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THE POLITICS OF LAND ADMINISTRATION IN NIGERIA – A CASE OF LAGOS STATE

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1. ABSTRACT

Access to land is a vital component of sustainable development and good land management practice; every state needs to ensure that efficient and effective land administration mechanisms are in place.

This paper provides the four land administration functions. It presents the Land Use Act, which is the current land policy. The paper draws on a number of professionals involve in land administration either by statute or skill.

It also draws on concepts of land, various titles to land in Lagos state, the procedure and prospects of processing and obtaining titles as well as the author's experience over many years.

The paper concludes by highlighting the causes, effect and prevention or control of professional rivalry bearing in mind what Enemark's view that the areas of surveying and land administration are basically about people, politics and places. It is about people in terms of human rights, engagement and dignity: it is about politics in terms of land policies and good government: and it is about places in terms of shelter, land and natural resources.

2. INTRODUCTION.

Land, as a natural gift of life has been adjudged to be the most coveted commodity by man. By description, land includes the soil, natural such as water, forestry, wildlife, minerals and space beneath and above the earth. no nation, city or rural community can survive as an entity without land. Therefore, every person in a nation has a vital stake in a country's land problems and its proper utilization. The utilization of land has been a major focus for debate and a central bone of contention particularly in Nigeria and all over the world in general. Such concerns for land administration has led to wars ranging from inter – family to international wars.

In pre-colonial Nigeria, whether amongst the member of villages, communities, and families, the control and the use of land were regulated in such a way that ensured every member has enough land to use and sustain himself and his family. No matter the rights and powers of use possessed by an individual, his title in such a situation was only possessory, the absolute title remained in corporate owing unit. However, with the promulgation of the Land Use Act 1978, the administration of land in Nigeria resides

in Governor of each state within the federation whereby the Governor holds land in trust for the benefit of all the citizens in the state. (LUA, 1978).

Also, within the context of the Land Use Act, certain actions taken on Land will have to be ratified by the Government especially in situations where parcels of land compulsorily acquired by the State has been indiscriminately encroached by squatters as a result of rural – urban migration.

To this end, there is a need to ensure that good land administration mechanisms are put in place. This paper provides little understanding of the concept of land administration and its functions, roles of various professionals in land administration.

The paper also presents various forms of title and it could be sought and obtained. Hence the areas of land administration and surveying are basically about people, politics and places. It's about people in terms of human rights, engagement and dignity: it is about politics in terms of land policies and good government: and it is about places in terms of shelter, land and natural resources.

3. CONCEPT OF LAND

The term "Land" connotes different meaning to different individual, depending on the context with in which it is used. It is mainly considered as consumption good as well as factor of production. Land is considered the most coveted item of ownership, and therefore the reason behind its being the source of several disputes ever known to man. Major wars all over the world has been traced to disputes on land, some of which include Israel and Lebanon, Iraq and Kuwait Iran and Iraq, the Government of Zimbabwe and white farmers, Nigeria and Cameroon among others. Within the country, disputes on land has happened between Ife and Modakeke, Umuleri and Aguleri, Hausa farmers and Fulani cattle rearers, Olumegbons and Ajah residents, Ilajes and Ikales, Ijaws and Itsekiris and so on. Very common too are the various boundary disputes between the Government of one state and the other or government against the local, government against squatters and illegal occupants of government owned lands.

In Turkey, illegal settlement started with migration from urban to rural areas in 1950s. The main causes are subdivision of agricultural lands caused by current heritage system and lacking of urban public services such as education, health, culture among others in rural areas and job opportunities in urban areas. Land is a measurable entity, divisible into things like parcel by means of mathematical and technical process of surveying and cartography (Bohannon, 1963). It is an expression of territorial sovereignty and constitutes a set of important political factors. The value of land increases with the amount of work and money invested in its improvements.

There may be natural calamities, such as earth quake, landslide, and soon, but it would absorb for few of these exceptional events. Land is considered as a safe resource because it cannot easily be stolen. Land is considered as the source of human wealth under the economic concepts. The natural source of raw materials require by man for his daily requirement of food, fibre and energy.

The term land has been given several definitions to suit different studies. In its widely accepted use "Land refers to a solid part of the earth's surface". But it may also applies to ground, soil or air as land

and speak of land as something on which they can work, build a house, plant a garden or grow crops. As defined by classical economists land man made resources over which possession of the earth surface gives control”.

