

**AN OVERVIEW OF ISSUES IN LAND REGISTRATION AND TITLE PERFECTION
IN ENUGU STATE.**

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**BEING A LONG ESSAY SUBMITTED TO THE FACULTY OF LAW, GODFREY
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THE AWARD OF BACHELOR OF LAWS DEGREE (L.LB) GODFREY OKOYE
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DECLARATION

I affirm that this research work titled “**Examining Issues in land Registration and Title perfection in Enugu State under the Enugu Land Use Regulation Law 2025**” was done by me in the Faculty of Law, Godfrey Okoye University, Enugu. All the information were deduced from the existing literature which has been duly acknowledged in the work and a list of the source of materials is provided herein. The content of this long essay is original and has not been submitted either in part or full for the award of any degree in this or any other institution.

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CERTIFICATION

This is to certify that this research was carried out by **OKORONKWO FAITH UZOMA**, an undergraduate Student of **GODFREY OKOYE UNIVERSITY FACULTY OF LAW**, with Registration number, **GOU/U21/LAW/423**, who has completed this long Essay for the award of the Degree of Bachelor of Laws Save for references which have been duly acknowledged, this work is original and has not been submitted in part or full for the award of any Degree in this or any other institution.



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DEDICATION

This work is dedicated to my Hero and Heroine Emma Denchukwu & Oby Denchukwu, you both mean the whole world to me.

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LIST OF ABBREVIATIONS

All NLR	All Nigeria Law Reports
CA	Court of Appeal
C of O	Certificate of Occupancy
ENGIS / EnGIS	Enugu State Geographic Information System
LFN	Laws of the Federation of Nigeria
NWLR	Nigerian Weekly Law Reports
SC	Supreme Court
S.C.	Supreme Court Reports
WACA	West African Court of Appeal Reports
GIS	Geographic Information System
NIALS	Nigerian Institute of Advanced Legal Studies
Ltd	Limited
Cap	Chapter
Pt	Part
ss	Sections
s	Section
edn	Edition
ibid	Ibidem (same source immediately preceding)

ABSTRACT

Land registration and title perfection constitute fundamental mechanisms for securing proprietary interests in land and promoting effective land administration. In Nigeria, the legal framework governing land registration and title perfection is principally regulated by the Land Use Act 1978, which vests all land in each state in the Governor to be held in trust for the benefit of the people. Despite the objectives of the Act to ensure orderly administration of land and certainty of title, the processes of land registration and title perfection continue to face significant legal, administrative and institutional challenges. The study adopts the doctrinal research methodology, relying on statutes, judicial decisions, textbooks, journal articles, government publications, and other relevant secondary sources. The research critically analyses the legal principles relating to land registration, title perfection, Governor's consent, stamping and registration of land instruments, as well as the role of relevant institutions involved in land administration in Enugu State. The study finds that although recent reforms, particularly the introduction of the Enugu State Geographic Information System (EnGIS) and the Enugu State Land Registration Law 2025, have enhanced efforts toward digitisation and modernisation of land administration, several operational and structural challenges remain. These include delays in processing title documents, incomplete and defective land records, inadequate technical capacity, and the high cost associated with title perfection. It recommends the streamlining of administrative procedures, strengthening of digital land administration systems, reduction of transaction costs, improvement of institutional capacity, and harmonisation of land registration processes to enhance the effectiveness of land registration and title perfection in Enugu State and Nigeria generally.

CHAPTER ONE

INTRODUCTION

1.1 Background of the Study

Land is a basic resource for economic activity, social stability and sustainable development of any society. In Nigeria, land not only has economic value, it also has an intimate cultural and historical importance. It is the basis for agricultural production, residential and commercial development, infrastructure expansion and is a critical component of wealth and inheritance systems. Given this centrality, processes through which rights to land are documented and recognized under the legal system is critical. Land registration and title perfection are methods for the formalisation of rights of ownership, to create legal certainty, reduce disputes, and facilitate the formal transaction of land such as sale, lease, mortgage, and inheritance. The importance of a secure and efficient land registration system cannot be emphasised enough as this affects the rights to land, its access to credit and its wider economic development.

In Nigeria, the foundation of the regulation governing land ownership and registration is the Land Use Act of 1978. This law vested in the governor all the land in each state, who holds the land under the trust for the benefit of the people of the state¹. Under this regime, individuals do not own land outright but hold rights of occupancy, which only enjoy full legal protection when they are duly recognised and perfected under the law.² This process of statute introduction was sought to substitute the multiplicity of customary land tenure systems, and rationalise land administration across the federation. Notwithstanding its goals, implementation of the Land Use

¹ Land Use Act, Cap L5, Laws of the Federation of Nigeria 2004, s 1.

² Ibid, ss 5, 6 and 22.

Act and attendant land registration procedures has shown that there are significant legal and administrative challenges that have undermined its effectiveness.

Central to the discourse on land law reform in Nigeria is the problem of inefficiency and bureaucratic delays in land registration and perfection of titles that have been a problem with persistency. The conventional manual processes with all the paperwork and approvals involved have been cited as "cumbersome" and "protracted."³ "In many states, as a result of procedural bottlenecks at various stages of the administration process, applicants for a Certificate of Occupancy (C of O) or Governor Consent can wait for months or years."⁴ The multiplicity of the different steps involved, involving several government bodies such as the Surveyor-General's office, land registry, town planning departments and Governor's cabinet, issue delays and creates uncertainty for landowners and investors alike.⁵

These inefficiencies are further exacerbated by institutional shortfalls such as the lack of adequate manpower, technical skills and corruption. A lack of qualified staff in the land registries, coupled with a lack of professional training on an ongoing basis, has resulted in mistakes in documentation, poor record keeping and delays in the processing of applications for perfection of title.⁶ Corruption deepens the crisis, with officials sometimes soliciting funds from unofficial sources to expedite procedures or to manipulate registries, all this aggravating the public's lack of trust in the land administration system.⁷ These practices discourage those from

³ S I Nwogugu, *Property Law in Nigeria* (2nd edn, Heinemann Educational Books (Nig) Plc 2014) 245.

⁴ A A Utuama, 'Land Registration and Title Perfection in Nigeria: Issues and Challenges' (2016) 7 *Nigerian Law Journal* 112 at 118.

⁵ Y Osinbajo and A O Fagbohun, *Cases and Materials on Property Law in Nigeria* (3rd edn, Malthouse Press Ltd 2012) 391.

⁶ E O Aiyedun, 'The Problems of Land Administration in Nigeria' (2018) 5 *Journal of Law, Policy and Globalisation* 64.

⁷ T O Elias, *Nigerian Land Law* (4th edn, Sweet & Maxwell 2011) 201.

freely registering their land and encourage them to keep relying on informal or undocumented land transactions, entrenching an unstable environment for property rights.

Another problem is issues with documentation and record maintenance in irregularities. Applicants, moreover, usually do not have the necessary legal knowledge to correctly fill out land registration forms, and because of this, their entries in the registry systems are defective or misleading.⁸ Poor documentation not only introduces ambiguities in land records, but also makes overlapping claims and disputes over the same piece of land increasingly likely. Inconsistent records between paper-based archives and nascent digital databases make this a further complicating factor that makes verification a difficult task to perfect the titles.⁹ In addition, low adoption of modern technologies like Geographical Information Systems (GIS) and digital land information systems in many states means that land records remain fragmented and are prone to manipulation or loss.¹⁰

The high cost of land registration and title perfection in Nigeria is another factor that has slowed the effectiveness of the system. Fees related to legal services, stamp duties, survey charges, and administrative charges often constitute a considerable financial burden for landowners especially in low or middle income.¹¹ This high cost discourages numerous property owners from undertaking the necessary legal steps to register land formally and as a result leave a substantial majority of land out of the formal system of land registry. Research shows that over 90% of land

⁸ M O Adekanye, 'Legal Implications of Defective Land Title Documentation in Nigeria' (2019) 14 *University of Lagos Law Review* 87 at 94.

⁹ World Bank Group, *Doing Business 2020: Registering Property in Nigeria* (World Bank 2020) 71.

¹⁰ A Omotola, 'Digitisation of Land Registries in Nigeria: Prospects and Challenges' (2021) 3 *African Journal of Law and Development* 55.

¹¹ O O Akinsola, 'Cost Implications of Land Registration and Its Impact on Property Rights in Nigeria' (2017) 9 *Ifè Juris Review* 133.

in Nigeria is still not titled, which effectively leaves a large amount of property unable to contribute to formal economic activities, i.e. credit mobilisation and investment.¹²

The dispersion of land administration into the states, under the decentralised platform of the Land Use Act, has caused more complexity. Each state devises its own rules, timelines and procedural requirements for the registration of land and the perfection of title, resulting in lack of consistency and lack of harmonisation across the federation.¹³ This resulted in glaring inconsistencies between states, making transactions between states on matters concerning land very complicated and opening an ordeal for bureaucratic exploitation.¹⁴ Lack of harmonised law also adds to the problems stemming from overlapping claims on the same land due to conflicting customary and statutory land rights. These challenges are not merely theoretical but are evident in several states of the federation, including Enugu State, where land registration and title perfection have historically been characterised by manual procedures, delays in processing Certificates of Occupancy, and administrative bottlenecks within land registries.

Land disputes are still rife in Nigeria and constitute a huge percentage of litigation in the courts.¹⁵ The sources of conflict include overlapping title claims, fraudulent documentation, conflicts over inheritance, and failure to perfect the title. The absence of a reliable, transparent and accessible land registry system further complicates disputes resolution processes and prolongs their outcome, exercising extra pressure on the judicial system and affecting confidence in formal protection of property rights.

¹² Hernando de Soto, *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else* (Basic Books 2000) 39–41.

¹³ F A Omorogbe, 'Decentralisation and Land Administration under the Land Use Act' (2015) 6 *Benin Journal of Public Law* 22.

¹⁴ Nigerian Institute of Advanced Legal Studies, *Reforming Land Administration in Nigeria* (NIALS Press 2018) 58.

¹⁵ *Idundun v Okumagba* (1976) 9–10 SC 227.

Historically, land administration in Enugu State followed the general framework established by the Land Use Act 1978, with land vested in the Governor and administered through the Ministry of Lands and Urban Development. Prior to recent reforms, land registration and title perfection in the state were largely manual, fragmented and slow. Records were kept predominantly in paper form, surveys were processed through multiple uncoordinated offices, and applicants seeking Certificates of Occupancy or Governor's consent were subjected to prolonged bureaucratic procedures. These processes were often characterised by delays, lack of transparency, duplication of records and difficulties in verifying ownership, which increased the incidence of land disputes and discouraged voluntary compliance with formal registration requirements. The reliance on manual systems also made land records vulnerable to loss, alteration and manipulation, thereby weakening confidence in the integrity of the land administration system in Enugu State.¹⁶

In response to these challenges, the Enugu State Government introduced the Enugu State Geographic Information System (ENGIS) as part of broader efforts to modernize land administration, enhance transparency and improve the efficiency of land registration and title perfection. ENGIS was designed to digitize land records, integrate cadastral data with geographical information systems, and streamline processes relating to land allocation, registration and consent. This reform agenda was further strengthened by the enactment of the Enugu State Land Use Regulations 2025, which provide a clearer procedural framework for land administration, registration of interests in land, and perfection of titles within the state¹⁷. The Regulations seek to reduce administrative bottlenecks, standardize procedures and promote

¹⁶ Land Use Act 1978, s 1; see also I O Smith, *Practical Approach to Law of Real Property in Nigeria* (Ecowatch Publications 2013) 87–90.

¹⁷ Enugu State Land Use Regulations 2025; Enugu State Government, *Establishment and Operational Framework of the Enugu State Geographic Information System (ENGIS)*.

certainty in land transactions. Notwithstanding these reforms, questions remain as to the extent to which the new regulatory and digital framework has effectively addressed long-standing problems associated with delay, cost, accessibility and security of land titles in Enugu State. It is within this context that this study examines land registration and title perfection in Enugu State.

1.2 Statement of the Problem

Despite the significance of land to the socio-economic growth of Nigeria, the system of registration of land and perfection of titles, however, remains inefficient and problematic. The processes for receiving Certificates of Occupancy and Governor's Consent and registering land interests under the Land Use Act are typically complicated, time-consuming and bureaucratic. These challenges undermine the objective of providing land ownership owners with certainty and security of their land title.

