

Proprietary Land Structure in Nigeria ¹

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Abstract

In Nigeria, how land is owned and used is complicated. There are different types of rules, both official and traditional, that decide who can use land. This study looks at how people owning land in Nigeria affects how it's used. By studying laws, history, and current problems, the study wants to find out what issues landowners and investors face. It gives ideas to fix these problems, like changing laws, using computers to keep records of land, making it easier to register land, making sure people can keep their land for a long time, helping people solve problems over land, teaching people about land, and building up communities. Doing these things can help Nigeria get more money invested, make the economy better, have fewer fights over land, give people more chances to borrow money, help the country grow in a way that doesn't hurt the environment, make things fairer for everyone, and make sure everyone knows what's happening with land.

Key words: land, proprietary land structure, customary, statutory, freehold, leasehold.

Introduction

In Nigeria, the way people own land is complicated. There are formal rules, like laws, and informal ones, like traditions, that decide who can control and decide what happens on a piece of land. There are four main types of land ownership: statutory, which follows official laws, customary, which follows traditional ways, freehold, where the owner has total control forever, and leasehold, where the owner or renter has control for a set time. How these systems interact affects how land is used, who can use it, and how the country grows economically and socially. This study looks at how land ownership in Nigeria affects how land is used and how it can help the country grow in a way that's good for the environment and fair for everyone.

Proprietary land structure refers to a system of land ownership in which private individuals or entities have exclusive rights over a particular plot of land, subject to the laws and regulations of the government. This type of land structure is common in capitalist societies where a high value is placed on private property rights.

According to Hamilton and Madison (1787), the concept of ownership is essential in ensuring stability and security in society. The proprietary land structure provides people with a legal

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foundation for acquiring, holding and disposing of land as they see fit. Furthermore, ownership allows individuals to benefit from the land either through occupation or by renting or selling it.

The proprietary land structure contrasts with the communal land structure where land is owned and managed by a group or community. In communal ownership, the decision-making process regarding the use and management of land is based on social norms and values. While communal ownership provides a safeguard against land grabbing, it may be less efficient in its use of land resources.

Critics of the proprietary land structure argue that it can lead to inequality in land ownership and use (Piketty, 2014). This can arise because land is a limited resource whose value often increases with time, and a small percentage of individuals or entities can amass large tracts of land, leaving many without access to it.

Historically, land tenure systems in Nigeria were primarily agricultural and based on customary law, which varies according to ethnic groups and regions (Ogunbodede & Osabuohien, 2017). The British colonial government introduced a formal legal framework to regulate land tenure and ownership in Nigeria during the late 19th and early 20th centuries (Babalola, 2017). However, this legal framework was influenced by customary law, which continued to coexist with statutory law after Nigeria gained independence in 1960 (Oluseyi & Bolarinwa, 2012).

During the colonial period, the British government introduced the concept of individual land ownership, which had not existed previously in many parts of Nigeria (Akintoye, 2016). This concept was in direct contrast to the customary practices of communal land ownership, where land was owned and used collectively by families or clans (Adegoke & Ojo, 2015). The British colonial government also established a land registration system in Nigeria, but this system was not comprehensive and did not cover all parts of the country (Olaoye, 2018).

After Nigeria gained independence, the government enacted various laws to regulate land ownership, including the Land Use Act of 1978, which is still in force today (Ogunbodede & Osabuohien, 2017). The Land Use Act vests all lands in each state in the government, and individuals can only acquire land through a certificate of occupancy issued by the state governor (Olaoye, 2018). The Act was intended to simplify land transactions and reduce disputes over land ownership, but it has been controversial, and critics argue that it has hindered private investment in land and caused land speculation (Babalola, 2017).

Today, land ownership in Nigeria is still subject to multiple legal systems, including customary law, statutory law, and national law, which can create complex disputes over land ownership and complicate real estate transactions (Oluseyi & Bolarinwa, 2012). While efforts have been made to reform land tenure systems in Nigeria, such as the National Land Policy of 1999, there are ongoing challenges to implementing these reforms and improving land governance in the country (Ogunbodede & Osabuohien, 2017).