This broad concept of land includes all the materials and forces which nature gives freely for man’s aid in land and water, in air, light or heat. In addition to building site, farm soil, growing forest, mineral deposit, it also, involves such natural phenomenon as access to sunlight, rain wind and changing temperatures and location with respect to market and other areas.

At the United Nations conference 1958 on political economy of rural and urban land use, land was likened to a cut diamond with many facets, it can be viewed as space, nature, a factor of production, situation, a consumption good, property and capital.

AS A SPACE OR ROOM: Includes not only the surface of the earth with the ocean, mountains, valleys and plain which provide physical support for man and works, but also a cubic space, Land does involve a space beneath the surface within which minerals are found and from which it can be removed, the space that man occupies in his daily living and the space above and about him. (Surface upon which life takes place)

LAND AS NATURE: When land is considered as nature, it is identified rather closely with natural environment. Man can change or modify natural environment or many of its characteristics. Land as a nature is conditioned by its access to sunlight, rainfall, wind changing climatic conditions for different evaporation soil for topographic conditions. Because of the workings of nature, some areas are rich in soil, forest, fish etc., which others are as bleak and barren.

LAND AS A FACTOR OF PRODUCTION: Land is mainly always required in production processes. It is usually thought as a nature given source of food, fibres, building materials, minerals, energy resources and other raw materials used in modern society.

LAND AS CONSUMPTION GOOD: Land is often held and coveted not only because it adds directly to man’s production but because it has value as a consumer’s good in its own right. Building lots, parks, recreation for residential properties are frequently treated as consumption goods even though they might also be regarded as factor of production.

LAND AS SITUATION: Land as situation involves location with respect to markets, geographical features, other resources and other countries. It is significant not because the value and use of most land is largely determined by its location and its accessibility but also because of its strategic importance of the location factor in modern economic affairs and world politics.

LAND AS CAPITAL: Despite the fact that land is frequently regarded as a separate factor of production, it is often realistic to speak of land as capital. Regardless of the various schools of thought that asserted that land should be clearly separated from capital because it is a free gift of nature, it is pertinent to mention that the characteristics of land are often very similar to those of capital. Land may be fixed in quantity, durable in nature and a “free good” from the standpoint of the society. But from the stand

point of average investor, land must be purchased or leased like other capital good. In this sense, land is capital to the individual even though it may be built differently from the stand point of the society.

LAND AS PROPERTY: The concept of land as property involves real estate and has legal connotations. It is concern both with the areas over which individual, groups or sovereign powers exercise right of ownership and use with the nature of right and responsibilities they hold in land. This concept is important because of the strong conditioning effect it has on human attitudes and activities regarding land use all over the world. Real Property refers to the interests, benefits and rights inherent in the ownership of real estate. It is a bundle of rights with the rights to

- Use or occupy the property
- Sell the property interest
- Mortgage the property interest
- Lease the interest away
- Give away the interest
- Do none or all of these things

4. LAND ADMINISTRATION

All governments that signed the universal declaration of Human rights declarations formally recognized that human beings have a right to adequate shelter as one component of their right to an adequate standard of living.

At the habitat 11 conference in 1996, many countries committed themselves to promoting optimal use of productive land in urban and rural areas and protecting fragile ecosystems and environmentally vulnerable areas from negative impacts of human settlements through developing and supporting the implementation of improved land management practices (UNCHS 1996)

The careful management of land and property is fundamental to economic development and the sustainability of the environment, fostering of good governance and the protection of civil societies (Peter Dale and Mclaughlin 1999).

Dale, et al, op.cit. opined that access to land and security for credit underpin the solutions to the problem of inadequate financial resources, lack of employment opportunities, homelessness and expansion of squatter settlements, increased poverty and a widening gap between the rich and poor, growing insecurity and rising crime rates, inadequate and deteriorating building stock, improper Land use, insecure land tenure, rising traffic congestion, increasing pollution, lack of green spaces among others.

The accepted theoretical framework for all land administration systems is delivery of sustainable development (Enemark, 2009).

The term “Land Administration” is used here to refer to those public sector activities required to support the alienation, development, use, valuation and transfer of land (Dale et al op.cit).