Cost of Land registration and Title perfection further discourages compliance with statutory requirements and this leads to a sizable percentage of land transactions remaining unregistered or not recorded informally. In addition, poor record-keeping practices, manual land registry systems and cases of fraud have led to overlapping claims and frequent land disputes throughout the country. Furthermore, due to differences in land administration practices from one state to another and the continued coexistence of customary land tenure and statutory land law, the effectiveness of land registration in Nigeria has been complicated. Despite recent efforts on reform, these issues continue to plague the system, and raise serious concerns about the potential of the current legal framework ensuring secure and efficient need for land title registration.

In Enugu State, these challenges are particularly evident in the administration of land under the Land Use Act. Delays in the issuance of Certificates of Occupancy, difficulties in obtaining

Governor's consent, inadequate coordination among land administration offices, and legacy problems associated with manual record-keeping have continued to affect the effectiveness of land registration and title perfection in the state. Despite recent regulatory reforms aimed at improving land administration, concerns persist regarding procedural efficiency, accessibility, and certainty of registered land titles in Enugu State. This situation situates the need for a focused legal examination of land registration and title perfection within the state.

1.3 Research Questions

The following research questions arise from the problems identified in this study:

1. What is the legal framework governing land registration and title perfection in Nigeria?
2. What are the major challenges associated with land registration and title perfection in Enugu State under the Nigerian land administration system??
3. How have these challenges affected security of land title and effective land administration in Enugu State?
4. What reforms can be adopted to improve land registration and title perfection in Enugu State?

1.4 Aim and Objectives of the Study

The aim of this study is to examine the current issues affecting land registration and title perfection in Enugu State within the context of the Nigeria legal framework. The specific objectives of this study are to:

1. examine the legal framework governing land registration and title perfection in Nigeria;

2. identify the major challenges confronting land registration and title perfection in Enugu state;
3. analyse the implications of these challenges on security of land title and land administration in Enugu state; and
4. recommend legal and administrative reforms for improving land registration and title perfection in Enugu state.

1.5 Scope of the Study

This study is confined to the examination of land registration and title perfection in Nigeria. In terms of subject matter, the study focuses on the legal framework governing land registration, the procedures for title perfection, and the challenges arising from their implementation. With respect to content, emphasis is placed on statutory land tenure under the Land Use Act, relevant judicial decisions, and administrative practices relating to land registration. In terms of geographical coverage, the study is limited to Enugu State as the primary area of analysis, while references are made to other parts of Nigeria only for comparative and explanatory purposes. The study does not extend to a detailed analysis of customary land tenure systems except where necessary to explain their interaction with statutory land law. This limitation is necessary due to the wide nature of land law and the need to maintain focus and depth in addressing the research problem.

1.6 Significance of the Study

This study is significant as it draws attention to the persistent challenges undermining land registration and title perfection in Nigeria and their implications for security of land tenure and effective land administration. It exposes how procedural bottlenecks, administrative

inefficiencies, high costs, and poor record-keeping practices have weakened the effectiveness of the land registration system and contributed to widespread insecurity of land titles. By highlighting these issues, the study underscores the need for a more transparent, efficient, and accessible framework for land registration and title perfection in Nigeria.

The study further reveals the gaps and loopholes within the existing legal and administrative framework governing land registration, which are often exploited, resulting in overlapping claims, fraudulent transactions, and prolonged land disputes. By identifying these weaknesses, the study provides a basis for reforming land administration practices and strengthening the protection of proprietary interests. This is particularly important for enhancing public confidence in the land registry system and promoting orderly land transactions.

Although there is considerable literature on land law and land tenure in Nigeria, there remains a relative paucity of focused studies that critically examine the contemporary challenges of land registration and title perfection and their impact on security of title and socio-economic development. This study contributes to existing knowledge by addressing this gap and offering a systematic analysis of the current issues affecting land registration in Nigeria. The findings of this study are expected to be useful to policymakers, legal practitioners, land administrators, and the judiciary by providing insights that may guide legal and administrative reforms. The study also serves as a reference point for future research on land administration and property rights in Nigeria, particularly in the context of improving land registration systems and strengthening security of land tenure.

1.7 Research Methodology

This study adopts the doctrinal legal research method. The doctrinal approach involves a systematic analysis of legal rules, principles, and concepts as contained in statutes, judicial decisions, and other authoritative legal materials. This method is considered appropriate for this study because it enables a critical examination of the legal framework governing land registration and title perfection in Nigeria, as well as the challenges arising from its implementation. The research relies primarily on secondary sources of law. These include the Land Use Act, relevant subsidiary legislation, and other statutory instruments regulating land administration in Nigeria. Judicial decisions of superior courts, particularly those relating to land ownership, registration, title perfection, and Governor's consent, are also examined to ascertain the judicial interpretation and application of land registration laws. In addition, the study makes use of secondary non-legal sources, such as textbooks, journal articles, law reports, official government publications, and reports of relevant institutions on land administration and reform. These materials provide scholarly perspectives and contextual background necessary for a comprehensive analysis of the subject matter.

The choice of doctrinal research method is justified on the ground that the study is concerned primarily with the interpretation, application, and effectiveness of existing legal rules rather than with empirical data collection. Consequently, no fieldwork or empirical survey is undertaken. This approach ensures that the study remains focused on legal analysis and doctrinal clarity, which are central to achieving the objectives of the research.

1.8 Limitations of the Study

The study is limited by constraints of time and access to up-to-date empirical data on land registration practices in Enugu state and across all states in Nigeria. As a doctrinal legal research, the study relies mainly on statutes, judicial decisions, textbooks, journal articles, and official

reports. These limitations may restrict the extent to which practical administrative variations among states are examined; however, they do not undermine the validity of the legal analysis and conclusions reached in the study.

1.9 Literature Review

Land law and land administration in Nigeria has received a lot of scholarly interest especially in the area of land tenure systems, and the effects of land use act on the ownership of land.

Nwogugu defines land law in Nigeria as a set of rules governing the ownership, use and transfer of interests in land influenced greatly by statutory intervention in the form of the land use act. He describes the land registration and title perfection as systems intended to give legal force and security to the land interests, but notes that the procedures on land registration and title perfection is usually technical and cumbersome thus discouraging landowners to observe them.¹⁸

Elias analyzed the effects of the land use act on land administration in Nigeria and observed that though the Act aimed at harmonizing and streamlining land tenure in Nigeria, it also created administrative unresponsiveness through excessive control in hands of state governors. He says that the necessity of Certificate of Occupancy and Governor consent has been a huge burden in the way of efficient land transactions and added delays and uncertainty in the perfection of titles.¹⁹

Osinbajo and Fagbohun have examined legal implications of not perfecting title to land and they have stated that unregistered or unsatisfied land interests are susceptible and inferior under the law. They insisted that Nigerian courts have always been keen on adherence to statutory demands especially the registration and consent as conditions precedent to soundness of land

¹⁸ S I Nwogugu, *Property Law in Nigeria* (2nd edn, Heinemann Educational Books (Nig) Plc 2014) 240–250.

¹⁹ T O Elias, *Nigerian Land Law* (4th edn, Sweet & Maxwell 2011) 180–205.

dealings. They did however admit that compliance in practice is often hampered by administrative bottlenecks.²⁰

Omorogbe criticised the issue of consent requirement in the land use act as one of the most contentious issues with land registration in Nigeria. She claimed that despite the fact that the requirement was actually meant to help avoid speculation and government control; it has become a delay until, a source of corruption and higher transaction costs, therefore, hampering good land administration.²¹

Utama cited bureaucracy, multiplicity of agencies, and lack of coordination of land administration institutions as some of the factors that faced land registration and title perfection in Nigeria. He noted that the land documents are usually known to take a long time to be processed which creates a lack of trust in the land registry system and promotes informal land deals.²²

Aiyedun studied the administrative nature of land registries in Nigeria and reported that ineffective management of records, lack of man power and the use of manual systems has added to the lack of efficiency and insecurity of land titles. He also noted that these problems provide space to commit fraud like allocating the same piece of land twice, and registering the same piece of land many times”.²³

Akinsola concentrated on the cost aspect of land registration and title perfection and believed that high registration cost, survey cost, and legal cost discourage most owners of land to perfect

²⁰ Y Osinbajo and A O Fagbohun, *Cases and Materials on Property Law in Nigeria* (3rd edn, Malthouse Press Ltd 2012) 385–395.

²¹ F A Omorogbe, ‘The Land Use Act and the Question of Governor’s Consent’ (2005) 1 *Nigerian Current Law Review* 45.

²² A A Utama, ‘Land Registration and Title Perfection in Nigeria: Issues and Challenges’ (2016) 7 *Nigerian Law Journal* 112 at 118–120.

²³ E O Aiyedun, ‘The Problems of Land Administration in Nigeria’ (2018) 5 *Journal of Law, Policy and Globalisation* 64.

their title. This, he says, has led to high percentage of land not being under the formal registration system thus making it difficult to use the land as a collateral to economic development.²⁴

The courts have also had a say into the discussion of land registration and title perfection. In *Idundun v Okumagba*, the Supreme Court identified the accepted means of proving title to any piece of land with reference to the significance of the documentary evidence and the registered instruments. As scholars have pointed out, a decision in a court of law helps elucidate the principle of law, but has little impact on the administrative difficulties that land registration activities are facing.²⁵

Land administration reforms and digitisation have become the focus of more current scholars. Omotola noted that electronic land registry systems could ensure transparency, minimize fraud and increase efficiency in land registration. Nevertheless, he warned that in the absence of proper legal support, technical ability and institutional dedication, digitisation initiatives might not deliver the desired goals.²⁶

In a research in Lagos State, Oladimeji has observed that despite the availability of electronic land registries that have led to better access to land records, lack of infrastructure, opposition to change and poor staff training remain persistent issues that affect effective implementation. He came to the conclusion that technological innovations should be accompanied by legal and

²⁴ O O Akinsola, 'Cost Implications of Land Registration and Its Impact on Property Rights in Nigeria' (2017) 9 *Ifè Juris Review* 133.

²⁵ *Idundun v Okumagba* (1976) 9–10 SC 227.

²⁶ A Omotola, 'Digitisation of Land Registries in Nigeria: Prospects and Challenges' (2021) 3 *African Journal of Law and Development* 55.

administrative changes in order to lead to the successful enhancement of land registration and title perfection.²⁷

Based on the above, it is clear that the current literature has discussed many issues regarding the land law and land administration in Nigeria, yet there is no explicit study into the current issues concerning land registration and perfection of titles especially the interplay between the law and administrative policies. This research will fill this gap by critically looking at the existing problems in land registration and title perfection in Nigeria and suggest reforms that will enhance security of title and enhance land administration.

²⁷ A O Oladimeji, 'E-Land Registry and Property Rights Protection in Nigeria: A Case Study of Lagos State' (2022) 10 *Commonwealth Law Review* 143.

CHAPTER TWO

CONCEPTUAL AND THEORETICAL FRAMEWORK

2.1 Introduction

This chapter is an analysis of the conceptual and theoretical underpinning on which this study is grounded. It explain the major concepts that could be applied in land registration and title perfection in Nigeria and to put the study into proper framework of theoretical perspectives. Since land is at the heart of economic progress, social stability and commercial dealings, it is necessary to have the right perspective of the concepts behind the ownership of land, its registration, and perfection of titles. This chapter discussion thus gives the analytical guideline to the issues related to the land registration and title perfection in Nigeria.

2.2 Conceptual Framework

A conceptual framework describes and explains the main ideas and concepts that underlie a research work. Conceptual clarification is especially relevant in legal research since legal terms tend to be highly technical based on statutes, decisions and scholarly interpretations. In Nigeria, the land law is governed by a combination of customary law, common law and the statutory laws and, therefore, understanding the conceptual clarity is inevitable. This part thus evaluates the main ideas of interest in this research, i.e. land, land registration, title to land and title perfection.

