[217] So, although failure to register the instrument does not ipso facto affect the validity of the instrument per se, it can affect whether a party can enforce the instrument in court.[218]

However, there are some exceptions to the rule of admissibility that have been recognised by the Courts. In *Okoye v Dumez (Nig.),* the case of an unregistered instrument, the Supreme Court ruled that it could be used for a collateral purpose, except for establishing a legal title.[219] The case illustrates the flexibility of the courts to accommodate a degree of flexibility in order to meet the end of justice.[220]

It is also important to consider the link between registration and Governor's consent as per the Land Use Act. Parties in many transactions of land in which statutory rights of occupancy are involved must not only register the instrument, but must also secure the consent of the Governor.[221]

Consent cannot be replaced by registration and vice versa.[222] Each requirement is independent and must be met where applicable. If either of these requirements is not met, the transaction could be fraught with legal uncertainty and challenges.[223]

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[216] Land Instruments Registration Law, Cap L58 Laws of Lagos State 2015, s 15.
[217] F O Akinola, 'Revisiting the Land Use Act: The Need for Reform' (2017) 11 *Nigerian Bar Journal* 61.
[218] ibid.
[219] *Okoye v Dumez (Nig.) Ltd* (1985) 1 NWLR (Pt 4) 783.
[220] Land Use Act 1978, ss 21–22.
[221] *Savannah Bank (Nig.) Ltd v Ajilo* (1989) 1 NWLR (Pt 97) 305.
[222] ibid.
[223] I G Agwor and N Amadi-Harry, 'Consent of the Governor in Land Transactions: Whose Duty and When' (2024) 10 *Imo State University Journal of Commercial and Contemporary Law* 1.

It is obvious that the registration system is very important but there are still existing practical challenges that are disturbing the effectiveness of the registration system in Nigeria. Some of the significant barriers to effective registration have been identified as delays in application processing; weak record management; inefficiency in the processing of applications; corruption; high costs of registration; and continued dealings in informal land transactions.[224]

This has led to demands for a complete reform of land registration systems with a view to modernizing them and ensuring easier access to land information, with many land records in many states still being poorly digitised and title verification still being difficult and subject to fraudulent transactions.[225] Recent academic literature has also pointed to the link between poor land registration and insecurity of land tenure. Lack of proper documentation and registration persists and has reduced the trust in land transactions and is a cause of land disputes.[226] Likewise, it has been suggested that effective registration regimes are important for the goals of transparency, minimising litigation, and securing proprietary interests.[227]

The Land Instruments Registration Laws are thus of immense importance in the control of land transactions in Nigeria. Registration is not a way to establish title or to make a defective transaction valid but is a necessary way of recording interests in land, a useful mechanism for investigating land ownership and a way of protecting parties against any encumbrances which may be concealed. Therefore, the requirement for registration is an essential step in land transactions today and an integral part of the Nigerian land administration system.

3.2.3 Property and Conveyancing Law and the Conveyancing Act

[224] D U Ajah and J N Ajah, 'Through the Backdoor, Dressed in Borrowed Robes: The Use of Power of Attorney for the Transfer of Interest in Land in Nigeria' (2023) 18 *The Nigerian Juridical Review* 116.
[225] D C Nwuzor and C N Anyanwu, 'Implications of Restrictions on Alienation of Land under the Land Use Act 1978' (2024) 5 *International Journal of Law and Clinical Legal Education* 54.
[226] B E Chigbu, 'Land Governance and Tenure Security in Nigeria' (2019) 8 *Land Use Policy* 261.
[227] Property and Conveyancing Law, Cap 100 Laws of Western Nigeria 1959; Conveyancing Act 1881.

Besides the Land Use Act 1978 and the different Land Instruments Registration Laws, land transactions in Nigeria are also governed by conveyancing laws. The main statutes in this respect are the Property and Conveyancing Law (PCL) of many of the states of southern Nigeria and the Conveyancing Act 1881, that continues to apply in some states where the PCL has not been adopted.[228]

Although the Land Use Act has been passed, such laws act as the legal basis for the formation, transfer and disposition of interests in land and continue to apply in today's transactions.[229]

In England the Conveyancing Act 1881 was made to make the conveyancing law simpler and uniform. The Act was introduced in Nigeria through the process of reception of English law and it remained the main law governing conveyancing transactions for many years.[230] But the inadequacies of the Act and the desire to make it a more all-embracing system resulted in the enactment of the Property and Conveyancing Law 1959 in the former Western Region of Nigeria.[231]

The Property and Conveyancing Law was heavily influenced by the English Law of Property Act 1925 and brought in many reforms which were designed to modernise conveyancing practice.[232] The importance of these statutes is that they set out the legal processes by which interests in land can be transferred, created or extinguished. They control transactions involving land, including assignments, leases, mortgages, settlements, easements, and powers of attorney.[233] As a result, although the nature of interests in land is determined by the provisions of the Land Use Act, many

[228] I O Smith, *Practical Approach to Law of Real Property in Nigeria* (2nd edn, Ecowatch Publications Ltd 2007) 155.
[229] E H Burn and J Cartwright, *Cheshire and Burn's Modern Law of Real Property* (18th edn, OUP 2011) 587.
[230] Property and Conveyancing Law, Cap 100 Laws of Western Nigeria 1959.
[231] ibid.
[232] Niki Tobi, *Cases and Materials on Nigerian Land Law* (Malt House Press Ltd 1997) 172.
[233] A Omotola, *Essays on the Land Use Act 1978* (Lagos University Press 1984) 91.

of the procedures by which interests are transferred are determined by the provisions of the Property and Conveyancing Law and the Conveyancing Act.[234]

The correct documentation in the transactions of land is one of the basic principles of conveyancing law. Land is considered a special type of property and the law normally presumes that land transactions will use written instruments to establish legal interests in land.[235] One of the most frequent ways of transferring proprietary interests in Nigeria is by the execution of deeds. A deed of assignment, for example, is frequently used to transfer the interest of a holder of a right of occupancy to another person.[236]

The Property and Conveyancing Law also contains detailed provisions relating to mortgages. The Law provides that a mortgage can be established through demise, sub-demise, charge by deed or by other recognised means.[237] The provisions have helped to facilitate the use of land as security for credit transactions. With growing commercial activities in Nigeria, the power to set up enforceable mortgages over land was becoming increasingly vital for borrowers and financial institutions.[238] An additional significant aspect of conveyancing law is the area of leases and landlords and tenants. The Property and Conveyancing Law does allow for the formation of legal leases and outlines the formalities required for their acceptance.[239]

It also draws a distinction between legal and equitable interests, allowing a court to serve the protection of those who may not have fulfilled all the formalities required by law, but may have

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[234] Property and Conveyancing Law 1959, ss 67–69.
[235] C N Okafor, 'Customary Land Tenure and Contemporary Land Administration in Nigeria' (2019) 10 *NAUJILJ* 212.
[236] Property and Conveyancing Law 1959, ss 123–136.
[237] B O Nwabueze, *Nigerian Land Law* (Nwamife Publishers Ltd 1972) 221.
[238] Property and Conveyancing Law 1959, ss 50–65.
[239] K C Nwosu, 'Fraudulent Land Transactions and Property Rights Protection in Nigeria' (2022) 14 *Nigerian Juridical Review* 89.