Enemark op.cit viewed land administration as an area dealing with rights, restrictions and responsibilities in land as it relates to the interaction of the four areas of land tenure, land value, land use and land developments which are called the land administration functions and encourage the integration of the four functions.

LAND TENURE: the processes and institutions related to access to land and inventing commodities in land, and their allocation, recording and security, cadastral mapping and legal surveys to determine parcel boundaries, creating new properties or altering existing properties, the transfer of property or use from party to another through sale, lease or credit security, and the management and adjudication of doubts and disputes regarding land rights and parcel boundaries. Hence, property rights are normally concerned with ownership and tenure; whereas restrictions usually control use and other activities on land.

LAND VALUE: the processes and institutions related to assessment of the value of land and properties, the calculations and gathering of revenues through taxation and management and adjudication of land valuation and taxation disputes.

LAND USE: the processes and institutions related to control of land use through adoption of planning policies and land use regulations and the management and adjudication of land use conflicts.

LAND DEVELOPMENT: the processes and institutions related to building of new physical infrastructure and utilities, the implementation of construction planning, public acquisition of land, change of land use through granting of planning permissions and building and land use permits, and the distribution of development costs. How individuals use their land is every bit as important as how and at what price they can buy and sell it. (Dale, et al op.cit.)

Land administration systems are an important infrastructure which facilitate the implementation of land policies in both developed and developing countries and they are concerned with the social, legal, economic and technical framework within which land managers and administrators must operate.(Enemark, op.cit.)

PROFESSIONALS INVOLVE IN LAND ADMINISTRATION

Enemark, op.cit, said that the four land administration functions are different in their professional focus, and are normally undertaken by a mix of professionals including Surveyors, Valuers, Lawyers, Engineers, Planners and developers. He also grouped the four land administration functions under these two headings.

- Efficient land market:
 - (a) Land Tenure – titles, mortgages and easement (secure legal rights) and
 - (b) Land Value – assessment of land value (collection of property tax)

- Effective Land use management.
 - (a) Land use – policies and spatial planning (control of land use)
 - (b) Land development – construction planning and permits, regulation and implementation.

The Land Surveyor: This is the first professional to carry out physical work on the construction site. The land surveyor establishes the boundaries and provides information about the terrain or topography of the land by way of survey plan. The Surveyor establishes pillars which must have numbers and official recognition by adequately registering it with the office of the surveyor general in that state. This is confirmed by the submission of “Red Copy”

The Architect: Architect is trained in art of designing structures base on the information provided by the land surveyor to put up the site plan on the survey plan. He transfers brief into three dimensional drawing using a scale to relate the uses taking into consideration necessary standards.

The Engineers: These are in various categories, for example the structural engineer design for others effective load capacity, bearing in mind the nature of soil and the proposed structure. He determines the type of foundation suitable for a particular soil as well as the load and recommends the kind of reinforcement needed for upper floors or suspended slab. Others are electrical, mechanical etc

The Town Planners / Planning Approval: It is required that no construction is carried out without obtaining planning permission. Failure attracts penalty or demolition of what is regarded as illegal structure. They ensure that designs are according to acceptable standard with stipulated requirements like set-back, air spaces, the cross ventilation etc before approval is granted.

The builder: A builder is a trained specialist for building production and construction for the use and protection of mankind and their assets. He is the person that is involved in the actual construction of the building. A true builder builds up the structure, follow the necessary standard, ensure that the houses are properly built using the materials specified in the design.

The Quantity Surveyor: He prepares bill of quantities for the project. By virtue of their training, they come up with the actual amount that will be needed for the construction of the building. This is in line with the biblical admonition which says “who is that man who will want to build a house and will not sit down to count the cost, lest he starts and abandons it and becomes a laughing stock”.

The Estate Surveyor and Valuer: He is trained to be with the client right from when the idea is conceived through land acquisition, design, construction and finally disposal / management stage. He determines highest and best use and plan renewal when need arises. He ensures that optimum returns are secured through proper management.