2.2.1 Concept of Land

Land is an economic, social and cultural phenomenon in Nigeria which is the most significant and legally regulated in the country. Land in common law is widely construed. It consists of not only the surface of the earth, but also anything attached to the surface, whether above the surface or below the surface. Therefore, buildings, trees, minerals and other fittings that are fixed in the

soil for good are considered as belonging to the land. This broad definition indicates the persistence of the significance of land as a wealth source and owner rights.²⁸

From a natural perspective, Land plays a critical role in providing ecosystem services such as food production, water filtration, carbon sequestration and biodiversity conservation.²⁹ It is also the source of natural resources such as timber, minerals and energy, which are necessary for human development and economic growth. Land use refers to human activities on land, such as agriculture, forestry, mining, urbanization and infrastructure construction. Land use patterns are influenced by a number of elements, including physical, economic, social and political considerations.

Proper land use planning and management is essential to ensure the sustainable use and conservation of land resources for future generations.³⁰ The economic value of land is influenced by factors such as location, topography, soil quality and access to markets and infrastructure. Land is a limited resource and its scarcity leads to conflicts over ownership, access and use. Land tenure refers to the legal and institutional arrangements that define rights and obligations regarding the ownership, use and transfer of land. From a social point of view, land is an important part of cultural diversity and cultural heritage. It has been used in various cultural and religious practices for thousands of years and continues to shape human society.

The distribution of and access to the earth's resources has been a source of social and economic differences and contributed to conflict and human displacement around the world. Effective land management is essential to ensure sustainable management of land resources and to address

²⁸ H C Black, *Black's Law Dictionary* (9th edn, West Publishing 2009) 962.

²⁹ Food and Agriculture Organization of the United Nations, *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests* (Rome: FAO, 2012).

³⁰ United Nations Environment Programme, *Global Environment Outlook Report*.

issues such as land degradation, deforestation, desertification and climate change. Sustainable land management practices such as conservation, agroforestry and sustainable forestry can increase land productivity and ecosystem services while reducing the negative environmental impacts of land use. According to UK law, principle of "quic quid plantatour solo solo cedit" means that anything attached to or attached to the land is part of the land and fully functional.³¹ Therefore, building materials placed on the ground only become land when the building is erected and are no longer part of the land when the building is destroyed.

The applicability of the saying "quic quid plantatour solo solo cedit" to the common law has been a point of contention among writers. Ezegafolls argued that if a person made improvements on land for any reason without the landowner's permission, the rightful owner of the improvement is the rightful owner of the improvement, and "credit alone" This maxim is not a rule of common law.³² According to Obi, a striking part of African customary law is that land does not include what grows on the land, attaches, and neither economic trees nor houses are part of the land on which they stand.³³ In Yoruba customary law, land (land) and its improvements are defined. Cruz³⁴ makes a similar point, explaining that to modern Ghanaian sheep, land means the land itself, as well as the subsoil and everything below the ground, such as soil minerals, but does not include things that are or are attached to the land, such as trees, houses or other permanent installations, for these authors the principle of rapid exchange of separate credits for botanic gardens is not part of our customary laws of the land. According to Section 3 (Miscellaneous Provisions) of the Land Use Act, 1978:

³¹ Megarry & Wade: *The Law of Real Property* (Sweet & Maxwell, 2019).

³² A O Ezegafor, *Principles of Nigerian Land Law*, 3rd ed. (Lagos: Heritage Publishers, 2018), p. 45.

³³ J M Cruz, *Essays on African Customary Land Law* (Accra: African Legal Press, 2015), p. 101.

³⁴ E N Enabueze, *Nigerian Land Law and Practice*, 2nd ed. (Enugu: Fourth Dimension Publishers, 2017), p. 88.

*Immovable property or land includes land; all property attached to the land and personal property in kind, but does not include minerals in the form of property.*³⁵

Western Nigeria Property and Transfer Section of the Property Law provides, that land includes any title, building or part of a building (whether horizontally, vertically or otherwise divided) and other material hereditaments and easements, rights, privileges or interests pertaining to or derived from land.³⁶ Enwabuez, agreeing with the above definition, states that land means not only the earth and its subsoil, but also all the structures and objects such as buildings and trees that stand on it.³⁷ Cork makes it clear that any use of the term land includes the buildings on it.³⁸

In support of this view, Olinu states: "The concept of land as understood in customary law has a wide application.³⁹ It includes things on the ground that naturally form part of the land, such as rivers, streams, lakes, lagoons, palm trees, cassava trees, etc. Growing trees or things artificially attached to the land, such as houses, buildings and structures regardless, including any real property, interest in land or interest in land, such as the right to gather snails, herbs or spoil the land. It is clear from the above discussion that the problem is far from solved. Suffice it to say that if the views of Obie and Lloyd are accepted, a situation may arise where a building or other structure is transferred to one person and the land is transferred to another person.⁴⁰ This will certainly cause some problems, as the legally superior owner of the property may be deprived of all the benefit of his land if the person to whom he assigns the occupier builds a house during his lifetime.

³⁵ Land Use Act 1978, Cap. L5, Laws of the Federation of Nigeria 2004, s. 51

³⁶ Property and Conveyancing Law, Cap. 100, Laws of Western Nigeria 1959.

³⁷ A O Ezegafor, *Principles of Nigerian Land Law*, 3rd ed. (Lagos: Heritage Publishers, 2018), p. 45.

³⁸ J M Cruz, *Essays on African Customary Land Law* (Accra: African Legal Press, 2015), p. 101.

³⁹ Ollennu, *Principles of Customary Land Law in Ghana* (Sweet & Maxwell, 1962).

⁴⁰ S NC. Obi, *The Ibo Law of Property* (London: Butterworths, 1963), p. 72.

Land has continued to shape the social, economic and political life of Nigerians for decades.⁴¹ During land use, complex relationships arise between groups. The more complex Nigeria's diverse society becomes, and the more mature the true manifestations of development, the more likely it is that disagreements and conflicts over land rights will arise. This suggests that in Nigeria, like other developing countries, land is a sensitive asset whose management must be based on meaningful political decisions to benefit the majority of Nigerians. Land occupies a unique place in the development of any individual or society. However, the supply of available land is limited. So no society can exist without specific norms that justify how land is owned and used. Land in economics refers to a resource that includes natural resources used in production. In classical economics, the three most important factors of production are land, labour and capital.

Land is seen as the "the original, inexhaustible and inexhaustible gift of nature". In today's economy, it is extensively defined to include all that nature has to offer, including minerals, forest products, and water and land resources. Although many of them are renewable resources, no one considers them "inexhaustible". The fee paid for land is called rent.⁴² Like land, its definition has expanded over time to include payments for any productive resource with a relatively fixed supply. Land is often an important basis of social prestige. There are various societies in which social status is closely related to land ownership, especially hereditary. Those who matter own the land, and those who own the land, that; others fare worse. To a great extent this was true in Britain two or more centuries ago, and to some extent later.⁴³ To some extent, this is true of most Latin American countries today. In places where land played or played this role, it

⁴¹ World Bank, Land Governance Assessment Framework (2013).

⁴² Alfred Marshall, *Principles of Economics*, 8th ed. (1920).

⁴³ David Ricardo, *On the Principles of Political Economy and Taxation* (1817).

may have been true at first that land was the basis of economic security and wealth, but the social prestige of land often persisted after its economic justification had faded. Land is also often the basis of political power. Simply put, this is because the franchise is limited to the landowner. But societies that give landed property high social status can also give it enormous political power. In the colony of Virginia, the colony was governed by landowners. Likewise, political power in many Latin American countries today, or at least a few decades ago, was largely in the hands of large landowners.⁴⁴ In modern America, rural areas still hold more political power than cities relative to their respective populations; although no longer directly connected with landed property, it largely arose from it.

According to the Nigerian customary law, land is considered to be communal property belonging to families, kindreds or communities to serve the current generation and the future generation. Land is often owned by the family or community rather than individuals and even then individual members are often restricted to only possession and use⁴⁵. Allocation of land is normally the prerogative of the father or leader of the village community representing the group and still has an effect on the landholding and dealings in several regions of Nigeria despite the statutory interventions.

The Land Use Act 1978 is the main statutory law that controls the concept of land in Nigeria. According to this Act, all land within the territory of the state vests in the Governor of the state to be held in trust in the use and common good of all Nigerians.⁴⁶ The following statutory framework essentially transformed the old land tenure systems and came in place of a system of state control over land.

⁴⁴ W O Lloyd, *Yoruba Land Law*, 2nd ed. (Ibadan: University Press Plc, 1998), p. 64.

⁴⁵ N C Nwogugu, *Family Law in Nigeria* (Revised edn, Heinemann 1990) 315–317.

⁴⁶ Land Use Act 1978, s 1.

The impact of the land use act is that the right to hold land in Nigeria is now relative to statutory provisions especially with regards to alienation and transfer of interest in land. The element of Governor concurrence on particular transactions of the land highlights the primary position of the state in the administration of land and it presents considerable consequences in the land registration and perfection of title.⁴⁷ The case law has strengthened the general statutory interpretation of land and the statutory restraint under the Land Use Act. As the Supreme Court in *Savannah Bank (Nig.) Ltd v Ajilo* confirmed, the land rights in Nigeria are liable to the terms and conditions of the Land Use Act and that any disposition of interest in the land is made invalid without the requisite consent.⁴⁸

2.2.2 Land Use ⁴⁹

Land use pertains to the utilization of land and its resources by humans for a wide range of purposes, encompassing residential, commercial, industrial, agricultural, recreational, and other natural activities. It involves the management and development of both the constructed environment, like towns and settlements, and semi-natural habitats, such as arable fields, pastures, and managed forests. To put it simply, land use is defined as the sum of arrangements, actions, and human inputs within a specific land cover type. Land cover, on the other hand, refers to the physical and biological attributes of the land's surface, including vegetation and human-made structures.

⁴⁷ E O Omorogbe, 'The Land Use Act and the Concept of Ownership of Land in Nigeria' (1983) 2 *Journal of Private and Property Law* 1, 5–7.

⁴⁸ *Savannah Bank (Nig.) Ltd v Ajilo* (1989) 1 NWLR (Pt 97) 305 (SC).

⁴⁹ Razi Brown, "Land Use: Definition and Different types of Land Use" April 29 2020. <https://www.jotscroll.com/forums/3/posts/204/land-use-definition-6-types-of-land-use.html> > last accessed 7 June 2023.

Types of Land Use⁵⁰

Residential Land Use⁵¹

Land designated for residential use is primarily intended for housing, with only a small portion allocated for other supporting purposes. The majority of urban land is utilized for residential needs, including various types of housing such as single-family homes, apartments, dorms, hotels, parks, motels, and undeveloped lots. In urban areas, residential regions tend to produce the most waste.

As urbanization and infrastructure development take place, trees and vegetation are often cleared to make way for buildings and economic activities. This deforestation can lead to problems such as erosion, particularly on slopes, as well as nutrient depletion in the soil due to heavy tropical rains. Additionally, the loss of tree cover increases the risk of landslides and flooding.

Notably, tropical forests play a vital role in controlling the global climate by absorbing carbon dioxide and releasing water through transpiration. However, the destruction of these forests is contributing to global warming.

Commercial Land Use⁵²

It is remarkable that commercial land use constitutes a minimal portion (approximately 5%) of the overall urban area. Despite this small spatial allocation, the commercial sectors significantly influence the economy through employment opportunities and sales. However, it's important to

⁵⁰O O Sholanke, 'The Nigerian Land Use Act, A Volcanic Eruption or a Slight Tremor?' (1992) 36(1) *Journal of African Law* 93.

⁵¹Ibid

⁵²AO Omodele, 'Identity, Identification and Survey Plan in Land Litigation in Nigeria' (2021) 8(1) *Nnamdi Azikiwe University Journal of Commercial and Property Law* 66.

note that commercial areas also contribute significantly to pollution. Emissions from automobiles, factories, and petrochemical plants can lead to air pollution, which in turn can cause acidification of lakes. Moreover, exposure to such pollutants is associated with various health issues, including ulcers, hypertension, and lung cancer.

Industrial Land Use

The utilization of industrial land covers a wide range of activities, contingent upon the specific industry under consideration. In urban settings, industrial land use typically involves the location of factories, petroleum refineries, electricity generating stations, and water- and sewage-treatment facilities. In rural areas, industrial land use may encompass mines, smelters, and mills for producing ores and metals; mines and well fields for extracting fossil fuels like coal, oil, and natural gas; and sizable reservoirs for hydroelectric power generation.

Transportation Space⁵³

Airports, roads, railways, and parking areas significantly occupy a substantial amount of land in urban regions. Transportation-related activities alone account for over 20% of the total land area in a typical urban environment.