acted in such a way as to create equitable rights which are worthy of protection.[240] Conveying legislation has consistently been used by courts to settle disputes relating to transactions in land. In *Savage v Sarrough*, the court found that the form of the conveyancing documents was crucial in establishing the validity of proprietary interests.[241] Likewise, in the case of *Ogunbambi v Abowaba*, the court reiterated the importance of the concepts of conveyancing in Nigeria's land law in order to be considered effective, a transfer of land must have a valid root of title.[242]

The operation of the Property and Conveyancing Law or the Conveyancing Act was left unaffected by the enactment of the Land Use Act. Instead, both laws remain in effect with the conditions of the Land Use Act.[243] So land use legislation applies to the holding and alienation of rights of occupancy, but conveyancing legislation remains in place to govern the procedural and documentary aspects of deals involving rights of occupancy.[244] Courts have thus taken a view that would seek to reconcile the provisions of the various laws that regulate land deals without considering that they are mutually exclusive.[245]

Modern legal experts have noted that the conveyancing law is still relevant in the conduct of land transactions in Nigeria. While the Land Use Act is in force, the framework of land transactions remains largely based on conveyancing law and practice, including documentation, transfer of interests and enforcement of proprietary rights.[246] In a similar vein, scholars argue that the modern

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[240] *Savage v Sarrough* (1937) 13 NLR 141.
[241] *Ogunbambi v Abowaba* (1951) 13 WACA 222.
[242] Land Use Act 1978, s 48.
[243] E O Chukwuemeka, 'Multiple Sales of Land and the Protection of Purchasers in Nigeria' (2021) 5 *UNIZIK Law Journal* 101.
[244] *Awojugbagbe Light Industries Ltd v Chinukwe* (1995) 4 NWLR (Pt 390) 379.
[245] I O Oyeyemi, 'An Appraisal of Issues and Challenges of Operation of Leases in Nigeria' (2025) 12(1) *Nnamdi Azikiwe University Journal of Commercial and Property Law* 32.
[246] S O Imhanobe, 'Conveyancing Practice and Land Transactions under Nigerian Law' (2015) 3 *ABUAD Law Journal* 120.

innovations of using powers of attorney in land transactions have borrowed much of their legal substance from the general principles of conveyancing.[247]

However, there have been some problems arising from the existence of several conveyancing systems. The continuing use of antiquated conveyancing practices has been questioned as a cause of delays and inefficiency in land transactions and there has been a demand for uniformizing and modernizing conveyancing procedures across the Federation.[248] Thus the Property and Conveyancing Law, and the Conveyancing Act stay significant in the statutory framework of land transactions in Nigeria. They provide for the documentation, transfer and enforcement of proprietary interests and continue to support the administration of land rights through the Land Use Act. Thus, there is need to appreciate the legal requirements and procedures involved in modern land transactions in Nigeria which is premised on the understanding of conveyancing legislations.

3.3 Customary Law Framework Governing Land Transactions in Nigeria

One of the oldest and most important sources of land law in Nigeria is the custom law. Although there have been several laws enacted to govern land administration, customary law still remains central to land ownership, management, and transfer of land, especially in rural communities and where traditional land holding systems continue to be prevalent.[249]

Indeed, there is a significant percentage of customary land transaction in Nigeria and customary law is an integral part of the legal system of land transaction in Nigeria.[250]

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[247] D U Ajah and J N Ajah, 'Through the Backdoor, Dressed in Borrowed Robes: The Use of Power of Attorney for the Transfer of Interest in Land in Nigeria' (2023) 18 *The Nigerian Juridical Review* 116.
[248] A O Smith, 'Registration of titles and security of land transactions in Nigeria' (2016) 7 *University of Ibadan Law Journal* 91.
[249] B O Nwabueze, *Nigerian Land Law* (Nwamife Publishers Ltd 1972) 1.
[250] I O Smith, *Practical Approach to Law of Real Property in Nigeria* (2nd edn, Ecowatch Publications Ltd 2007) 52.

Customary law may be described as the body of rules, practices, and usages which have acquired binding force within a particular community through long and continuous observance.[251] In the context of land transactions, customary law regulates the acquisition, ownership, occupation, use, and transfer of land according to the customs and traditions of the relevant community.[252] While these rules differ from place to place, some general principles have been distilled from judicial case law and from the writings of academics. An important aspect of customary land tenure is communal ownership. In traditional times, lands were not considered as property of individuals but of the community, the family, or the lineage.[253]

It appeared that only the head of the community or family had administrative control over the land as a representative of all of them, and he was not considered the actual owner of the land.[254] This principle was expressly acknowledged by the Privy Council in the case of *Amodu Tijani v Secretary, Southern Nigeria* where it was noted that the customary land tenure systems were not the same as the English doctrine of individual ownership of land and that the land was communally owned.[255] The case is one of the most acknowledged authorities on customary land tenure in Nigeria.

Another major characteristic of the customary law is the control of land by families. Typically, family land is owned as a collective family unit managed by the family head.[256] The family head occupies a fiduciary position and is expected to administer the land for the benefit of all members.[257] That requirement is a safeguard against the sale or disposal of family land without the

[251] E I Nwogugu, *Family Property in Nigeria* (Heinemann Educational Books 1974) 11.
[252] Niki Tobi, *Cases and Materials on Nigerian Land Law* (Malt House Press Ltd 1997) 83.
[253] E O Fakayode, *The Land Use Act: Issues, Challenges and Perspectives* (Malthouse Press 2014).
[254] ibid.
[255] *Amodu Tijani v Secretary, Southern Nigeria* [1921] 2 AC 399 (PC).
[256] E O Akankali, *Nigerian Land Law* (Revised edn, University of Port Harcourt Press 2015).
[257] E O Essien, *Modern Nigerian Land Law and Practice* (Ababa Press 2018).

express consent of the principal members of the family, and acts as a protection for the proprietary rights of the beneficiaries.[258]

The courts have always stated that the agreement of the main family members must be secured in family land transactions. In *Ekpendu v Erika*, the Supreme Court determined that the transfer of family land without the consent of the key members of the family is not valid under customary law.[259] In this instance, the court restated that the customary transfer of family land requires the involvement of both the family head and the principal members, highlighting the communal aspect of customary ownership and the need to adhere to customary conditions. These judgments reinforce the principle of communal ownership under customary law and the significance of fulfilling customary requirements.[260]

Communal land ownership is also recognised by customary law. Such land is held for the benefit of the entire community and is administered by community leaders or traditional authorities.[261] Transactions involving communal land often require the approval of the relevant community representatives before they can be validly concluded.[262] This is done to avoid unauthorized alienation of communal resources and to ensure that the interests of current and future community members are protected.[263]

The process of transfer of land by customary law is significantly different from conveyancing the land under statutory practices. Traditionally, a valid customary transfer can include negotiation, giving of consideration, delivery of possession, and the performance of customary

[258] ibid.
[259] *Ekpendu v Erika* (1959) SCNLR 186.
[260] *Mogaji v Nuga* (1960) 5 FSC 107.
[261] S N C Obi, *The Ibo Law of Property* (Butterworths 1963).
[262] ibid.
[263] E O Essien, *Modern Nigerian Land Law and Practice* (Ababa Press 2018).