5. LAND POLICY IN NIGERIA

The current land policy in Nigeria is the Land Use Act. It was formerly known as decree No6 of 1978 and took effect from March 29, 1978. The Act vested all land in the territory of each state(except land vested in the federal government or its agencies) solely in the Governor of the state, who would now hold such land in trust for the people and would henceforth be responsible for allocation of land in all urban areas

to individuals resident in the state and to organisations for residential, agricultural, commercial and other purposes while similar powers with respect to non-urban areas are conferred on local government. But note that the designation of urban arrears order of March 2, 1981 designated all the different areas and names located on the Lagos state regional plan (1980-2000 AD) as urban area except areas zoned as Agricultural, conservation, water catchment and marsh lands, forest reserves and any other area as may from time to time be so further excepted. The objectives of the Act are:

- To remove the bitter controversies resulting at times in loss of lives and limbs which land is known to be generating
- To streamline and simplify the management and ownership of land in the country
- To assist the citizen, irrespective of his social status to realize his ambition and aspiration of owning the place where he and his family will live a secure and peaceful life
- To enable the government to bring under control the use to which land can be put in all parts of the country and thus facilitate planning and zoning programs for particular uses.

Section 2(2) of the act established in each state a body to be known as Land Use and Allocation Committee with the responsibility of advising the Governor on any matter connected with the resettlement of persons affected by the revocation of rights of occupancy on the ground of overriding public interest and to also determine disputes as to the amount of compensation payable.

COMPOSITION OF THE LAND USE AND ALLOCATION COMMITTEE

The Act provides that the committee shall consist of such number of persons as the Governor may determine and shall include in its membership

- Not less than two Estate Surveyors with not less than five years post qualification
- A legal practitioner

Section 4 provides further that the committee shall be presided over by such one of its members as may be designated by the Governor and subject to such directions as may be given in that regard by the Governors, shall have power to regulate its proceedings.

6. TITLE TO LAND AND GOVERNOR'S CONSENT

Title to land is a document evidencing a proprietary right that pertains to a particular land whether in its natural or secondary order. It is a registered title when issued or endorsed by the state Governor or delegated authorities. The right derivable from such title are classified as legal interest. It is only registered documents that can constitute root of title that will enable the processing of Governor's consent to establish legal right.

7. VARIOUS FORMS OF TITLE TO LAND IN LAGOS STATE

Cambridge International Dictionary of English defines title to mean the legal right to own a piece of land or a building. Title deed is a document which states and proves a person's legal right to own a piece of land or building. Title to land is a document evidencing a proprietary right that pertains to a particular

land whether in its natural or secondary order. It is a registered title when issued or endorsed by the state Governor or his delegated authorities. The rights derivable from such title are classified as legal interests. There are a number of different forms of land title in Lagos State depending on the regime of land policy. The common ones include:

Land Certificate

Deed of Conveyance

Deed of Assignment

Irrevocable powers of Attorney

Official Gazette

Land Purchase Agreement

Certificate of Occupancy

- (i.) Land Certificate is a form of title to land given to individuals, missionaries and their adherents who occupied land in choice areas of Lagos such as Marina, Ikoyi, Apapa and Yaba in the Mainland to confirm their permanent ownership on such land by the British Overlords (Crown). Those in the Lagos areas have their registration Number commencing with Letters "LO" and "MO" for those in the Mainland. Holders of this title could exercise rights of ownership, subject only to limitations set by Town and Country Planning regulations.
- (ii.) Deed of Conveyance - This is a type of deed recognized before the introduction of the Land Use Act. It is a written transfer or conveyance of title in real property. It conveys Freehold interest to the grantee to hold absolutely and in perpetuity.
- (iii.) Deed of Assignment is another type of deed which in legal term used to describe a unit lease and is an instrument transferring a leasehold interest from Assignor to Assignee.
- (iv.) Irrevocable Powers of Attorney is a document used in some business relationship. It gives an agent (Donee) the authority to make decisions enter into contracts, and generally act on behalf of the person granting the power (Donor). It is not unilaterally revocable by the Donor except a sunset provision is provided.
- (v.) Official Gazette - It is a government published gazette which always contains part of a larger area of land initially acquired by the government but has been de-acquired or released to the villagers concern for their use. This process is known Excision. The official Gazette will now serve as root of title or legal title to the land released to the villager. Only Governor's consent on assignment of the land can be procured from Government as legal title. In Lagos State, the exercise is accommodated under the village/town expansion programs. This equally requires certain steps to have taken before it can be valid.