The purpose of studying the proprietary land structure in Nigeria is to identify the challenges and issues that investors and property owners face when it comes to acquiring, owning, and using land

in Nigeria. The problem is that the ownership of land in Nigeria is complex, with various legal systems, institutions, and regulations governing land transactions. This makes it difficult for individuals and businesses to acquire and develop property, resulting in a lack of investment and economic development in the country. Additionally, there are issues of corruption and fraud in the land sector, making it even harder for legitimate investors to operate successfully. Therefore, the purpose of studying the proprietary land structure in Nigeria is to understand these challenges and identify possible solutions to improve the investment climate for property owners and investors.

Literature Review

Land ownership and governance are critical aspects of sustainable development in Nigeria. Despite legislative efforts such as the Land Use Act, challenges persist in achieving secure land tenure and equitable distribution. Understanding the impacts of land reforms, communal ownership, and gender dynamics is essential for effective policy formulation and economic growth.

Adekunle (2015) discusses the challenges of land ownership under the Land Use Act, highlighting issues with tenure security and equitable distribution. Akintoye and Awodele (2016) examine the impacts of land reforms on rural livelihoods, revealing mixed outcomes. Ayoola and Aderinto (2015) explore the impact of communal land ownership on agricultural productivity, noting both positive effects and challenges. Emelumadu et al. (2017) analyze the relationship between land governance and economic development, emphasizing the importance of effective governance for economic progress. Famuyiwa et al. (2019) review the challenges of the land tenure system, offering recommendations for improvement. Ipinjolu and Ajonbadi (2018) discuss the dynamics of land ownership and use, highlighting the need for better policy implementation. Ladan et al. (2019) address women's land rights and gender equality issues, stressing the importance of inclusive land governance. Nwankwo (2015) investigates the relationship between land use management and economic growth, underscoring the significance of effective land management for development. Omotayo and Adeleke (2017) assess land administration in Nigeria, advocating for improvements in policy and implementation. Finally, Ukaga et al. (2016) analyze the impact of land tenure security on agricultural productivity, emphasizing its positive association with productivity.

Proprietary land tenure is a type of landownership structure where the ownership of land is vested in an individual or group who holds a title or right to occupy and use the land within specified legal boundaries. In Nigeria, there are four types of proprietary land structure, which include:

Statutory Right of Occupancy (SRO)

Customary Right of Occupancy (CRO)

Freehold

Leasehold

According to Adeleke (2017), the statutory right of occupancy is a type of proprietary land structure in Nigeria that is granted by the government to an individual or corporation over a specified period of time, usually between 10-99 years. The SRO is obtainable through an application process to the state government, and it is often used for commercial or industrial purposes. The holder of an SRO has the right to exclusive possession of the land, and is expected to develop the land to the benefit of the state and the community.

The Customary Right of Occupancy, on the other hand, is a type of proprietary land structure that is granted by traditional rulers or the community to an individual or group. According to Olokesusi et al. (2018), the CRO is based on customary laws and traditions, and it is often used for residential or agricultural purposes. The holder of a CRO has the right to use and occupy the land subject to the customary laws and traditions of the community.

Freehold is a type of proprietary land structure where the owner holds an absolute title to the land in perpetuity. According to Adamu et al. (2019), freehold is obtainable through purchase or inheritance, and the holder of a freehold has the right to use, exploit, mortgage, sell or transfer the land as he wishes.

Leasehold is a type of proprietary land structure where the owner, or lessee, holds a title to the land for a specified period of time, often ranging from five to 99 years. According to Ahmed (2015), leasehold is obtainable through agreement between the owner of the land and the lessee, and it is often used for commercial or industrial purposes.

The process of obtaining Statutory Right of Occupancy (R of O) in Nigeria involves several steps, which include application, survey, and payment of fees. The process can take a few months to complete and involves several government agencies. The holder of Statutory R of O has the right to use, develop, and sell the land, subject to certain conditions. The holder must also pay taxes and comply with land-use regulations. However, there are several challenges facing Statutory R of O holders in Nigeria, including multiple taxation, bureaucratic delays, and costly legal disputes. Possible solutions include simplifying the application process, reducing the cost of fees, improving access to justice, and promoting alternative dispute resolution mechanisms.

According to the Land Use Act of 1978, anyone who wants to obtain Statutory R of O must apply to the Governor of the state where the land is located. The application is then forwarded to the appropriate government agency for processing. The applicant must also provide proof of ownership and pay the required fees for survey and documentation. Once the application is approved, the holder receives an R of O certificate, which is evidence of ownership.