ceremonies/symbolic actions recognised by the applicable custom.[264] While written agreements have been incorporated into most of the customary transactions made today, many still rely on the customary requirements as their basis for validity, not the statutory requirements for conveyancing.[265]

The Supreme Court in the case of *Cole v Folami* held that the sale of land under customary law can be completed when the parties agree that it will be sold, consideration is paid and the possession is delivered in accordance with customary law.[266] Likewise, in Ogunbambi v Abowaba, the court has accepted that customary land transactions are legal transactions as long as all the customary requirements are met.[267] These decisions show that customary systems of land transfer are recognised by the court as legal transactions. Customary land tenure was not eliminated by the Land Use Act 1978. Rather, the Act expressly recognises customary rights of occupancy and preserves certain customary interests in land.[268] Section 36 of the Act is meant to give rights to any persons occupying land lawfully before the commencement of the act under customary law.[269]

In addition, Local Governments have the power to confer customary rights of occupancy on non-urban land.[270] This means that customary law continues to exist alongside statutory land administration in the Nigerian legal system. There is significant academic literature on the interactions between customary law and the Land Use Act. The vesting of all lands in the Governor under section 1 of the Act has been said to radically redefine customary ownership.[271] The latter

[264] ibid.
[265] A Omotola, 'The Land Use Act and Customary Tenure in Nigeria' (1982) 26 *Journal of African Law* 76.
[266] *Cole v Folami* (1956) 1 FSC 66.
[267] *Ogunbambi v Abowaba* (1951) 13 WACA 222.
[268] Land Use Act 1978, ss 6 and 36.
[269] Land Use Act 1978, s 36.
[270] Land Use Act 1978, s 6.
[271] A Omotola, *Essays on the Land Use Act 1978* (Lagos University Press 1984) 45.

argue that customary tenure is still very much in existence and continues to govern land use, as long as it is not explicitly altered by legislation.[272]

The judicial perspective has generally been taken that customary law continues to play an important role in determining proprietary rights and in resolving land disputes.[273] Even though customary land is important, there are a number of problems with customary land transactions. Many of the rules of customary law are not written down, which gives rise to uncertainty as to what is required and what are the standards to apply.[274] Conflicts often ensue over the leadership of family heads, who are considered the key members of the family unit, over definitions of the main members of the family, over the demarcation of communal land, and over rival claims to property.[275] The growing commercialization of land use has also led to a greater intensity of the disputes over customary land ownership and facilitated dubious land transactions between family members and the community.[276] The importance of customary law has been underlined by recent research. In many areas of Nigeria customary land tenure still dominates and can have an impact on both formal and informal land transactions.[277] Likewise, it has been suggested that customary law is an important source of rights and obligations in land transaction despite the regulatory framework established by the Land Use Act.[278]

It is thus important to note that customary law is still a fundamental part of land transaction in Nigeria. Customary law still affects acquisition and disposition of land throughout the country, by means of rules regarding communal ownership, family land, customary transfers, and customary

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[272] O V C Okene, 'Customary Land Tenure and Land Rights in Nigeria: Contemporary Issues and Challenges' (2015) 9(2) *Nigerian Bar Journal* 135.
[273] *Abioye v Yakubu* (1991) 5 NWLR (Pt 190) 130.
[274] G O M Ibru, *Property and Conveyancing Law in Nigeria* (Malt House Law Books 2003).
[275] ibid.
[276] T O Elias, *Nigerian Land Law and Custom* (Routledge & Kegan Paul 1951).
[277] ibid.
[278] D K Derri and J N Egemonu, 'Impact of the Land Use Act on Land Tenural System in Nigeria' (2022) *American Journal of Law* 45.

rights of occupancy. Hence, it is important to consider the longstanding significance of customary law in Nigeria, particularly in relation to statutory land administration, in any comprehensive examination of land transactions in Nigeria.

3.4 Legal Requirements for a Valid Land Transaction

The validity of a land transaction in Nigeria is dependent on certain legal requirements that flow from statutory provisions, the principles of customary law and judicial precedents. Because land is a valuable economic and social asset, the law has placed some conditions on the effective transfer and creation of interests in land.[279]

It is therefore expected that those dealing in real property transactions will undertake reasonable care and ensure that all the requirements of the applicable law are met.[280] Typical conditions for a valid land transaction are that it must be subject to legal capacity of the parties involved, the existence of a valid title in the transferor, adherence to documentary and procedural formalities, the registration of the land transaction instrument if required and the obtaining of Governor's consent for land transactions involving statutory rights of occupancy.[281] The overall effect of these requirements is to foster certainty, transparency and security in land transactions, and to minimize disputes and fraudulent transactions.[282]

3.4.1 Capacity of Parties to a Land Transaction

A condition of the validity of the land transaction is that the parties must be legally competent to be parties to the land transaction. Capacity is a legal ability to acquire or transfer interests in land or to

[279] I O Smith, *Practical Approach to Law of Real Property in Nigeria* (2nd edn, Ecowatch Publications Ltd 2007) 178.
[280] Niki Tobi, *Cases and Materials on Nigerian Land Law* (Malt House Press Ltd 1997) 271.
[281] ibid.
[282] A Omotola, *Essays on the Land Use Act 1978* (Lagos University Press 1984) 88.

otherwise deal with land.[283] Under certain conditions, a transaction entered into by an individual who does not meet the necessary legal conditions could be either invalid or unenforceable.[284] In Nigeria, any adult who is of sound mind is presumed to have the capacity to acquire and transfer interests in land.[285] A person so may become a party to contracts for the sale, lease, mortgage, assignment or other disposition of land provided the transaction shall conform to the requirements of the law.[286] However, minors are subject to certain restrictions in relation to dealings with land because they are generally regarded as lacking full contractual capacity.[287]

These will then involve guardians, trustees or other legally recognized representatives of minors.[288] The corporate bodies also have the power to buy and sell land. A company is granted a separate legal personality upon incorporation, and can own property in its corporate name.[289] In turn, it is possible for companies to buy, lease, mortgage and sell land as allowed by their founding documents and relevant statutes.[290] However, transactions with corporate entities shall be made subject to applicable company law requirements as well as to the company's internal authorisation procedures, if any.[291]

Special issues arise with regard to family property and communal property, which are governed by customary land tenure. As earlier discussed, family land is not owned exclusively by the family head but collectively by all members of the family.[292] Therefore, an alienation by the head of a

[283] ibid.
[284] B O Nwabueze, *Nigerian Land Law* (Nwamife Publishers Ltd 1972) 144.
[285] ibid.
[286] Property and Conveyancing Law 1959.
[287] A O Obilade, The Nigerian Legal System (Sweet & Maxwell 1979).
[288] ibid.
[289] Companies and Allied Matters Act 2020, s 42.
[290] ibid.
[291] Companies and Allied Matters Act 2020.
[292] *Lewis v Bankole* (1908) 1 NLR 81.

family alone of the family land is not valid. A valid transfer is usually subject to the consent or concurrence of the leading members of the family.[293]

If consent is not obtained, then the transaction may not be valid under customary law.[294] This has been consistently upheld by the courts. The authoring family head in *Mogaji v Nuga*, acted without the principal members consent to render the conveyance of family land void.[295] In other cases, like *Ekpendu v Erika*, the court has affirmed that the alienation of family land must involve the participation of the family head and main members, highlighting the importance of considering the interests of all family members.[296] The same requirements apply to communal land transactions. Since communal land is held for the benefit of the entire community, its transfer ordinarily requires the approval of recognised community authorities.[297] The specific criteria are specific to the particular custom, but courts typically require evidence that the parties claiming to convey the land actually had the power to convey it for the community.[298]

The need for capacity is related to the wider goal of giving only those with legal authority the power to convey interests over land. The law is concerned with legal capacity and by insisting upon it, it is intended to safeguard proprietary rights, to prevent fraudulent transactions and to give certainty in land dealings.[299] A person who wishes to acquire land must be satisfied that the seller has the legal capacity and authority to dispose of the interest being offered.