8. TYPES OF SUBSEQUENT TRANSACTION

Subsequent transaction in respect of land or property is the alienation of a right of occupancy or deemed right of occupancy by the holder. Subsequent transaction can take the following forms:

An assignment

A sublease

Gift

Donation of power of attorney

Mortgages (Reals Academy, 2014)

GOVERNOR'S CONSENT AND THE ENABLING PROVISION

Governor's consent is an endorsement of an alienation of right in land in form of subsequent transaction by the state Governor or person so delegated by him. Processing of Governor's consent involves some stages, the details of which would be discussed under the procedures involved in processing Governor's consent.

THE ENABLING PROVISIONS

- Section 21 & 22 of the Land use Act prohibit alienation of statutory right of occupancy without the prior consent of the Governor.
- Section 10 of the Land instrument registration law, cap iii, 1994 requires that registration must first be endorsed by the Governor in accordance with section 22 of the Land Use Act.

CERTIFICATE OF OCCUPANCY (C of O) THE ENABLING ACT

S(1) of the LUA makes it lawful for the Governor land whether or not in an urban areas to grant statutory rights of occupancy to any person for all purposes.

Rural areas – Local Government grants customary rights of occupancy to persons / organization for Agricultural, Residential and other purposes. Agricultural land not exceeding 500 Hectares and 5000 Hectares for grazing. Excess of these will require Governor's consent. Non - monitoring of the acquired land by the state government leads to its encroachment by the squatters who may have innocently pay money to speculators on Government acquired land.

The presence of these squatters who are not willing to quit on Government acquired land has led to the setting up of various committees by Lagos state government to look into it. The Government then came up with the idea to regularize their occupation on acquired land not committed to any use in lieu of demolishing properties, which could have caused psychological side-effects on displaced occupiers.

This process whereby squatters on Government acquired land regularize their occupation on such land is known as Ratification of land. (Adesina, 2014)

The applicants for ratification is also granted a Ninety-nine (99) year lease, but differ from Government scheme in that when there is urban renewal exercise the holder of right of occupancy on ratification is not entitled to compensation even for his unexhausted improvement. This is clearly stated in the letter of allocation obtained. The need to accommodate these squatters increased as the acquired land become easily accessible to the low income group for shelter, which brought about a review of the land policy on developments within government Acquisition. The review gave birth to the process of Ratification of land holdings within uncommitted government acquisition.

Ratification (now referred to as Regularization) is a policy of grace that avails squatters on uncommitted Government land, the opportunity to obtain legal title to the land encroached upon from the state Government. It is the process of allocating government land to someone who had previously occupied landed property without lawful authority from the state government. Ratification is subject to two basic conditions.

That the property must not be situated in a government scheme, Estate or committed area and the property must be situated within an area that conforms to urban and regional planning regulations and standards of the state, Hakeem (2012)

The Directorate of Land Regularization was set up in May 2006 to operate as “One-Stop- shop” for the regularization of land title. The Directorate is charged with responsibility of processing applications for the regularization of title to land by the grant of a certificate of occupancy in circumstances where government land has been encroached upon or as regards land falling within government acquisition.

The department is also saddled with the responsibility of processing applications for the grant of building plan approvals in circumstances where structures have been erected on land that fall within government acquisition, Hakeem (2012).

The Department maintains a close working relationship with the British Council and the Department for International Development (DFID) to harness the potentials of government policy on regularization.

9. CAUSES OF PROFESSIONAL RIVALRY IN LAND ADMINISTRATION

- Get rich quick syndrome
- Unemployment
- Poverty
- Perception of the society
- Government policy statement
- Blur areas / related courses
- Power tussle
- Frustration
- Attitudes

EFFECT OF PROFESSIONAL RIVALRY

- Abandon projects
- Fraud
- Wastage
- Building collapse
- Loss of resources
- Untimely death

PREVENTION / CONTROL

- Sensitization
- Constant training and re training
- Clear policy statement
- Corruption should discouraged

10. FINAL REMARKS

Since land administration and surveying are basically about people, politics and places careful management of land related activities on the ground are crucial for sustainability delivery.

Land administration activities are not just about technical or administrative processes but basically political and reflect the accepted social concepts concerning people, rights, and land objects with regard to land tenure, land markets, land taxation, land use control, land development and environmental management.

Land administration systems therefore need high-level political support and recognition.

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