Agricultural Land Use⁵⁴

Agriculture and forestry are additional forms of industrial land use, focusing on the production of renewable resources such as food and tree-fiber. The specific nature of agricultural activities depends on the crops grown and the agronomic methods employed, ranging from highly

⁵³J O Akintola, 'The Prohibition of Forcible Occupation of Landed Properties Law 2016 of Ogun State in Perspective' (2018) 5(2) *Nnamdi Azikiwe University Journal of Commercial and Property Law* 140.

⁵⁴*Ibid*

managed monocultures to more organic systems involving annual or perennial crops with minimal use of fertilizers or pesticides. Similarly, forestry practices can vary in intensity, ranging from clear-cutting and short-rotation plantations to selection-harvesting systems with infrequent interventions at longer intervals.

Recreational Land Use⁵⁵

In most urban areas, recreational land serves various purposes, catering to both active and passive forms of recreation, such as relaxation and sightseeing. This differentiation highlights the challenge of precisely defining recreation, as it can vary from competitive activities to amusement or leisure. Nonetheless, recreational land usage typically involves outdoor spaces with facilities that accommodate activities like outdoor swimming pools and tennis courts. On average, cities with populations of 100,000 or more allocate around 5% of their urban areas for recreational purposes. Different cities and organizations have set standards dictating the proportion of urban land that should be designated for recreation and open spaces.

Public Land Use or Open space

The public land uses in urban areas are primarily characterized by parks, golf courses, polo fields, football fields, and similar recreational spaces, which occupy a significant amount of land. Although considered open spaces, access to these areas might be limited at times. When planning future transportation corridors, it is crucial for transportation planners to consider the presence of cemeteries, auditoriums, arenas, and other fixed locations, as relocating certain facilities like cemeteries can be costly and challenging.

⁵⁵Ibid

From an environmental perspective, these developments necessitate large tracts of land, leading to the reduction of vegetation. This, in turn, causes various adverse effects, such as increased water runoff, accelerated erosion, higher flood risk, and greater sedimentation. During construction, the removal of vegetation often results in excessive erosion and elevated water levels in streams, leading to muddy, sediment-laden creeks and rivers.

2.2.3 Concept of Land Registration

Land registration can be termed as the official registration of interests in land within a government controlled registry to provide evidence of title, carry out land transactions and provide certainty and security of ownership of land. It is a legal tool with the help of which proprietary rights in land are registered and made publicly available. The main aim of land registration is to minimize cases of disputes over land ownership and also to enhance transparency and reliability on land dealings.⁵⁶

In Nigeria, land registration is mostly contained under statutory enactment especially the land use act of 1978 and other state enactments on land registration. In the past, Nigeria had a system of registering instruments by the English law whereby the title is not registered but the documents relating to the transaction in a land are registered⁵⁷. In this system instead of curing defects in title registration only gives precedence to registered instruments over unregistered instruments.

Researchers have indicated that the Nigerian land registration system is still largely a registration of instruments and not a registration of title. Nwogugu notes that registration in Nigerian law is a

⁵⁶ S F Omotola, *Land Registration and Land Use Act in Nigeria* (Malthouse Press 2010) 22.

⁵⁷ G W Keeton and L A Sheridan, *The Modern Law of Real Property* (3rd edn, Barry Rose 1983) 52–54.

notice to the entire world of the presence of an interest in land but does not approve a defective transfer⁵⁸. Nigerian courts have maintained this stance.

The Land Use Act enhances relevance of registering the land as registration becomes a mandatory requirement during perfection of a title. The Act provides that the consent of the Governor or local government, whichever the case may be, should be obtained before some of the interests in land can be transferred under section 21 and 22. The instruments touching on land, after the consent has been granted, should be stamped and registered as per the applicable laws;⁵⁹ failure to which it makes the transaction incomplete and therefore unenforceable against third parties.

Courts have also explained how land registration can have a legal impact on Nigeria. In *Ogunbambi v Abowaba*, the Supreme Court made it clear that registration of an instrument touching land does not of itself transfer title, but served as a means of giving notice and priority.⁶⁰ This is also witnessed in *Awojugbagbe Light Industries Ltd v Chinukwe*⁶¹. However, land registration in Nigeria has not been spared as it has been criticised to be cumbersome, expensive and inefficient despite its importance. Other scholars like Omotola and Aiyedun have come up with bureaucratic delays, corruption and poor records keeping as some of the biggest challenges facing land registries in most states, which have deterred compliance and supported the existence of unregistered land dealings thus defeating the aims of land registration⁶².

Section 25 of the Enugu State land Instrument preparation and Registration law, provides that:

⁵⁸ N C Nwogugu, *Property Law in Nigeria* (2nd edn, Nwamife Publishers 1974) 178.

⁵⁹ Land Use Act 1978, ss 21–22; Stamp Duties Act, Cap S8, Laws of the Federation of Nigeria 2004.

⁶⁰ *Ogunbambi v Abowaba* (1951) 13 WACA 222.

⁶¹ *Awojugbagbe Light Industries Ltd v Chinukwe* (1995) 4 NWLR (Pt 390) 379 (SC).

⁶² S F Omotola, 'Challenges of Land Registration in Nigeria' (2012) 6 *Nigerian Current Law Review* 45, 50–53.

“For the purpose of Registration, an Instrument shall be deemed to include all certificates and other matter endorsed thereon or attached there to at the time it is defined as registration.”⁶³

The purpose of registration of land instrument is to equip any prospective land buyer or purchaser with detailed information on any form of transaction or history about a particular land he or she may wish to transact on. So by such registration, all the necessary informations and particulars of the land are extracted from the instrument (document) and kept in the database of the land registrar for public inspection, search or use. While the copies of the instruments lodged or submitted shall be duly stamped and signed with a statement that indicate they are registered back to the owner or his agent or representative who applied for it.

However, before any Instrument can be registered, it must possess all legal requirements of characteristic of a registrable instrument, preparation and I, laws of Enugu State), that every registered instrument shall pass the validity content as provided in *section 13(1) (2) (3) and section 2.19*⁶⁴

Calls for reforms to improve land registration have occurred in the recent years in the form of digitisation of land registration, and reorganizing the administrative system. Even though other states have introduced electronic land registration systems and Enugu is not left out in this reform as the state enacted the new law Enugu State Land Use Regulations 2025 Made by the governor enacting new laws governing all rules and procedures involving all land matters in the state. The new Regulation equally established the Enugu state Geographic information system which is currently charged with the sole duty of registration of land Titles including certificate of occupancy (section 6 sub 2) its implementation has been patchy and has encountered legal and

⁶³Section 25 of the Enugu State land Instrument preparation and Registration law,

⁶⁴ section 13(1) (2) (3) and section 2.19 of Land Instrument preparation and Registration law, Laws of Enugu State 2004

institutional limitations. Nevertheless, proper land registration is the key to the attainment of certainty of title and efficient land administration in Nigeria.

2.2.4 Concept of Title to Land

Title to land is the legal foundation on which a person asserts that he owns land or has a proprietary interest in land. It is the complete amount of rights that an individual possesses in a piece of land that can be absolute or limited, legal or equitable. Title plays a central role in the land law of Nigeria since it expounds on the degree to which an individual is interested in land and the capacity to enforce the interest over the third party⁶⁵.

In common law, ownership of land can be legal or equitable. The legal title is held in the name of the person whose interest is recognised by law and liable to the entire world whereas equitable title is held where a person has an interest recognised by equity, as in a trust or an unregistered conveyance. Equity can override equitable title although the equitable title is subordinate to legal title, unless in a proper circumstance, equity can step in to save equitable interests⁶⁶.

Continuously developing in Nigeria, the notion of title to land is also influenced by the customary law and statutes. In the customary law, the title of land is commonly community or family-owned, and people have rights of possession and usage but not ownership⁶⁷. This traditional view of the title is the radical title in trust on behalf of the members and is still in tandem with the statutory rights of occupancy brought by the Land Use Act.

The Land Use Act made major amendments to the title to land concept as the Governor vested all land in every state as trustee on behalf of the people. Rights of occupancy are no longer held

⁶⁵N C Nwogugu, *Property Law in Nigeria* (2nd edn, Nwamife Publishers 1974) 135.

⁶⁶G W Keeton and L A Sheridan, *The Modern Law of Real Property* (3rd edn, Barry Rose 1983) 98–100.

⁶⁷E I Nwogugu, *Nigerian Land Law* (Heinemann 1974) 67–69.

by individuals or corporate bodies but by statute or custom, a statutory right of occupancy is granted by the Governor whereas a customary right of occupancy can be granted by a local government or by the operation of customary law⁶⁸. These rights are the foundation on which title to land is being now asserted in Nigeria.

The courts have also come up with known modes of proving title to land in Nigeria. The Supreme Court described five ways of establishing title to land in the case of *Idundun v Okumagba*, giving title to land by traditional evidence, production of documentation of title, acts of ownership over a reasonable period of time, acts of long possession and enjoyment, and showing possession of connected or adjacent land.⁶⁹ It is also worthy to mention that possession does not always translate to title, though this can create a presumption of ownership in favour of the person who is in possession. Title should be derived to a sound root, either to customary law, statutory grant or recognised conveyance. In cases where the title root is flawed, any interest which has been acquired out of it will in turn be flawed irrespective of whether it is registered or not⁷⁰. Title to land is of special importance in the case of land registration since only a person who possesses a valid title can legally register or perfect an interest in land. Registration of nonexistent title is not a creation of title but is merely evidence of an existing interest. Existence of difficulties with the ineffective roots of title and unregistered interests, therefore, remains one of the aspects that jeopardize the security of the ownership of land in Nigeria.

2.2.5 Concept of Title Perfection

Title perfection is the procedure through which an interest in land is perfected and made legally effective against third parties in accordance with statutory requirements. It is adherence to certain

⁶⁸ Land Use Act 1978, ss 1, 5 and 6.

⁶⁹ *Idundun v Okumagba* (1976) 9–10 SC 227.

⁷⁰ *Ogunleye v Oni* (1990) 2 NWLR (Pt 135) 745 (SC).

legal processes that are stipulated by law to certify and authenticate the transacting of land. Title perfection is an important part of land law in Nigeria since it defines the enforceability, priority and security of interests in land⁷¹.

According to the Nigerian law, the perfection of title normally entails three main steps that are namely: securing the necessary consent, stamping the instrument and registration of the instrument. These are the prerequisites that are set in place to make transactions of land transparent, documented and controlled by the government. Any lack of adherence to any of this makes the transaction imperfect and subject to legal risks.⁷²

Consent under the land use act is one of the greatest aspects of title perfection in Nigeria. Section 22 of the Act needs the approval of the Governor to alienate a statutory right of occupancy, and section 21, converts to the same to alienate a customary right of occupancy. This requirement has been criticised by scholars as placing bureaucratic delays on the state and raising transaction costs by making alienation uncontrollable⁷³.

The courts have given the judicial explanation on the implication of failure to comply with the consent requirement. The case of *Akinola v Oluwo*, the Supreme Court was ruling that an inchoate transaction that involves a Governor consent but is performed without this consent is not void but was inchoate until the consent is given⁷⁴. This position was further affirmed in *Solanke v Abed*, where the court recognised that an unperfected transaction may confer equitable interests enforceable in certain circumstances.⁷⁵ These decisions reflect a more flexible judicial approach aimed at mitigating the harsh consequences of strict statutory compliance.

⁷¹ S F Omotola, *Law of Real Property Transactions in Nigeria* (Lagos University Press 2014) 141.

⁷² A A Oba, 'Title Perfection and Land Transactions under the Land Use Act' (2011) 5 *Journal of African Law* 89, 92.

⁷³ Land Use Act 1978, ss 21–22.

⁷⁴ *Akinola v Oluwo* (1962) 1 All NLR 224.

⁷⁵ *Solanke v Abed* (1962) 1 All NLR 230.