3.4.2 Existence of Good Title to Land

[293] A A Utuama, *Nigerian Land Law* (Malthouse Press 2005).
[294] *Ekpendu v Erika* (1959) SCNLR 186.
[295] *Mogaji v Nuga* (1960) 5 FSC 107.
[296] *Ekpendu v Erika* (1959) SCNLR 186.
[297] R W James, *Modern Land Law of Nigeria* (University Press Plc 2001).
[298] *Amodu Tijani v Secretary, Southern Nigeria* [1921] 2 AC 399 (PC).
[299] O V C Okene, 'Customary Land Tenure and Land Rights in Nigeria: Contemporary Issues and Challenges' (2015) 9(2) *Nigerian Bar Journal* 135.

A good title in the transferor is another basic element of the validity of a land transaction. In land law, title refers to the legal right or evidence of ownership or interest in land which entitles a person to deal with the property.[300] The only valid land transaction that can be completed is where the vendor has a lawful and enforceable interest that can be transferred to the purchaser. The principle of *nemo dat quod non habet* (no one can give what he does not have) is applicable.[301] Good title is at the heart of security of land transactions, as it ensures that only legitimate rights or those with lawful power can transfer interests in land.[302] The importance of title in Nigeria is thus accentuated by the prevalence of customary landholdings, the family ownership structure and the frequent land ownership disputes.[303] As such, it is important for the purchasers to survey the land before engaging in any land transaction to ensure they are well informed of the land ownership rights. Investigation of title refers to the review of documents, records and other evidence to determine that the title the seller has to the property is valid and marketable.[304]

This is typically done through a legal representative on behalf of the buyer and is used to identify any issues, liens, or other rights of third parties to the land.[305] Due diligence in land transactions has been reiterated by the Nigerian courts, which hold that buyers of land have an obligation to do their due diligence before concluding a land transaction.[306]

It is generally expected that the title should be based on one of the recognized ways of acquiring land in Nigeria. These include traditional allocation under customary law, grant by government, purchase for value, gift or inheritance or long possession.[307]

[300] I O Smith, *Practical Approach to Law of Real Property in Nigeria* (2nd edn, Ecowatch Publications Ltd 2007) 201.
[301] *Ogunbambi v Abowaba* (1951) 13 WACA 222.
[302] Niki Tobi, *Cases and Materials on Nigerian Land Law* (Malt House Press Ltd 1997) 295.
[303] B O Nwabueze, *Nigerian Land Law* (Nwamife Publishers Ltd 1972) 176.
[304] A B Kasunmu, *Nigerian Law of Real Property* (Nigerian Institute of Advanced Legal Studies 1997).
[305] ibid.
[306] *Idundun v Okumagba* (1976) 9–10 SC 227.
[307] A A Oba, 'The Land Use Act and Customary Land Tenure in Nigeria' (2002) 46 *Journal of African Law* 186.

Of these, one concept of special importance is the “root of title”. A root of title is a document or event from which a person acquires the right to take land.[308] The root of title must be able to establish a clear and unbroken chain of title from the person who originally took the land to the current owner. In Abiodun v Adehin, the court highlighted the importance of establishing a valid ROIT in all land matters, pointing out that a claimant is required to establish how the land was acquired and how it came to him.[309]

In *Idundun v Okumagba*, the Supreme Court enumerated the five recognised ways in which the ownership of land can be established in Nigeria, these are: by traditional evidence, by production of documents of title, by acts of ownership for a long period of time, by acts of long possession and enjoyment, and by proof of possession of connected and adjacent land.[310] These are all still basic in establishing good title to the owner. The idea of “marketable title” is also included in the requirement of “good title.” A marketable title is a title that without reasonable doubt is not subject to litigation by the purchaser.[311]

In commercial land transactions, where buyers may have come to expect a degree of certainty and security in their investments, this principle may have significant importance, in the event a title is defective, uncertain or subject to competing claims.[312] Encumbrances also impact quality of title. Encumbrance: Any interest, right or claim which affects the value or use of the land including pending litigation, mortgages, leases and liens.[313]

[308] ibid.
[309] *Abiodun v Adehin* (1962) 1 All NLR 550.
[310] *Idundun v Okumagba* (1976) 9–10 SC 227.
[311] Megarry and Wade, *The Law of Real Property* (8th edn, Sweet & Maxwell 2012) 865.
[312] O A Oni, ‘Land Administration and Economic Development in Nigeria’ (2014) 8 *Nigerian Journal of Public Law* 77.
[313] S O Imhanobe, ‘Conveyancing Practice and Land Transactions under Nigerian Law’ (2015) 3 *ABUAD Law Journal* 120.

The purchaser is expected to be aware of encumbrances which have been recorded and will be liable to such encumbrances on completion of the transaction.[314] Failure to be aware of such encumbrances during investigation of title can have serious legal and financial consequences. The courts have always placed great emphasis on good title during land transactions. The court in *Ogunbambi v Abowaba* confirmed that no one can be given what the vendor has no right to sell and any defect in the vendor's title to the land will automatically invalidate the purchase.[315]

Similarly, in *Olohunde v Adeyoju*, the Supreme Court reiterated the strict application of the *nemo dat quod* principle in Nigeria's land laws which stipulates that no one may pass a better title than the one they have.[316] Good title thus provides protection against fraudulent transfers, double sale and conflicts of title. It imposes a responsibility on buyers to be careful and to do due diligence before buying land. It also requires vendors to have valid and verifiable title in order to sell land. Hence, the doctrine of good title is one of the key elements of the law of land transactions in Nigeria.