The holder of Statutory R of O has several rights and responsibilities. These include the right to use, develop, and sell the land, subject to certain conditions such as paying taxes and complying with land-use regulations. The holder can also lease the land, mortgage it, or transfer ownership to another person. However, the holder must also ensure that the land is not used for illegal activities and that it is properly maintained.

One of the major challenges facing Statutory R of O holders in Nigeria is multiple taxation. Holders are often faced with high taxes from various government agencies, which can lead to financial difficulties. Bureaucratic delays in the application process and costly legal disputes are other challenges faced by holders.

To address these challenges, solutions such as simplifying the application process, reducing the cost of fees, improving access to justice, and promoting alternative dispute resolution mechanisms have been proposed. For instance, the government can streamline the application process by reducing the number of agencies involved in the process. This will reduce bureaucratic delays and save applicants time and money. The government can also improve access to justice by establishing special courts to handle land disputes and promoting alternative dispute resolution mechanisms such as mediation and arbitration.

The process of obtaining Customary Right of Occupancy (CRO) in Nigeria involves following the provisions of the Land Use Act of 1978 and the applicable state land laws. The Land Use Act vested the control and management of land in the hands of state governors and provides for the granting of CRO by the Governor to person(s) or community, upon meeting certain requirements. The holder of the CRO is entitled to exclusive and lawful possession of the land, subject to payment of annual rent and other duties to the government.

The rights and responsibilities of the holder of CRO include the right to use the land for farming, business, building, and other lawful activities. The holder is also expected to maintain and develop the land in accordance with the development plan of the government and pay all applicable fees to the government. In addition, the holder of CRO must protect and preserve the natural resources and biodiversity on the land.

Challenges faced by customary right holders in Nigeria include inadequate legal recognition, lack of legal documentation, weak enforcement of laws and policies and lack of access to credit and markets to develop the land. These challenges create barriers to the development and investment in CRO lands.

Possible solutions to the challenges facing customary right holders in Nigeria include strengthening the legal framework for customary land tenure, improving the process of documentation and registration of the CRO, increasing access to credit and markets, and building the capacity of customary landholders through awareness raising and training programs.

The process of obtaining freehold right of occupancy in Nigeria is governed by the Land Use Act of 1978, which vests all land in each state of Nigeria in the hands of the state governor. Under the Act, individuals can only acquire land through a Certificate of Occupancy (C of O) issued by the governor. The process of obtaining a C of O involves applying to the relevant government agency, submitting necessary documentation, and paying the applicable fees (Olaoye, 2018).

Freehold right of occupancy gives the holder the right to use, control, and transfer the land without any time limit, subject to the obligations and limitations specified in the C of O and the Land Use Act (Aina & Adisa, 2016). The holder has the right to develop the land and enjoy its economic

benefits, subject to zoning regulations, environmental laws, and other applicable laws and regulations (Nwanta, 2019).

The tenure of freehold right of occupancy is supposed to be perpetual, as it signifies a free and unencumbered interest in the land. However, the Land Use Act has been criticized for conferring undue power on government officials to revoke or terminate the title without adequate compensation or due process (Babalola, 2017). The holder is also responsible for maintaining and developing the land, paying all applicable taxes and levies, and complying with applicable laws and regulations (Ogunbodede & Osabuohien, 2017).

The challenges of freehold right of occupancy in Nigeria include corruption, bureaucracy, inadequate infrastructure, and conflicting laws and regulations (Nwanta, 2019). The process of obtaining a C of O can be cumbersome and lengthy, with many instances of extortion and fraud by government officials (Aina & Adisa, 2016). The cost of obtaining a C of O can also be prohibitive for many potential buyers and investors, leading to a high demand for alternatives such as undeveloped government lands and informal settlements (Olaoye, 2018).

To address these challenges, there have been calls for a comprehensive review of the Land Use Act, including the provision for government ownership of all lands. There is also a need to improve the efficiency and transparency of the land registration process, reduce the cost of obtaining a C of O, and create incentives for private investment in land development and infrastructure (Babalola, 2017).

Obtaining leasehold in Nigeria involves several steps, including identifying suitable property, negotiating lease terms, and executing a lease agreement. Leasehold rights in Nigeria grant the holder the exclusive use and possession of the property for a specified period, subject to the terms and conditions of the lease agreement. The tenure of leasehold typically ranges from a few years to several decades, depending on the negotiated terms.