The last processes of title perfection are stamping and registration. The Stamp Duties Act also makes the instruments that have anything to do with land to be duly stamped in order to be accepted in a court of law as evidence. The registration of such instruments under the proper land registration laws is a notice to the entire world of the interest established. In *Ogbimi v Niger Construction Ltd*, the Supreme Court was of the view that an unstamped or unregistered instrument touching on land could not be admissible in evidence and unenforceable against third parties.⁷⁶

Although title perfection is important legally, there are still practical issues that are affecting its performance in Nigeria. Delays in consenting, excessive cost of perfection and administrative inefficiencies by scholars such as *Akinbiyi and Omorogbe* have been cited as critical challenges to owners of land and as a result, they have led to a high rate of informal land dealings, thus undermining the credibility of the land registration system.⁷⁷ The issues of poor title perfection have also been brought into limelight by recent judicial rulings. In the case of *Udo v Essien*, the Court of Appeal observed that lack of perfection of title subjects a purchaser to the risk of loss of priority to later purchasers who make statutory disbursements.⁷⁸ Based on the above, title perfection is an important yet troublesome issue in land law within Nigeria. Though the legal structure offers good protocols of perfecting title, administrative and institutional hurdles are still exasperating the process of compliance. These difficulties make up the key issues that have been discussed in this study.

⁷⁶ *Ogbimi v Niger Construction Ltd* (2006) 9 NWLR (Pt 986) 474 (SC).

⁷⁷ A A Akinbiyi, 'Administrative Challenges of Title Perfection in Nigeria' (2015) 3 *Nigerian Bar Journal* 67, 71–73; E O Omorogbe, 'Reforming Land Administration in Nigeria' (2018) 12 *UNILAG Law Review* 1, 8–10.

⁷⁸ *Udo v Essien* (2014) 8 NWLR (Pt 1410) 1 (CA).

2.3 Theoretical Framework

A theoretical framework gives the interpretative perspective in which a research problem is discussed. Theories are useful in legal research explaining the tenets of legal rules and assist in the interpretation and analysis of the existing laws. The current work is supported by the Property Rights Theory that provides an appropriate background of analysing the land registration and title perfection in Nigeria.

2.3.1 Property Rights Theory

Property rights Theory is based on the assumption that property rights which are well defined and have legal protection are the key to the existence of social order, economic growth and effective distribution of resources. According to the theory, in an environment where property rights are secure, transferable and enforceable, people tend to invest in and use property more productively than, when there is insecurity due to weak or uncertain property rights, investment and use of property is discouraged and the risk of property ownership increases.⁷⁹

When applied to land law, the Property Rights Theory underlines the significance of the legal system which guarantees the certainty of title and the protection against unjust deprivation of the land to the landholder. Institutional mechanisms to explain and provide security to property rights are land registration and title perfection. Land interests are registered and enforced against third parties by complying with the statutory requirements, increasing security of tenure.⁸⁰

In the Nigerian scenario, but not always, according to De Soto, the informal land holdings become legalized, making the property right obtainable as a tool of economic exploitation, due to

⁷⁹ R Coase, 'The Problem of Social Cost' (1960) 3 *Journal of Law and Economics* 1.

⁸⁰ H Demsetz, 'Toward a Theory of Property Rights' (1967) 57 *American Economic Review* 347.

bureaucratic delays, high costs and administrative inefficiencies in title perfection.⁸¹ Such obstacles undermine the protective role of property rights and also help to promote informality in land deals.

Although the Land Use Act is aimed at ensuring equal opportunities to access the land and avoiding land speculation, it poses a significant state control over the land by the freezing of radical title to the Governor and the necessity to consent to alienation. According to a Property Rights Theory, excessive administrative control can impinge security of property rights in situations where it generates uncertainty, slowness or arbitrary decision-making. This contradiction between state control and property rights to individuals is the focal point of the issues in land registration and title perfection in Nigeria. The significance of safe property rights has been echoed even by judicial rulings. The necessity to abide by statutory requirements to safeguard proprietary interests and at the same time consider equitable interests by imperfect transactions has been reiterated in courts and is relevant to the central issue of Property Rights Theory which is to promote certainty and avoid injustice.

Property Rights theory present a valuable set of guidelines to assess the legal and administrative issues of land registration and title perfection in Nigeria.⁸² It allows an evaluation of whether the current laws and practices are very effective in securing land rights or rather they provide impediments to title certainty⁸³. Using this theory, the study critically analyzes the role of statutory requirements, administrative procedures and judicial interpretations on the security of the interests in land and their enforceability. The recommendations provided in this study are

⁸¹ H de Soto, *The Mystery of Capital* (Basic Books 2000) 47–49.

⁸² A A Oba, 'The Land Use Act and the Protection of Property Rights in Nigeria' (2012) 8 *Nigerian Law and Practice Journal* 23, 28–30.

⁸³ *Akinola v Oluwo* (1962) 1 All NLR 224; *Solanke v Abed* (1962) 1 All NLR 230.

also informed by the theory which seek to enhance the property rights by making the land registration and title perfection mechanisms more efficient and accessible.

2.3.2 Legal Centralism (Statutory Control) Theory

The Legal Centralism Theory relies on the principle that law is mainly interpreted, produced and enforced by the state in the form of institutionalized law. According to the theory, the state has the right to control social relations such as ownership of property and use of land to advance the common good, order and regularity. Within the framework of this approach, non-state or informal systems of control give way to the statutory one.⁸⁴

Legal Centralism appears in the area of land law in the vast amount of state intervention in land administration. This is most pronounced in the Land Use Act in Nigeria, which vests all the lands in each state in the Governor as trustee to be used, and common good of all the people of Nigeria. This statutory framework puts land allocation, alienation and registration under the control of the government.⁸⁵ The need to have Governor consent on land transactions is a good example of how land regulation is centralised under the Nigerian law.

Advocates of Legal Centralism posit that state regulation of land is required to thwart land speculation, encourage fair distribution and orderly development. In this light, land registration and title perfection are tools that are used to enforce oversight and keep proper records in terms of land ownership by the state.⁸⁶ Centralised registration systems are also meant to ensure that uniform standards are set and land dealings become less uncertain.

⁸⁴ J Griffiths, 'What Is Legal Pluralism?' (1986) 24 *Journal of Legal Pluralism* 1, 3–5.

⁸⁵ Land Use Act 1978, s 1.

⁸⁶ M J Trebilcock and P-Erik Veel, 'Property Rights and Development' (2008) 40 *NYU Journal of International Law and Politics* 431, 445.

Opponents of Legal Centralism argue that too much state intervention can cause inefficiency, discretion misuse and administrative snarls. In Nigeria, land administration has been linked with delays in consent issuance, transaction costs and corruption at land registries leading to poor performance of land registration as well as security of title especially to the individual and small-scale landholder.⁸⁷

The tension of the Legal Centralism has been exhibited in judicial rulings. Although the courts have embraced the power of the Governor under the Land Use Act, they have also warned on arbitrary use of statutory powers. In *Adole v Gwar*, the Supreme Court underscored on the fact the powers as granted by the Land Use Act should be exercised in a way that is compliant with the law but not to the detriment of justice.⁸⁸

Legal Centralism Theory applies to this research because it describes the statutory supremacy of the state in land registration and title perfection in Nigeria. It gives a theoretical construct on the use of state control, which supposedly propagates order and equity, as a factor in administrative impediments and wastages in land registration procedures. Using this theory, the study assesses the extent to which the current law system has achieved a reasonable balance between government control and efficiency, accessibility and security of the land ownership systems.

2.3.3 Formalism and Mirror Principle Theory

The Formalism and Mirror Principle Theory offers another theoretical point of analysis to understanding land registration and title perfection especially in a land registration system that aims to establish a credible and authoritative land register. It derives from the classical Torrens model of land registration. It is constituted by three fundamental principles: a mirror principle, a

⁸⁷ E O Omorogbe, 'Land Administration and Governance in Nigeria' (2016) 10 *Nigerian Journal of Public Law* 55, 60–62.

⁸⁸ *Adole v Gwar* (2008) 11 NWLR (Pt 1099) 562 (SC).

curtain principle, and an insurance principle which all underline the principle that a land register must reflect accurately all material interests in land, should not require historical investigation of title, and that where the register is erroneous compensation should be given.⁸⁹

According to the mirror principle, the register must represent a full and accurate image of the present situation of title.⁹⁰ This should be in a way which does not need an incompatible inquiry into the historical transactions.⁹¹ This is enhanced by the curtain principle which states that equitable interests and other off-register issues cannot encumber a purchaser who makes good faith and fair deals acquisition of an interest.⁹²

This theory is relevant in determining whether the current framework is successful in getting to the very target of title certainty. Although the current system of Nigeria, a view of deeds registration topped with statutory control in the Nigerian Land Use Act.⁹³ It does reflect the principle of mirror, it adds to the expenses of transactions and defeats the effectiveness of the registry.⁹⁴

The fact that an unregistered interest may be persisted and that the informal land transactions happen also undermines the mirror role of the register. In areas where the proprietary interests are substantial, but not recorded in the formal registration system, the register will not be reflective of the true state of title, and this is what purchasers are exposed to by this situation, the mirror principle attempts to do away with.⁹⁵ The obtrusiveness of formalities in the statute under the *Savannah Bank v Ajilo* which the Supreme Court insisted upon, demonstrates the difference

⁸⁹ E Cooke, *The New Law of Land Registration* (Hart 2003) 32–40.

⁹⁰ *ibid.*

⁹¹ *ibid* 41–45.

⁹² Ruoff and Roper, *The Law and Practice of Registered Conveyancing* (Sweet & Maxwell 2004) 55–60.

⁹³ U K Umezulike, *Land Law and Conveyancing in Nigeria* (2nd edn, Spectrum 2013) 180–190.

⁹⁴ Registration of Titles Law (various states).

⁹⁵ M. A. Omotola, *Essays on the Land Use Act* (Lagos University Press 1984) 70–75.

between the transactions with equitable content and perfecting title by law, a difference which a proper mirror-based registration system would reduce to minimum.⁹⁶

The principle of curtain is achieved in Nigeria partially as well.⁹⁷ Since in some cases equitable interests can survive outside the register and insulate later purchasers, it means that equitable interests will negate the efficiency of conveyancing by requiring a practice of investigating beyond the register.⁹⁸ The other major weakness is that the lack of a full state-supported assurance mechanism similar to the principle of insurance. Though errors in documentation may be repaired through administrative remedies, there is no sound statutory remedy of compensation to those who lose because of errors committed in the land register.⁹⁹ This gives people less trust in the system, and dissuades the use of a registered title as a final demonstration of ownership.

The latest initiatives in digital land administration like EnGIS and services provided under the Enugu State Land Registration Law 2025 represent a chance to be closer to the principle of the mirror.¹⁰⁰ This can be realised only with the help of technological innovation, but the goals of formalism are impossible to meet without legal standards creating indefeasibility of registered title and creating remedies against registry mistakes. Another aspect that the theory brings to the fore is procedural formalism in the perfection of titles. The observance of formalities, including the consent of the Governor, stamping, and registration, is the entry-gate to legal recognition of the proprietary interests.¹⁰¹ Whereas excessive procedural elaboration of the formalities can have

⁹⁶ *Savannah Bank v Ajilo* (1989) 1 NWLR (Pt 97) 305.

⁹⁷ B O Nwabueze, *Nigerian Land Law* (Nwamife 1972) 120–130.

⁹⁸ E Cooke (n 1).

⁹⁹ Ruoff and Roper (n 4) 65–70.

¹⁰⁰ Enugu State Land Registration Law 2025.

¹⁰¹ Land Use Act 1978, s 22.

the contrary outcome of causing procrastination in registration, and stealing transactions out of the books.¹⁰²

Moreover, a Formalism and Mirror Principle Theory can be taken as an effective source of assessing the connection between state control and title certainty. In areas where perfection of title is tedious and time-consuming, variety of transactions will be outside the register, and this makes the system less reliable.¹⁰³ A system that aims to replicate the accuracy must therefore streamline the processes, lower the cost and be able to ensure title perfection.

The theory in the condition of this study is used as a reference point of determining the effectiveness of land registration in Enugu State. It allows judging whether the existing legal and institutional platform allows creating an accurate, complete, and trustworthy register. It also clarifies the analysis of Title perfection, implications of delayed title perfection, incomplete records of the title and ineffectiveness of administrations on land ownership security. Using this theoretical approach, the study can go on to prove that the difficulties associated with land registration are not just processual but structural such that they touch on the basic capacity of the register to work as a credible book on title. The suggestions made in this study, especially those associated with digitalization, streamlining the process and legal status of the registered title, thus have the purpose of attracting the system to the ideals of the mirror and formalism principles.