3.4.3 Documentation and Formalities in Land Transactions

A valid land transaction in Nigeria must meet specific requirements in terms of documents and forms, which are intended to give validity, security and evidence to the transaction and deter fraud. The formalities are established by law and common law, and strictly enforced in court.[317] In land transactions, the need for documentation is especially significant because land has a high value and disputes are common that occur when there is informal or undocumented land transactions.[318] The most basic criterion is that the sale or disposition of interests in land must normally be evidenced by a written contract.[319] This is in conformity with the Statute of Frauds doctrine which has been

[314] Land Instruments Registration Law, Cap L58 Laws of Lagos State 2015.
[315] *Ogunbambi v Abowaba* (1951) 13 WACA 222.
[316] *Olohunde v Adeyoju* (2000) 10 NWLR (Pt 676) 562.
[317] I O Smith, *Practical Approach to Law of Real Property in Nigeria* (2nd edn, Ecowatch 2007) 221.
[318] Niki Tobi, *Cases and Materials on Nigerian Land Law* (Malthouse 1997) 310.
[319] Statute of Frauds (applicable principles in Nigeria).

received into Nigerian law and mandates that certain transactions must be in writing to be enforceable.[320]

An oral contract for the sale of land is therefore not a valid contract, although in a few cases, there may be an equitable interest depending on the conduct of the parties.[321] The modern document utilized in land dealings is the Deed of Assignment, a document that is the official means of conveying the interest of a seller (assignor) to a purchaser (assignee).[322] The deed needs to convey a clear description of the parties, the land, the consideration, and the intent to convey ownership.[323]

It should also be done in a proper manner, and, if necessary, have to be stamped and registered to be admissible and enforceable for legal action.[324] Other documents that are important are Powers of Attorney, receipts for purchase price, contracts of sale and survey plans. One of the most important documents is a survey plan, which is a document that specifies the exact location, boundaries and size of the land, which will help to minimize disputes regarding land identity.[325]

In some transactions a power of attorney can be used to give authority to an agent to act on the owner's behalf, but the courts have consistently ruled that article authority alone does not convey title to land.[326] The formalities of execution are also an important element. In Nigeria, deeds can only be valid when they are signed, sealed and delivered.[327]

If the execution involves a corporate body, it must be executed in accordance with the Companies and Allied Matters Act, and authorised by the company.[328] If the transaction fails to satisfy the

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[320] T O Elias, *Nigerian Land Law and Custom* (Routledge & Kegan Paul 1951).
[321] *Walsh v Lonsdale* (1882) 21 Ch D 9 (persuasive).
[322] Ibid.
[323] E O Essien, *Modern Nigerian Land Law and Practice* (Ababa Press 2018).
[324] Land Instruments Registration Law, Cap L58 Laws of Lagos State 2015.
[325] Ibid.
[326] *Savage v Sarrough* (1937) 13 NLR 141.
[327] Ibid.
[328] Companies and Allied Matters Act 2020, s 42.

requirements for execution, it could be a defective or incapable transaction for the purpose of creating legal title.

Proper conveyancing documents are crucial in establishing ownership and transfer of land and the importance of these documents was highlighted in *Savage v Sarrough*.[329] Likewise, there have been numerous instances of courts warning about the prevalence of conflicts regarding land transactions that have not been properly documented or formalized.[330]

3.4.4 Registration and Governor's Consent

Some of the most important statutory provisions influencing land transactions in Nigeria include those of Registration and Governor's Consent. Documentation is evidence of a transaction, while registration and consent are the basis for a transaction's legal effect and enforceability in court.[331] If either one or both are not complied, a transaction may have serious legal ramifications such as making it invalid or incapable of being enforced in court.

(a) Governor's Consent

Section 22 of the Land Use Act 1978 provides that the Governor must give any consent required before any alienation of a statutory right of occupancy is to take place.[332] Alienation of a statutory right of occupancy can take place through assignment, mortgage, transfer of possession or sublease. This provision is an additional regulatory limitation on land transactions and has been added with the aim of ensuring government oversight of land transactions.[333] The courts have been consistently finding that this is a mandatory requirement. The strict implication in *Savannah Bank v Ajilo* was that once the Governor is not given consent to issue the mortgage, it would be of no

[329] *Savage v Sarrough* (1937) 13 NLR 141.
[330] O V C Okene, 'Land Documentation and Security of Title in Nigeria' (2019) 15 *Nigerian Bar Journal* 83.
[331] Land Use Act 1978, s 22.
[332] ibid.
[333] A Omotola, *Essays on the Land Use Act 1978* (1984) 68.

effect.[334] This interpretation highlights the need to abide by all the requirements of the law in the conduct of land transactions. In spite of this, the general law is still that the consent of the Governor is a condition precedent to the validity of many land transactions involving statutory rights of occupancy, as was established in *Awojugbagbe Light Industries Ltd v Chinukwe*.[335]

(b) Registration of Instruments

The various Land Instruments Registration Laws of the states govern the registration of land instruments. To ensure that instruments affecting land were seen by the public and were properly recorded, these laws stipulated that instruments must be registered in the appropriate land registry.[336] Registration is not a method of conferring title, but has a protective and evidentiary purpose.[337] It allows searches to be made, discover encumbrances and check interests on land. A failure to register an instrument can have an impact on its admissibility in court proceedings and on the rights of the parties.[338] In *Okoye v Dumez (Nig.)*, it highlights the fact that an instrument does not need to be registered to be admissible for collateral purposes, but not to be relied upon as a valid instrument for ownership.[339]

(c) Relationship Between Consent and Registration

Consent and registration are separate, but complementary obligations. Neither the consent nor the registration is a substitute for each other.[340] This generally requires both to be met.

[334] *Savannah Bank (Nig) Ltd v Ajilo* (1989) 1 NWLR (Pt 97) 305.
[335] *Awojugbagbe Light Industries Ltd v Chinukwe* (1995) 4 NWLR (Pt 390) 379.
[336] Land Instruments Registration Law, Cap L58 Lagos State.
[337] E O Essien, *Modern Nigerian Land Law and Practice* (Ababa Press 2018).
[338] B J da Rocha and C H R Lodoh, *Nigerian Land Law* (Professional Books Ltd 1999).
[339] *Okoye v Dumez (Nig) Ltd* (1985) 1 NWLR (Pt 4) 783.
[340] O A Oni, 'Land Administration and Economic Development in Nigeria' (2014) 8 *Nigerian Journal of Public Law* 77.

CHAPTER FOUR

LEGAL ISSUES AND CHALLENGES IN LAND TRANSACTIONS IN NIGERIA

4.1 Introduction

The legal system governing land transactions in Nigeria is intricate, involving a mix of statutory laws, customary rules, and judicial rulings. In spite of this complex framework, there are substantial legal and institutional obstacles to the effective functioning of land law that have a negative impact on the security, certainty and efficiency of land transactions.[341] This is mainly due to the lack of consistency in how the Land Use Act 1978 is applied, and the weaknesses in land administration systems, lack of proper documentation and conflict over the different forms of land tenure.[342] Land transactions must often be characterised by conflicts over land titles, fraud, multiple sales, and bureaucratic delays.

This chapter explores the key legal challenges confronting the land transaction process in Nigeria and considers the consequences for land rights and land administration.

4.2 Defective Title and Root of Title Problems

A good land transaction is based on the existence of a good title in the transferor. Pursuant to the doctrine of *nemo dat quod non habet*, a vendor who lacks valid title to an asset may not transfer a better title to it.[343] The ability to obtain a reliable land title is one of the challenges that come with land transactions in Nigeria. A root of title is the basis or source from which the title of land comes.[344]

[341] I O Smith, *Practical Approach to Law of Real Property in Nigeria* (2nd edn, Ecowatch Publications 2007) 201.
[342] O V C Okene, 'Land Documentation and Security of Title in Nigeria' (2019) 15 *Nigerian Bar Journal* 83.
[343] *Ogunbambi v Abowaba* (1951) 13 WACA 222.
[344] Niki Tobi, *Cases and Materials on Nigerian Land Law* (Malthouse Press 1997) 295.

In many areas of Nigeria, particularly with customary tenure systems, land tenure is not recorded, making verification difficult, as it is based on oral tradition, family history and/or communal recognition of ownership. The Supreme Court in *Idundun v Okumagba* enumerated the five ways of proving title to land in Nigeria as being traditional evidence, acts of ownership, possession of adjacent land, acts of long possession and production of documents of title.[345] Although these methods are legally recognized, in practice they can be very cumbersome in terms of evidence. Likewise, the court in *Abiodun v Adehin* stressed the need for a proper root of title to begin any claim of ownership of land.[346] Lack of land documentation is one of the recurrent causes of land disputes in Nigeria.

4.3 Multiple Sales of Land

Where a vendor sells the same piece of land to a series of buyers it is known as multiple sales of land. This is one of the most frequently encountered land use and control issues in Nigeria land transactions and a common cause of litigations.[347] It is frequently the result of scams, poor records keeping or buyers not registering their interest in a timely fashion. This is especially common in customary land deals, which frequently are not written down or documented.[348] As a result, vendors can take advantage of such a situation to sell the land to an unsuspecting purchaser. The doctrine of competing interests is that priority shall normally attach to the interests created in first order, subject to the doctrine of notice.[349]

A person who acquires a right to possession of the land without notice of any prior interest or for value may take an enforceable equitable right, but if he or she does have notice, the earlier interest

[345] *Idundun v Okumagba* (1976) 9–10 SC 227.
[346] *Abiodun v Adehin* (1962) 1 All NLR 550.
[347] C N Okafor, 'Customary Land Tenure and Contemporary Land Administration in Nigeria' (2019) 10 *NAUJILJ* 212.
[348] B O Nwabueze, *Nigerian Land Law* (Nwamife Publishers 1972) 178.
[349] Megarry & Wade, *The Law of Real Property* (8th edn, Sweet & Maxwell 2012) 865.

takes priority. The court in *Ogunbambi v Abowba* reaffirmed the principle that a purchaser would not take more than the vendor's title.[350] The courts have highlighted the need for in-depth investigation of title before acquisition. Despite judicial guidance, there are still many cases of multiple sales because too many land registration systems are weak and there are no centralized land records.[351]

4.4 Fraud, Forgery and Land Grabbing

Fraud and forgery is a major problem in land related transactions in Nigeria. Examples of fraudulent practices are forged deeds of assignment, fake survey plans, impersonation of landowners, and tampering with land records.[352] These practices are harmful to the integrity of land transactions and put innocent land buyers at risk of significant losses. The problem with forgery is that land records are presumed to be valid unless countermanded. In the event that these types of fraudulent documents are placed in the system, it may be used by believing parties.

Another emerging problem is the illegal appropriation of land by intimidation, coercion or falsified title, frequently by a powerful person or group of people.[353] Such practice is particularly common in peri-urban and urban areas, where land values are high. The courts have always ruled that where there is fraud there can be no transaction. In *Ogunleye v Oni* the highest court has said, Equity will not assist a party who has committed a fraud.[354]

[350] *Ogunbambi v Abowaba* (1951) 13 WACA 222.
[351] M A Abdulrazaq, 'Legal Implications of Governor's Consent under the Land Use Act' (2018) 12 *Nigerian Current Law Review* 133.
[352] E O Chukwuemeka, 'Multiple Sales of Land and the Protection of Purchasers in Nigeria' (2021) 5 *UNIZIK Law Journal* 101.
[353] K C Nwosu, 'Fraudulent Land Transactions and Property Rights Protection in Nigeria' (2022) 14 *Nigerian Juridical Review* 89.
[354] *Ogunleye v Oni* (1990) 2 NWLR (Pt 135) 745.

In a similar vein, the court in *Registered Trustees of the Apostolic Church v Olowoleni* has condemned fraudulent acquisition of land and reiterated that such land transactions are void.[355] But enforcement is inadequate, and there are delays in litigation, corruption and inefficiencies in land administration systems.

4.5 Issues of Governor's Consent

One of the major regulatory controls in land transactions in Nigeria is the requirement for Governor's consent as stipulated in the Land Use Act 1978. The provision provides that any alienation of a statutory right of occupancy, whether through assignment, mortgage, transfer of possession or sublease, shall be null and void unless confirmed by the Governor of the state where the land is located.[356] The purpose of the provision is to allow governmental control and oversight over the alienation of land but has raised a number of legal and administrative issues.

The biggest issue is the waiting time for Governor's consent. In reality, however, it is often a tedious, time-consuming, and inefficient process – in many states, an application can take weeks or months to be processed.[357] The delay has a detrimental impact on commercial real estate transactions, including real estate development and secured lending, where time is of the essence. The high cost of obtaining consent is closely related to this. The process entails the involvement of administrative fees, survey fees, stamp duties and other statutory fees, all of which make land transactions very expensive.[358] This financial cost makes it less likely that parties will engage in a formal compliance, and more likely that they will resort to informal compliance measures, like a

[355] *Registered Trustees of the Apostolic Church v Olowoleni* (1990) 6 NWLR (Pt 158) 514.
[356] Land Use Act 1978, s 22.
[357] O V C Okene, 'Land Administration under the Land Use Act: Issues and Prospects' (2018) 14 *Nigerian Bar Journal* 97.
[358] I G Agwor and N Amadi-Harry, 'Consent of the Governor in Land Transactions: Whose Duty and When' (2024) 10 *Imo State University Journal of Commercial and Contemporary Law* 1.

power of attorney, or to unperfected agreements, further undermining the integrity of land administration.

The meaning of the consent requirement has also been interpreted by the judiciary, which has added to uncertainty in land transactions. Judicial interpretation of the consent requirement has also created uncertainty in land transactions. The Supreme Court's interpretation in *Savannah Bank of Nigeria Ltd v Ajilo* that a mortgage that is not consented to by the Governor is null and void, is a hardship in commercial lending and puts financial institutions at risk.[359]

Regardless of this, the Supreme Court has taken a more flexible stance and suggested that a transaction could be valid, where the necessity of consent is a condition for perfection rather than for creation.[360] Despite this, in practice, it remains unclear what the precise legal consequences of non-compliance are. The consent regime has been much criticized by scholars as an antiquated and inefficient system. There are arguments that such wide discretionary authority given to the Governor opens the door to delays, administrative roadblocks and abuse.[361] Others argue that the requirement limits efficiency in the land market and that it deters investment in real estate development.[362] In addition to that, there is no uniformity in administration procedures from state to state. The difference in the states' processing system makes land transaction unpredictable in Nigeria.[363]

4.6 Registration and Documentation Challenges

[359] *Savannah Bank of Nigeria Ltd v Ajilo* (1989) 1 NWLR (Pt 97) 305.
[360] *Awojugbagbe Light Industries Ltd v Chinukwe* (1995) 4 NWLR (Pt 390) 379.
[361] D U Ajah and J N Ajah, 'Through the Backdoor, Dressed in Borrowed Robes: The Use of Power of Attorney for the Transfer of Interest in Land in Nigeria' (2023) 18 *The Nigerian Juridical Review* 116.
[362] ibid.
[363] I O Smith, *Practical Approach to Law of Real Property in Nigeria* (2nd edn, Ecowatch 2007) 340.