CHAPTER THREE

LEGAL AND INSTITUTIONAL FRAMEWORK GOVERNING LAND

REGISTRATION AND TITLE PERFECTION

3.1 Statutory Framework Governing Land Registration and Title Perfection in Enugu State

3.1.1 Land Use Act 1978

This is because the Land Use Act 1978 is still the land use statute in Nigeria that regulates land tenure.¹⁰⁴ It vests all land in each state in the Governor as a trustee to be beneficent to the people and regulates the grant, alienation, as well as revocation of rights of occupancy.¹⁰⁵ The implication of the necessity of consent regarding title perfection is directly applicable in Enugu state since a transaction involving the transfer, mortgage, lease, or assignment without the consent of a Governor is illegal.¹⁰⁶ This was held in the case of *Savannah Bank Ltd v Ajilo* where a mortgage without consent of a Governor was declared void.¹⁰⁷

A certificate of occupancy issued pursuant to the Act is a prima facie evidence of title.¹⁰⁸ It does not cure defects in root of title.¹⁰⁹ In *Ogunleye V Oni*, the Court stressed the fact that title perfection only occurs when a certificate of occupancy has been issued and that a proper investigation of title, stamping and registration has been conducted.¹¹⁰ This means that the substantive law relating to ownership of land is in the Land Use Act and the formal law that governs the registration of land are found in the state legislation.

¹⁰⁴ *ibid* ss 5, 22.

¹⁰⁵ *ibid* ss 5, 22.

¹⁰⁶ *Savannah Bank Ltd v Ajilo* (1989) 1 NWLR (Pt 97) 305 (SC).

¹⁰⁷ Land Use Act 1978, s 9.

¹⁰⁸ *Ogunleye v Oni* (1990) 2 NWLR (Pt 135) 745 (SC).

¹⁰⁹ M C Okany, *Nigeria Law of Property* (3rd edn, Fourth Dimension Publishers 1994) 182.

¹¹⁰ Enugu State Land Registration Law 2025.

3.1.2 The Enugu State Land Registration Law 2025.

The Enugu State Land Registration Law 2025 is an important move towards the replacement of the old system of deeds registration with a more modern and technology based system of land registration.¹¹¹ It guarantees an increased amount of certainty in titles, minimizes fraud and helps streamline the title perfection process.¹¹²

In contrast to the previous regime of Land Instruments Registration that simply registered instruments as a notice, the 2025 Law is moving towards a title registration regime which gives a greater degree of indefeasibility to the registered title, subject to statutory exceptions.¹¹³ This reform aligns Enugu State with global best practices in land registration.¹¹⁴

The law also provides for:

- compulsory title registration of registrable interests in land;
- e-record keeping via Enugu State Geographic Information system (EnGIS);
- issuance of titles to registered property and identification numbers of property;
- eased-up searches and verification of title.¹¹⁵

Using digital cadastral mapping along with regulation documentation, the law aims to eradicate several allocations and enhance transparency when it comes to land transfers.¹¹⁶ It will also mitigate the risk of lost files and fraudulent registrations as before through manual record-keeping.¹¹⁷ But the 2025 Law will only work once there is appropriate implementation, regulation

¹¹¹ *ibid* s 3.

¹¹² *ibid* s 15.

¹¹³ N I Umezulike, *Registration of Title to Land in Nigeria* (Chenglo 1989) 92.

¹¹⁴ Enugu State Land Registration Law 2025, ss 5–18.

¹¹⁵ Enugu State Land Registration Law 2025, ss 5–18.

¹¹⁶ Enugu State Government, EnGIS Implementation Framework (2024).

¹¹⁷ *ibid*.

among people and the factuality of transferred records to the digital platform.¹¹⁸ In case of faulty records in existence, the registration under the new system can still create controversies.¹¹⁹ In Enugu state, the process of registration of instruments are done step by step subject to strict requirements of the law. Before an application for registration is lodged to the ministry of lands, it is believed that the owner has taken steps to draft that particular instrument as prescribed legally, failure to do so may lead to their rejection or default against the owner. For the purpose of strict compliance of law, every land buyer or owner is expected to consult a lawyer (legal practitioner) as provided by the law.

A well Drafted Instrument must possess the following characteristics:

1. Commencement including date and parties.
2. Recitals
3. Operative part containing the Testatum, consideration, receipt clauses, the parcel clause, and habendum/reddendum
4. Covenants
5. The schedule
6. Testimonium
7. Execution
8. Attestation

In line the above criteria, drafting of legal document especially land instrument should follow the laid down rules applicable to such in favour of the own, and to the admissibility of it in court and in registration.¹²⁰

¹¹⁸ N I Umezulike (n 11).

¹¹⁹ Land Use Act 1978, s 22.

¹²⁰ Smith I.O (SAN). Practical approach to Real Property Law in Nigeria page (446)

In Enugu State, Section 13 of the land Instruments preparation and Registration Law, Laws of Enugu State 2004, provides that;

“No instrument executed in Nigeria after the commencement of this law, (the grantor, or one or more grantors) where of is illiterate, shall in the presence of Magistrate or Justice of peace and is subscribe by such magistrate or Justice of Peace as a witness thereon”.¹²¹

Also in section 13 subsection (2), provides that

“No Instrument execute in Nigeria shall be registered unless it has been endorsed thereon or attached thereto a certificate of proof (as in "form A" in the first schedule or to the live effect) by one of the persons mentioned in (a) or (b) of subsection (3) as the case may be or unless one of the¹²²

Subscribing witness thereto be one of such persons or unless they do execution thereof is otherwise certified to the satisfaction of the registrar by one of such persons”. ... see subsection (3) of the law. This passage talks about protection of the illiterate party(ies) to an instrument of land contract called “Illiterate jurat”. In every drafting of land instrument, it’s the requirement of law that every document involves for transfer of any interest in land contain that, it’s believed that such land documents have been dully read and explained to the illiterate party in the language he or she understand before appending his signature and many more.

So, once an instrument of land is correct in its drafted nature as required by law, which in this context is “By Deed”, and all Deeds have their various characteristic provided by law as stated above.

¹²¹ Section 13 of the land Instruments preparation and Registration Law, Laws of Enugu State 2004

¹²² Section 13 subsection (2) of the land Instruments preparation and Registration Law, Laws of Enugu State 2004

Once the land instruments are executed by parties involved (signed, sealed and delivered) then they are ready for registration. The registration follows the underline step by step method:

No.1. Draft an application letter and address it to the Hon. Commissioner for lands and urban Development, indicating your interest and intention to register the instrument.¹²³

The letter must contain all possible facts about the location of the land and address of the applicant.

No. 2 Attach copies of the instrument you intend to register with the letter. And the copies of the registrable instrument must contain the survey plan of the land/property.

No. 3 submit the hard-copies of the registrable instrument to the land registrar at their public operation unit or reception where you may be directed to the appropriate unit or Deed department, on behalf of the commissioner. And you must expect them to stamp your own copy of photocopy of the same letter you submitted as evidence that they received the named items.

No. 4 The ministry will calculate the cost base on location of the land and evaluate all fess necessary to be paid for the registration, after the costing and price evaluation, a demand notice shall be issued to the owner, then the amount paid/lodged into one single account called “Enugu State IGR account”. Then obtain a receipt which is to be submitted to the ministry of lands as evidence of payment

No. 5. Then upon the confirmation of payment through the receipt, then the document starts moving from one office to another, from one table to another for proper extraction of all vital information from the documents, then record them and kept in their database. Then stamp and signed them (mostly) at the back of each of the land instruments, with a statement which reads “Registered” in each of the documents, and subsequently those documents are sent back to the

¹²³ Land Registration law, cap 100, volume iv, laws of Enugu State 2004

address provided by the applicant or can be called to come to the ministry to called them in first hand.¹²⁴

Moreover, despite the fact that the law modernises registration, the consent of Governor as stipulated in the Land Use Act continues to be required in Title perfection in Enugu State.¹²⁵ Hence the consent continues to be stamp supported, consented and registered though in a more technologically advanced system.¹²⁶

3.1.3 Stamp Duties Act and Perfection of Title

One more important statutory criteria of perfection of title is the stamp duties on land instruments. The unstamped instrument under the Stamp Duties Act is not admissible in evidence and is impossible to be registered.¹²⁷ This puts stamping a condition for registration.¹²⁸

This has always been enforced by the courts. In the *Awojugbagbe Light Industries Ltd v Chinukwe*, the Supreme Court ruled that unstamped instrument was inadmissible until duly stamped.¹²⁹ Accordingly, parties wishing to perfect title were required to make sure that instruments were properly stamped before they could be submitted to be registered.¹³⁰

Stamp duties are also a part of total cost of title perfection which has been noted to be one of the greatest hindrances towards formal land registration.¹³¹

3.1.4 Urban and Regional Planning Laws

¹²⁴ Land Registration law, cap 100, volume iv, laws of Enugu State 2004

¹²⁵ A O Smith, 'Governor's Consent and Land Transactions in Nigeria' (2010) 4 *Nigerian Current Law Review* 112.

¹²⁶ Stamp Duties Act, s 22.

¹²⁷ *ibid* s 19.

¹²⁸ *Awojugbagbe Light Industries Ltd v Chinukwe* (1995) 4 NWLR (Pt 390) 379 (SC).

¹²⁹ J O Asein, *Introduction to Nigerian Land Law* (Ababa Press 2002) 201.

¹³⁰ K Omotola, 'Land Administration and Economic Development' (2012) 6 *Journal of African Law* 78.

¹³¹ Enugu State Urban and Regional Planning Law.

Planning laws also constitute the part of the legal framework as land registration and perfection of titles is often subjected to adherence to approved land use and building laws.¹³² Planning laws have also been provisions of the statutory framework since in Enugu State, there are development permits and layout approvals before a valid use of land may be registered.¹³³

Lack of conformity to planning regulations can have the effect of influencing the acceptance of certificates of occupancy and other title documents.¹³⁴ Planning control is therefore an indirect tool that impacts title perfection.¹³⁵

3.2 Institutional Framework for Land Registration and Title Perfection in Enugu State

Any land registration system is effective with respect to the statutes which govern it as well as the institutions that execute the statutes. The land administration in Enugu State is being done via a network of agencies under the oversight of the State Government.¹³⁶ These departments take the key role in investigating titles, handling applications, registering instruments in addition to maintaining land records. The ease and good or poor performance is directly a measure of the security of title and ease of transacting land.

The major organizations that are concerned with land registration and title perfection in Enugu State are the Ministry of Lands and Urban Development, the Lands Registry and Enugu State Geographic Information System (EnGIS).¹³⁷

3.2.1 Ministry of Lands and Urban Development.

¹³² *ibid.*

¹³³ *ibid.*

¹³⁴ J O Asein (n 22).

¹³⁵ *Ibid.*

¹³⁶ N I Umezulike, *Land Registration and Title Security in Nigeria* (Chenglo 1989) 101.

¹³⁷ Enugu State Land Registration Law 2025.

The Ministry of Lands and Urban Development is the chief administrative agent that heads towards issuing occupancy applications and issue certificates of occupancy.¹³⁸ They as well as giving Governor consent on an issue of land deals in Enugu State.¹³⁹ The authority of the Governor to allow and acknowledge transactions involving land is often carried out under the Land Use Act through the Ministry.¹⁴⁰ As a result, title perfection is only possible through the Ministry since no transfer of a statutory right of occupancy is considered unless there is consent.¹⁴¹

Title investigation as an aspect of the work of the Ministry is to determine whether the land is free of both government acquisition and prior allocation or overriding public interest.¹⁴² This aspect is very important in ensuring that bona fide purchasers are not duly allocated. The necessity to investigate properly was highlighted in *Kyari v Alkali* in which the Supreme Court concluded that a buyer has to scrutinize title in the relevant land office.¹⁴³

Nevertheless, there are a number of operational issues affecting the Ministry, such as bureaucracy, manual handling of files, and low technical capacity.¹⁴⁴ This tends to increase the length of time to get the consent of Governor and allotting certificates of occupancy thereby deterring legal registration.¹⁴⁵

3.2.2 Lands Registry

¹³⁸ Enugu State Ministry of Lands and Urban Development, Administrative Guidelines (2024).

¹³⁹ Land Use Act 1978, ss 5, 22.