The land management system in Nigeria aims to ensure certainty of title, give public notice of the interest in land and minimise disputes arising from competing claims. Although several Land Instruments Registration Laws have been enacted across the states, the implementation of land registration is beset with a host of problems that affect the effectiveness of land administration.[364]

One of the major problems is the inefficiency and poor state of land registries. Land records in many states are poorly organised and manually recorded, which makes it difficult to search for them or verify their ownership, leaving them susceptible to loss or damage and raising the potential for fraud and multiple claims to the same parcel of land.[365] This is closely related to the delays in registration procedures. Bureaucratic bottlenecks, understaffing and inefficiency in land registry offices often lead to long delays in the processing of applications for registration of land instruments, which hinder compliance and spur the parties to undertake land transactions informally without formal registration.[366]

Corruption and unofficial payments in land registries is another major challenge. In some circumstances parties are forced to make informal payments in order to open up land transactions faster, which adds to the cost of transactions and affects land administration transparency.[367]

Another problem is the absence of a comprehensive digitisation of land records. While there have been some states in the world that have taken the first steps towards implementing electronic land registration systems, various jurisdictions continue to rely on outmoded paper-based systems, which hinder access to land and make it harder to keep land information accurate and current.[368]

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[364] Land Instruments Registration Law, Cap L58 Laws of Lagos State 2015.
[365] O V C Okene, 'Land Documentation and Security of Title in Nigeria' (2019) 15 *Nigerian Bar Journal* 83.
[366] B E Chigbu, 'Land Governance and Tenure Security in Nigeria' (2019) 8 *Land Use Policy* 261.
[367] O A Aluko and A O Amidu, 'Urban Land Delivery and Land Administration Challenges in Nigeria' (2006) 23 *Journal of Land Use and Development Studies* 89.
[368] F O Akinola, 'Revisiting the Land Use Act: The Need for Reform' (2017) 11 *Nigerian Bar Journal* 61.

The difference between registration and title is important from a legal point of view. Nigerian courts have settled the issue of the registration of an instrument that the act of registration does not give rise to title to land, but only for evidential and administrative purposes. It was held in *Ogunbambi v Abowaba* that registration will not remove a defective title.[369] Likewise, the Supreme Court reiterated in Awojugbagbe Light Industries Ltd v Chinukwe that registering does not mean ownership.[370] But if land instruments weren't registered, it can still cause big legal problems. An unregistered instrument may not be admissible to prove title, but may be admissible in evidence for other purposes.[371] This poses a legal hazard to those who do not comply with registration requirements. These difficulties combined result in insecurity of title and more litigation over land. Limited efficiency and reliability of land registration can make it challenging to keep land records up to date and provide certainty in land transactions.

4.7 Customary Land Disputes and Family Land Conflicts

The situation where land is owned and managed through customary tenure is still prevalent in Nigeria, especially in rural and semi-urban areas. The customary system is often linked with conflicts over family and communal land use rights, however. The conflicts are major causes of litigations and uncertainty in land transactions.[372]

One of the main concerns is what the family land ownership is like in customary laws. In terms of family land, it is generally assumed that the family owns it as a whole, and that the family head is a caretaker or manager (or both) and not an absolute owner.[373] As such, it is illegal for the head of the family to validly transfer family land without the consent of the main members of the family.[374]

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[369] *Ogunbambi v Abowaba* (1951) 13 WACA 222.
[370] *Awojugbagbe Light Industries Ltd v Chinukwe* (1995) 4 NWLR (Pt 390) 379.
[371] *Okoye v Dumez (Nig) Ltd* (1985) 1 NWLR (Pt 4) 783.
[372] B O Nwabueze, *Nigerian Land Law* (Nwamife Publishers 1972) 23.
[373] I O Smith, *Practical Approach to Law of Real Property in Nigeria* (2nd edn, Ecowatch 2007) 58.
[374] Niki Tobi, *Cases and Materials on Nigerian Land Law* (Malthouse 1997) 87.

However, in reality, there are many cases in which family leaders claim to sell or lease family land without consulting or consenting. These transactions are often contested and judged illegal by the courts. In the case of *Mogaji v Nuga*, the court decided that the transfer of family land without the involvement of the main members will not have effect.[375] In the same way, in *Ekpendu v Erika*, it was established that the consent of both the family head and the principal members of the family is necessary for an alienation of family land to be valid.[376] Another problem, which is more common, is the lack of a clear identification of family membership and family authority. This uncertainty can result in rival claims and lengthy litigation, especially when it comes to land ownership.[377]

Communal land conflicts are also common. Communal land is usually owned by a community and is governed by traditional chiefs and/or community leaders. But disputes often occur when such leaders go beyond what they have been given or when borders between neighbouring communities are not clearly defined, and are sometimes complicated by the lack of written documentation and the use of oral or traditional history.[378]

The courts have continually had to interpret the scope of customary law's authority. However, there are still disputes, as the right to communal land is interpreted differently in different contexts. The Privy Council, in the case of *Amodu Tijani v Secretary, Southern Nigeria*, acknowledged the communal nature of land ownership systems, but also reiterated that these rights exist under customary law.[379] In general, land ownership is informal, land ownership records are not updated, and intra-family or intra-community conflicts exist in land transactions, making customary land disputes a serious challenge to land transactions in Nigeria.

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[375] *Mogaji v Nuga* (1960) 5 FSC 107.
[376] *Ekpendu v Erika* (1959) SCNLR 186.
[377] O V C Okene, 'Customary Land Tenure and Land Rights in Nigeria' (2015) 9(2) *Nigerian Bar Journal* 135.
[378] U U Uche, 'Land Grabbing and Property Rights Enforcement in Nigeria' (2023) 18 *University of Benin Law Journal* 144.
[379] *Amodu Tijani v Secretary, Southern Nigeria* [1921] 2 AC 399 (PC).

4.8 Informal Land Transactions and Weak Institutional Control

Another major difficulty in the land tenure system in Nigeria is informal land transactions. Although there are the statutory instruments which regulate land transactions, a substantial number of land transactions are executed outside the auspices of such formalities and agreements as written contracts, the registration of title and Governor's consent.[380] The lack of formal land administration systems, transaction costs and bureaucracy are all contributing factors to the informal nature of these transactions and alternatives such as oral transactions or customary arrangements or powers of attorney are being adopted.[381] Informal transactions, however, involve a lot of uncertainty from a legal standpoint. If there is no documentation, it can be difficult to establish ownership or enforce rights when there is a dispute.[382] This poses a risk for fraud, multiple sales and conflicting rights to the same piece of land.

This is further compounded by weak institutional control. The lack of adequate funding, inadequate records, corruption, and lack of modern infrastructure in land administration agencies in many states are factors that hinder the effectiveness of the regulation and land governance system.[383]

The judiciary has consistently cautioned against the informal transactions. In *Ogunbambi v Abowba*, the court emphasised the need to properly document and investigate titles in transactions involving land.[384] As in other cases, lack of compliance with statutory requirements can have an impact on the enforceability of land transactions. The scholars have also made a call for reform.

[380] N N Ogbu, 'Digitisation of Land Registries and Security of Title in Nigeria' (2024) 19 *Nigerian Journal of Property and Commercial Law* 33.
[381] D U Ajah and J Ngozi A, 'Through the Backdoor, Dressed in Borrowed Robes' (2023) 18 *The Nigerian Juridical Review* 116.
[382] A G Karibi-Whyte, *History and Sources of Nigerian Land Law* (Spectrum Books 1991).
[383] E O Akankali, *Nigerian Land Law* (Revised edn, University of Port Harcourt Press 2015).
[384] *Ogunbambi v Abowaba* (1951) 13 WACA 222.

There have been calls to enhance land institutions, streamline land registration and cut transaction costs so as to deter informality and promote tenure security.[385] Overall, informal land transactions and fragile institutional systems remain a challenge to the efficacy of land administration, and are important drivers of land-related conflicts in Nigeria.

[385] E O Fakayode, *The Land Use Act: Issues, Challenges and Perspectives* (Malthouse Press 2014).

CHAPTER FIVE

SUMMARY OF FINDINGS, RECOMMENDATIONS AND CONCLUSION

5.1 Summary of Findings

This study examined the legal issues in land transactions in Nigeria. In line with the research questions, the findings are presented as follows:

- The study revealed that the laws regulating land transactions in Nigeria are mainly based on Land Use Act of 1978, land instruments registration laws, principles of customary law and judicial rulings. The framework, however, is disorganized because there are both statutory and customary systems. The statutory system attempts to rationalise and control land ownership under the Governor's control, but customary land ownership still exists in many communities, creating overlapping and conflicting systems, and introducing practical issues of implementation. This dual system has an impact on clarity and certainty in land transactions.
- The study revealed that there are certain major legal problems encountered in Nigeria land transactions such as defective title, inability to establish the root of title, multiplicity of title, fraud, forgery and land grabbing. Weak documentation, lack of due diligence on the part of buyers and the informal nature of many land transactions are the main causes of these issues. This leads to a high degree of land insecurity and often land conflicts.
- The study revealed that Nigerian courts have been instrumental in the interpretation and enforcement of principles of land transactions, including issues of title, validity of transactions and fraud. The provisions of judicial authorities like *Idundun v Okumagba, Ogunbambi v Abowaba* and *Ekpendu v Erika* have established the proof of ownership and

the extent of valid land alienation. Notwithstanding these judicial efforts, enforcement is still a problem and litigation is lengthy and expensive. The Land Use Act and the laws of registration also offer some regulatory structure, which, however, suffers from similar practical shortcomings due to bureaucratic inefficiencies and inconsistencies in its implementation.

- The study revealed that major changes need to be made in the effectiveness of land transaction regulation in Nigeria. These are the digitisation of land registries, the simplification and decentralisation of the Governor's consent process, the strengthening of land administration institutions and better enforcement of the offences related to fraud. The study also identified increased public awareness and legal education on land transactions would help to diminish informal arrangements, and would increase compliance with land transaction requirements. These changes are important for improving the security of titles, minimizing disputes and streamlining land transactions.

5.2 Recommendations

Based on the result of this study, the following recommendations are set as a means of enhancing the regulation and effectiveness of land transaction in Nigeria:

Harmonization of the Legal Framework Governing Land Transactions.

Statutory and customary laws that facilitate land transactions need to be harmonised in Nigeria, it is recommended. This co-existence has led to uncertainty, inconsistencies and conflicts regarding land administration. Greater integration of customary land tenure in the formal legal system by reforming laws and providing guidance for policy makers will increase certainty of ownership and minimise conflict around dual landholding arrangements.

Improving Land Documentation and Title Verification Systems

Enhancing mechanisms for verification of land titles in land transactions. The government must create and keep updated a reliable, centralised and readily available land register to decrease defective title and multiple sales. Legal awareness and professional advice should also be promoted for the purchaser to undertake proper due diligence prior to land transactions. It is proposed that whenever a conveyancing process takes place, a legal practitioner should conduct a thorough title search.

Revision of the Governor's Consent and Registration Procedures.

There should be a reduction in delay, cost and bureaucratic bottlenecks in the Governor's consent and land registration processes. It is recommended to implement a more effective, time-limited and transparent consent system preferably on a digital platform. Likewise, land registers should be fully digitized to enhance their speed, transparency and accessibility. This will help to decrease the need for informal contractual relations, and increase adherence to the statutory obligations.

Strengthening Enforcement Against Fraud and Land Grabbing

The strict enforcement of the measures against fraud, forgery and land grabbing is recommended. This means strengthening the capabilities of land administration agencies, better collaboration with law enforcement agencies, and tougher sanctions against fraudulent land transactions. Public awareness campaigns are also necessary so that the people can be aware of the dangers of the informal land transactions and fraudulent practices..

Judicial Efficiency and Capacity Building

Judiciary should be enhanced by sensitizing the judges on land issues including land law, customary tenure and land disputes. Delays should also be minimised in land-related cases, with the introduction of fast-track procedures. This will help to resolve the disputes more efficiently and boost the confidence of the people in the justice system.

Public Legal Education and Awareness

It is suggested that more sensitization of the general public in Nigeria on land transactions should be undertaken. A lot of conflicts end up because they do not understand some of the legal requirements like registering, getting the Governor's consent and proper documentation. It is recommended that government, legal practitioners and civil society groups work together to raise awareness with the public regarding legal ways of acquiring and transferring land.

Regulation of Informal Land Transactions

The government should make a conscious effort to decrease informal land transactions by making it cheaper and more accessible for people to register their land formally and make administrative processes easy. As systems become more accessible and affordable, the number of systems conforming to the formal system would rise, leading to fewer disputes and insecurity of title.

5.3 Conclusion

This essay explored the legal landscape of land transaction in Nigeria, identified the nature of the legal framework, the key legal challenges that impact land transactions, the role of courts and legislation in settling land disputes as well as the possible reform for enhancing the land administration system. It was concluded that the land transactions in Nigeria are regulated by statutory instruments (mainly the Land Use Act 1978), customary law principles, Land registration Acts and judicial pronouncements.

Although this complex legal structure exists, the study uncovered a number of recurring issues with land transactions in practice. These include weak land registration systems, informal land transactions, challenges with Governor's consent, land grabbing, fraud and forgery, difficulties in establishing root of title and defective title. Together these causes challenges to the certainty of ownership and security of title in land transactions.

It was also noted that Nigerian courts have made remarkable contributions to the interpretation of rules in the land transactions, including rules as to possession as proof of title, valid transfers and fraudulent transactions. Judicial intervention, however, is limited with litigation being slow, expensive, and sometimes not able to resolve the land disputes in a timely manner. Finally, although Nigeria has a well-established system of land transactions in place, the informal nature of land administration in practice suggests there are substantial gaps between legal and de facto frameworks. Building institutional capacity, establishing land documentation systems, streamlining administrative processes and raising awareness among the public are key areas of focus towards strengthening an efficient, transparent and secured land tenure system in Nigeria.

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