¹⁴⁰ *ibid.*

¹⁴¹ *Savannah Bank Ltd v Ajilo* (1989) 1 NWLR (Pt 97) 305 (SC).

¹⁴² J O Asein, *Introduction to Nigerian Land Law* (Ababa Press 2002) 198.

¹⁴³ *Kyari v Alkali* (2001) 11 NWLR (Pt 724) 412 (SC).

¹⁴⁴ N I Umezulike (n 115).

¹⁴⁵ K Omotola, 'Land Administration and Economic Development' (2012) 6 *Journal of African Law* 78.

The Lands Registry is the statutory register of all the registrable land instruments within the state.¹⁴⁶ It gives public notice of transactions.¹⁴⁷ It also protects the priority of registered interests in the traditional system of deeds.¹⁴⁸ The legal principle of registration was described in *Omisore v Aregbesola* where the court stated that registration delivers notice to the entire world of the existence of an interest in land.¹⁴⁹ In *Ogunbambi v Abowaba*, the Supreme Court stated that a buyer who does not search the registry risks losing out on the interest.¹⁵⁰

In the Enugu State, the Lands Registry has the responsibility of:

- recording assignment, mortgage, lease, and powers of attorney deeds;
- recording land and land indexes;
- Searches that are made and certified true copies of registered instruments are conducted.¹⁵¹

In spite of its significance, poor record management, lost files and registration delays have been historical with the registry.¹⁵² This has led to ownership fraud and certainty of title.¹⁵³

¹⁴⁶ Land Instruments Registration Law (repealed in part by the 2025 Law).

¹⁴⁷ *ibid.*

¹⁴⁸ N I Umezulike (n 115).

¹⁴⁹ *Omisore v Aregbesola* (2015) 15 NWLR (Pt 1482) 205 (SC).

¹⁵⁰ *Ogunbambi v Abowaba* (1951) 13 WACA 222.

¹⁵¹ Enugu State Lands Registry Practice Manual (2023).

¹⁵² U Uche, 'Land Registration and Fraud in Nigeria' (2015) 9 *Nigerian Juridical Review* 45.

¹⁵³ *ibid.*

3.2.3 Enugu State Geographic Information System (EnGIS).

The technological support of the new land registration regime under the 2025 Law is vested on the Enugu State Geographic Information System (EnGIS).¹⁵⁴ It is aimed at digitisation of land records and processing titles automation as well as integration of cadastral map with legal documents.¹⁵⁵

EnGIS conducts multiple institutional roles, which are:

- development of an electronic land registry;
- issuing of distinguishing property identification numbers;
- electronic application handling of certificate of occupancy and certificate of consent applications;
- Online title search and validation.¹⁵⁶

The system will also help remove lost files and multiple allocations as manual record-keeping is substituted with a digital platform.¹⁵⁷ Digitisation on its own will not remove disputes, especially with incomplete legacy records.¹⁵⁸ The system also complies with the current land administration practices.¹⁵⁹ This helps shift the system of deeds registration to the system of title registration.¹⁶⁰ To achieve efficacy, digitisation merely will not eradicate disputes where legacy records were only partially formed or conflicted with the electronic records.¹⁶¹

¹⁵⁴ Enugu State Geographic Information System (EnGIS) Operational Framework (2024).

¹⁵⁵ *ibid.*

¹⁵⁶ *ibid.*

¹⁵⁷ N I Umezulike (n 115).

¹⁵⁸ Enugu State Government, EnGIS Policy Document (2024).

¹⁵⁹ U Uche (n 131).

¹⁶⁰ *ibid.*

¹⁶¹ N I Umezulike (n 115).

3.4.4 Workflow of Title Perfection in Enugu State

Title perfection in Enugu State is a multi-stage institutional process:

1. Governors Consent application forwarded to Ministry of Lands.
2. Investigation into the title to affirm the ownership of the land.
3. Evaluation and fee payment, such as consent fees, stamp duties and registration fees.
4. Stamping of instrument by the Stamp Duties Act.
5. Registering of the instrument at the Lands Registry or EnGIS.
6. Issuing a title of registration or revised register showing the transaction.¹⁶²

The inability to accomplish any of them makes the title defective. In the case of *Savannah bank ltd v Ajilo*, the recording of the transaction was invalid due to lack of consent of the Governor whereas in *Awojugbagbe Light Industries Ltd v Chinukwe*, the transaction was invalid due to failure to stamp the instrument.¹⁶³ The numerous stages of it are adding to transaction costs and time, which have been cited as a significant impediment to formal land registration.¹⁶⁴

¹⁶² Enugu State Land Registration Law 2025.

¹⁶³ *Awojugbagbe Light Industries Ltd v Chinukwe* (1995) 4 NWLR (Pt 390) 379 (SC).

¹⁶⁴ K Omotola (n 124).

CHAPTER FOUR

CHALLENGES AFFECTING LAND REGISTRATION AND TITLE PERFECTION IN ENUGU STATE

4.1 Challenges of Land Registration and Title Perfection.

4.1.1 Bureaucratic Delay in Processing Title Document.

Among the most challenging are the delays caused by the processing of applications concerning the consent of Governor, certificates of occupancy and registration of instruments within the Ministry of Lands.¹⁶⁵ This is prone to many desks being passed through before ultimate verdicts are given.¹⁶⁶

These delays raise the cost of transactions and deter parties to perfect their titles. The case of *Savannah Bank Ltd v Ajilo* highlighted the fact that, a transaction that has not received Governor consent is void, but as a matter of practice it is possible to take months or even years to get a consent which allows parties to work with unperfected titles and in the process, this exposes such parties to legal risks.¹⁶⁷ The bureaucratic delay is another aspect that leads to the growth of informal land deals whereby parties opt not to undergo the formal system.¹⁶⁸

4.1.2 Incomplete and Defective Land Records

¹⁶⁵ Land Use Act 1978, s 22.

¹⁶⁶ Enugu State Ministry of Lands, Administrative Workflow Manual (2024).

¹⁶⁷ *Savannah Bank Ltd v Ajilo* (1989) 1 NWLR (Pt 97) 305 (SC).

¹⁶⁸ U Uche, 'Land Registration and Fraud in Nigeria' (2015) 9 *Nigerian Juridical Review* 52.

A key difficulty lies in the presence of bad, missing or incomplete land records on the Lands Registry.¹⁶⁹ Under the old system of deeds registration, registration acts as a notification of title and not the actual title of the property, therefore the quality of the records is vital.¹⁷⁰

In cases where there are poor records, there are high chances of more than one registration in the same piece of land and disagreements arise.¹⁷¹ The courts have acknowledged the risk of non-reacting with the registry as they always assume the purchaser must conduct a reasonable search at the registry, failure to which he does so at his own risk as witnessed in *Ogunbambi v Abowaba*.¹⁷²

Despite the application of EnGIS aiming to digitise records, the movement of old records has resulted in inconsistencies between the manual and electronic records.¹⁷³ This reduces the credibility of the system by the citizens of the country, as well as the quality of records registered as evidence.¹⁷⁴

4.1.3 High Cost of Title Perfection

The economic cost of perfecting a title is also a major obstacle to registration.¹⁷⁵ The applicants are obliged to pay consent fee, stamp duty, registration fee, survey fee and other administrative fees.¹⁷⁶ This combined impact of these charges makes formal registration unaffordable to most landowners, especially in the peri-urban and rural locations.¹⁷⁷ This hamper the aim of having a

¹⁶⁹ M D Olong, *Land Law in Nigeria*, (2nd edn, Malthouse Press Ltd, 2011)116.

¹⁷⁰ BO Nwabueze, *Nigerian Land Law*, (Nwamife Publishers Limited, 1974)53

¹⁷¹ AA Kojajo, *Customary Law in Nigeria Through the Cases* (revised edn, Spectrum Books Limited, 2000) 77.

¹⁷² O Onakoya, 'Family Head Versus Family Members: Legal Issues in Management of Family Land under Yoruba Customary Law' [2015] *Journal of Law, Policy and Globalisation* 219.

¹⁷³ J O Asein, *Introduction to Nigerian Land Law* (Ababa Press 2002) 210.

¹⁷⁴ *Ogunbambi v Abowaba* (1951) 13 WACA 222.

¹⁷⁵ Enugu State Geographic Information System (EnGIS) Migration Report (2024).

¹⁷⁶ *ibid.*

¹⁷⁷ M G Yakubu, *Land Law in Nigeria*(Macmillan Publishers Ltd, 1985) 60.

comprehensive land database.¹⁷⁸ Such expensive prices additionally promote informal records, which have no legal understanding and raise the rates of terrestrial disputes.¹⁷⁹

4.1.4 Technical and Capacity Constraints.

In spite of such a move like EnGIS, there are still technical problems, such as poor digital infrastructure, lack of well trained staff and awareness among the masses of involved electronic registration procedures.¹⁸⁰ Digitisation entails that precise cadastral surveys and geospatial data are in place.¹⁸¹ In Enugu State, a geo-spatial survey plans of many pieces of land are not properly authenticated.¹⁸² More so, several employees in land administration offices need to undergo specialised skills in managing digital records and title check verifications.¹⁸³

4.1.5 Fraud, Double Allocation and Title Uncertainty.

The frauds are still a great menace to land registration in Enugu State.¹⁸⁴ They include:

- a single lot on several assignments of the same piece of soil;
- forgery of title documents;
- impersonation of land proprietors;
- void instrument registration.¹⁸⁵

This continued right ensures that the land registration system is not fulfilled resulting in deterring land based transactions investment.¹⁸⁶ The Supreme Court in *Awojugbagbe Light Industries Ltd v*

¹⁷⁸ Stamp Duties Act Cap S8 LFN 2004.

¹⁷⁹ S O Imhanobe, *Legal Drafting and Conveyancing*(3rd edn, Temple Legal Consult, Abuja, 2010) 388-389.

¹⁸⁰ T O Elias, *Nigerian Land Law and Custom*. (3rd edn, Routledge & Kegan Paul Ltd, 1962) 22.

¹⁸¹ A K Usman, *Law and Practice of Equity and Trust*. Malthouse Press Limited, (2014)147.

¹⁸² EnGIS Operational Framework (2024).

¹⁸³ Survey Coordination Act Cap S18 LFN 2004.

¹⁸⁴ EnGIS Policy Document (2024).

¹⁸⁵ *ibid.*

¹⁸⁶ O Odubunmi, 'An Examination of the Competing Layers of Rights in Communal and Family Land' . [2017] 8 (1) *The Gravitas Review of Business and Property Law* 130.

Chinukwe pointed out the significance of adequate documentation and stamping in legitimizing transactions on land.¹⁸⁷ The failure to observe the provisions of the statute makes an instrument ineffective.¹⁸⁸

4.2 Implications of the Challenges on Security of Title in Enugu State

The problems facing land registration and title perfection in Enugu State have a far reaching repercussions in as far as the security of the land tenure and the effectiveness of the land administration are concerned.¹⁸⁹ Any system of land registration must be effective to ensure that it provides certainty, transparency and accessibility. The presence of a weakened system due to the presence of procedural bottlenecks, institutional inefficiencies, and legal uncertainty leads to failure in inciting a sense of trust and confidence within the people as well as devaluing the economic usefulness of land.¹⁹⁰

Among the most important consequences, security of title erosion can be singled out. The creation of a record of authoritative title of interests in land, over which Creditors and transferees can turn regardless of whether they possess the title, is the main purpose of registration.¹⁹¹ This entails that title perfection delays, especially in securing the consent of the Governor to accept the title and in the processing of Certificate of Occupancy, result in a situation where more land transactions are made fair than legal.¹⁹² The *Savannah Bank v Ajilo Supreme Court* affirmed that a failure to receive the consent of a Governor makes a transaction inoperative before the law,

¹⁸⁷ *Awojugbagbe Light Industries Ltd v Chinukwe* (1995) 4 NWLR (Pt 390) 379 (SC).

¹⁸⁸ O Fabunmi, *Equity and Trusts in Nigeria* (2nd edn Obafemi Awolowo University Limited, Ile-Ife, 2006) 199-200.

¹⁸⁹ A. O. Obilade, *The Nigerian Legal System* (Sweet & Maxwell 1979) 104–110.

¹⁹⁰ Ruoff and Roper, *The Law and Practice of Registered Conveyancing* (Sweet & Maxwell 2004) 12–18.

¹⁹¹ Land Use Act 1978, s 22.

¹⁹² *Savannah Bank v Ajilo* (1989) 1 NWLR (Pt 97) 305.

which demonstrates how attitudinal stalling by the administration can effectively it into creating substantive insecurity of title.¹⁹³

The practice of conveyancing is also complicated by the fact that the unregistered interests are still present. It has long been the case that the lack of a complete and up to date land information system has allowed multiple allocations of the same piece of land, a phenomenon that is being subject to change due to the digitalisation processes under EnGIS.¹⁹⁴ Although there are still minor discrepancies between the manual and electronic records, potentially leading to a conflict of claims and litigation.¹⁹⁵

The other implication is the expansion of land disputes. In cases where the documentation of titles is not certain, incomplete, land acts as a breeding ground in lawsuits. Another issue that consumes the courts is due to faulty titles, multiple titles, and boundary issues. In *Nkwocha v Governor of Anambra State*, the Supreme Court pointed out that the Land Use Act was to ease the process of land administration and limit conflicts.¹⁹⁶ In the case of Enugu State, administrative inefficiencies have created the opposite just by facilitating the creation of informal transactions, which subsequently freeze into court battles.

This also has implications on mortgage and credit transactions. Financial institutions are reluctant to accept land as collateral where title perfection is uncertain or unduly delayed.¹⁹⁷ As long as the Governor has to consent and register title any perfection of a legal mortgage, any delay impairs the liquidity of the land assets available to individual and business and various economic impacts of such delay are widespread in Nigeria because land is a major source of

¹⁹³ F J Fekumo, *Principles of Nigerian Customary Land Law*(F & F Publishers, 2002)177.

¹⁹⁴ Enugu State Geographic Information System (EnGIS) Law.

¹⁹⁵ PC Lloyd, *Yoruba Land Law* (Oxford University Press Ltd,1962) 83.

¹⁹⁶ *Nkwocha v Governor of Anambra State* (1984) 6 SC 362.

¹⁹⁷ U K Umezulike, *Land Law and Conveyancing in Nigeria* (2nd edn, Spectrum 2013) 210–220.

capital in Nigeria.¹⁹⁸ It is the failure to transfer land into bankable security, which is a deterrent to investment and housing development.

Moreover, bureaucratic malpractices undermine the trust of people in official land management. In cases where the registration process is deemed laborious, expensive and secret, it is possible that the landholders will use informal documents like receipts, plans survey and family agreements, which do not give legal certainty equivalent to registered titles.¹⁹⁹ The outcome is that there is a dual system where there will be a formal and informal land market which will work simultaneously hence destroying the integrity of the registration regime.

The challenges are also applicable to urban planning and generation of revenue. Effective land use planning, development of property taxes and infrastructure development need proper land records, which are missing with incomplete registration records.²⁰⁰ This make it hard to figure out the landholders and ensure that development is controlled and ground rents payable.²⁰¹

Despite the EnGIS introduction being a notable institutional reform, its success will require all the mentioned data capture, co-ordination of actions among agencies and any legal accepted electronic records to ensure title security solely through the digitalisation.²⁰² The shift in manual to electronic systems should be linked with good procedural rules, capacity building and sensitisation of the masses about the new structure so that the stakeholders comprehend and use the new structure.

Altogether, the issues that plague land registration and perfection of titles in Enugu state compromise the credibility of land register, high-costs in transaction, litigation, denying credit-

¹⁹⁸ Land Use Act 1978, s 22.

¹⁹⁹ T W Bennett, *Customary Law in South Africa* (Juta 2004) 78–84.

²⁰⁰ R M Olawoye, *Title to Land in Nigeria* (Evans 1974) 65–70.

²⁰¹ M A Omotola, *Essays on the Land Use Act* (Lagos University Press 1984) 45–52.

²⁰² Enugu State Land Registration Law 2025.

seekers, and inability to raise revenue through the land. The implication of these shows the great necessity of the legal and administrative changes which would allow developing a more effective, transparent and technologically oriented system of land administration.

4.3 Recommendations for Reform

The challenges identified should be addressed by encompassing legislative, institutional, and procedural changes. This should aim at establishing a land registration system that promotes security of title, easiness of transaction and promoting economic development.²⁰³

One of the necessary changes is the simplification of the consent process of the Governor. The consent requirement in the Land Use Act is also important regulatory, but the current practice of the directive has become a significant source of time wastage.²⁰⁴ Statutory timelines ought to be established to facilitate application to obtain consent and issue of Certificate of Occupancy. In cases where the authority is not forthcoming with the stipulated time, a deemed consent tool could be provided, which could later be verified by an approver. This would maintain the governmental control and minimize the bottlenecks in the bureaucracy.

Full implementation of EnGIS in the land registration system law is also required. Electronic records ought to have the same level of evidentiary radiation as paper matters and the digital land information system by legislation should become recognised as the definitive registry of title.²⁰⁵ They should introduce mandatory electronic registration of all land transactions in order to have real time updating of ownership records.

²⁰³ World Bank, *Land Administration and Development* (2012) 33–40.

²⁰⁴ Land Use Act 1978, s 22.

²⁰⁵ Enugu State Land Registration Law 2025.

Title perfection procedures should be simplified as another important reform. The existing multiplicity of actions which are charting, endorsement, consent, stamping and registration ought to be streamlined to one window process in the Ministry of Lands.²⁰⁶ This would lead to reduced duplication and corruption possibilities and a reduction on time of process. Clear fee schedules ought to be posted so that there is transparency and avoiding random charges.

The success of the institutional reforms has to depend on capacity building. Digital registration procedures and modern practices of conveyancing should also be trained on land registry staff, surveyors and legal practitioners with training enlightenment should be done to the land holder on the essence of registration and title perfecting procedures.²⁰⁷ Technological reforms will not significantly alter things unless they bring in user confidence and participation.

The legal system is also to include title insurance or compensation scheme to individuals who have lost as a consequence of mistakes in the register.²⁰⁸ This will help boost the confidence of the people in the registration system since land owners know that the government is confident in the accuracy of its books.

The other major area of reform is inter-agency coordination. The proper land administration demands the and coordination of the ministries of lands, the office of Surveyor-General, town planning, and revenue agencies to attain data sharing protocols that will guarantee that all information that is related to land will be incorporated in one unified platform.²⁰⁹

²⁰⁶ AA Kojajo, *Customary Law in Nigeria through the Cases*(revised edn, Spectrum Books Limited,2000) 128.

²⁰⁷ SI Orji, ‘*The Nigerian Land Use Act, 1978 in Historical Perspective*’ in SMG Kanam and AM Madaki, (eds) *Contemporary Issues in Nigerian Law: Legal Essays in Honour of Hon. Justice Umaru Faruk Abdullahi*, CON(Private Law Department, 2006) 490.

²⁰⁸ K Bentsi-Enchill, ‘Do African Systems of Land Tenure Require Special Technology?’ [1965] 9 *Journal of African Law* 114.

²⁰⁹ RW James, *Modern Land Law of Nigeria*(University of Ife Press,1973)81-82.

There is also need for court support that must enhance integrity of the registration system. Courts must give more weight to registered titles and not encourage the use of unregistered instruments except in rare cases.²¹⁰ This would provide an incentive to comply with registration requirements and to entrench the finality of the land register.

²¹⁰ *Ogunleye v Oni* (1990) 2 NWLR (Pt 135) 745.

CHAPTER FIVE

SUMMARY OF FINDINGS, RECOMMENDATIONS AND CONCLUSION

5.1 Summary of Findings

This study discussed current issues that typically regulate land registration and title perfection in Nigeria especially in Enugu State. The research was conducted in the context that secure land title is central to economic growth, investment and good land administration.

The research study established that the legal basis of land registration and title perfection in Nigeria is premised on the land use act that vests radical title in land in the Governor of every state and makes the approval of the Governor a requirement to the effectuality of alienation of statutory rights of occupancy. Although this framework was meant to provide equitable access to land and proper management of land dealings, it has led to a procedural delays and transaction costs as well as administrative bottlenecks to efficient title perfection. Courts authorities like *Savannah Bank v Ajilo* have affirmed that lack of consent make a transaction ineffective and this ruling makes the statutory provisions that much stricter.

The research also found that Nigeria has a predominant deeds registration system as opposed to title registration system. Registration does not give indefeasibility of title but only gives evidential value and priority. Therefore, buyers are forced to enquire about the origin of title other than the register, which undermines the security of the land registry and continues to breed insecurity of title. In Enugu State, the Enugu State Land Registration Law, as well as the creation of the Enugu Geographic Information System, may be considered as the crucial institutional changes in order to modernise land administration in Enugu State by creating digitised and centralised land records. These programs have made it easier to document, less often to allocate

the same item twice and made cadastral data increasingly available. Nonetheless, the research concluded that these reforms have not fully taken effect as a result of a few records and benchmark digitisation, a lack of technical capacity, and infrastructural insufficiency.

The other important observation is that the act of getting Governor consent in Enugu State is still timepressive even when reforms have been instituted in the process. The concentration of the granting of the approvals also leads to time wastage and demarcates chances of informal charges thus discouraging the legal registration and promoting the informal land dealings taking place outside the legal system. It was also discovered in the study that customary land tenure has not been much under the formal registration system. The lack of streamlined ways of transferring customary holdings to registered titles keeps the informality intact and restricts the utilization of land by the landowners as the collateral in credit.

In addition, institutional barriers that include the untrained workforce, bureaucratic wastefulness, the exorbitant price of perfection of titles, and the absence of capacity awareness among the people were cited as a significant obstacle toward good land registration in Enugu State. These obstacles destabilize security of title, enhance chances of land wrangles and lower societal trust on land administration system.

5.2 Recommendations

Based on the results above, the recommendations are as follows:

1. A reform in the legislation regarding the consent conditions under the Land Use Act is firstly necessary to implement the strict timeframes in terms of handling the applications and assign the power of issuing the consent to the normal transactions to the specific officials within the Ministry of Lands. This will make administrative

- congestion minimized, and the title perfection faster without compromising governmental control.
2. The Enugu State government ought to enhance application of Enugu State Land Registration Law by completely digitalising all the legacy land registry records and providing a smoothing transition between the physical and electronic registries. The reliability of the land register will be increased and the risk of the multiple allocation will be reduced by the creation of extremely complete and correct digital database.
 3. The expansion of operational capacity of Enugu Geographic Information System requires to go beyond by investing more funds, hiring qualified workers and training them on the land information management and geospatial technologies. The digital land administration system presupposes sufficient infrastructure and technical skills to maintain it.
 4. The title perfection price ought to also be reviewed keeping in mind that registration would become cheaper and more affordable to the low- and middle-income landholders. High charges deter practice and encourage unauthorized transactions that put the creditworthiness of the registry at risk.
 5. There should be introduced simplified procedures in the registration of customary land interests. This can encompass identification of community-based adjudication procedures, methodical demarcation of community customary land and issuance of certificates of occupancy that are registrable and which can be incorporated with the official registry.
 6. There should be public awareness campaigns to sensitize the people with the significance of title perfection and how to registered the titles under enugu state land

registration law 2025. Another goal is to stimulate voluntary compliance and cover more of the formal land registration system by raising awareness.

7. There must be a guarantee or insurance block that covers those individuals that lose due to the faults of the land register. This kind of mechanism will contribute to the increase of confidence in the population and the consistency of the system with the contemporary title registration principle of insurance.
8. Lastly, to Enugu State, periodic check-up and review of land administration operations should be carried out in order to establish challenges of operation and sustainable enhancement of service provision.

5.3 Conclusion

This study has revealed that despite the legal and institutional completeness of the land registration and title perfection system in Nigeria, the effectiveness of the system is limited due to lack of flexibility in the process, administrative incompetency and institutional capacity problems. The Enugu geographic information system and the Enugu state land registration law introduce the reforms in Enugu state that offer a viable foundation to modern land administration but requires their successful implementation, complete digitisation, decentralisation, consent procedures, and accessibility to the population.

To have a good and effective land registration system in the Enugu State, both the discretion and privileges need to have a balanced system that maintains the statutory control and encourages accessibility, transparency, and some form of certainty of title. These reforms will help the security of tenure, decrease land conflicts, and allow land be used as an economic productive resource.

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