As a leasehold holder in Nigeria, individuals or entities have certain rights, including the right to use the property for the specified purpose outlined in the lease agreement, the right to sublease or assign the leasehold interest with the landlord's consent, and the right to exclude others from the property during the lease term. However, leasehold holders also have responsibilities, such as paying rent and adhering to the terms and conditions outlined in the lease agreement, including maintenance and repair obligations.

Challenges associated with leasehold in Nigeria include disputes over lease terms, inadequate legal framework governing lease agreements, encroachment on leased property, and arbitrary rent increases by landlords. These challenges can lead to uncertainty for leasehold holders and hinder investment in real estate development.

Possible solutions to address these challenges include: Strengthening the legal framework: Implementing laws and regulations that provide clear guidelines for lease agreements, including dispute resolution mechanisms and protection of leasehold rights. Encouraging alternative dispute resolution by promoting mediation and arbitration as cost-effective means of resolving disputes

between landlords and leasehold holders. Improving land administration systems through modernizing land registration and documentation processes to enhance transparency and reduce the risk of property disputes. Enhancing public awareness, educating leasehold holders about their rights and responsibilities under the lease agreement to empower them to assert their rights and negotiate fair terms with landlords.

Statutory Right of Occupancy

The statutory right of occupancy is a legal right granted by the government to an individual to possess and use a piece of land for a specified period of time. It is governed by the Land Use Act of 1978 and is often seen as a more secure form of land ownership compared to customary rights.

Customary Right of Occupancy

The customary right of occupancy is a traditional form of land ownership that is granted by a community or traditional ruler. It is often based on customary laws and practices and may not be as legally secure as a statutory right of occupancy.

Freehold

Freehold is the absolute ownership of land and buildings on the land, with no time limit on the ownership. The owner of the freehold has the right to possess, use, and dispose of the land as they wish.

Leasehold

Leasehold is a form of land tenure in which a person has the right to possess and use the land for a specific period of time, as stipulated in a lease agreement. The leaseholder does not own the land but has a legal right to use it for the duration of the lease.

Similarities

Both the statutory right of occupancy and leasehold involve a legal agreement between the landowner and the occupant. All four forms of land ownership involve some form of right to possess and use the land. The rights and responsibilities of the landowner and occupant are typically defined in a legal document, such as a title deed or lease agreement.

Differences

The statutory right of occupancy is granted by the government, while the customary right of occupancy is granted by a community or traditional ruler. Freehold is the absolute ownership of land, while leasehold is a temporary right to use the land. The statutory right of occupancy is governed by the Land Use Act of 1978, while the other forms of land ownership may be subject to different legal requirements.

Recommendations for improving the proprietary land structure in Nigeria

1. **Land Reform:** Implement a comprehensive land reform program to address issues of land ownership, access, and use.
2. **Digitalization:** Establish a digital land registry to enhance transparency, efficiency, and security of land transactions.
3. **Simplification of Land Registration:** Streamline land registration processes to reduce bureaucracy and increase accessibility.
4. **Enhanced Security of Tenure:** Strengthen legal protections for landholders, particularly for customary and leasehold interests.
5. **Increased Access to Land Information:** Establish a publicly accessible land registry to promote transparency and reduce disputes.
6. **Dispute Resolution Mechanisms:** Establish efficient and accessible channels for resolving land disputes.
7. **Capacity Building:** Enhance the capacity and effectiveness of land administration institutions.
8. **Public Awareness and Education:** Educate citizens about their land rights and responsibilities.

Way Forward/Future Outlook

1. **Increased Investment:** Improved land structure will attract increased investment in agriculture, housing, and infrastructure.
2. **Economic Growth:** Enhanced security of tenure and simplified land registration will boost economic growth.
3. **Reduced Disputes:** Improved dispute resolution mechanisms will reduce land-related conflicts.
4. **Increased Access to Credit:** Enhanced land security will increase access to credit for landholders.
5. **Sustainable Development:** Improved land use planning and management will promote sustainable development.
6. **Empowerment of Women:** Enhanced land rights for women will promote gender equality and empowerment.
7. **Improved Transparency:** Digitalization and public access to land information will promote transparency and reduce corruption.

By implementing these recommendations, Nigeria can improve its proprietary land structure, promoting economic growth, sustainable development, and social justice.

In conclusion, the proprietary land structure in Nigeria is characterized by a blend of formal and customary systems, presenting challenges for property owners and investors. However, by implementing targeted reforms and improvements, Nigeria can overcome these challenges and harness the full potential of its land resources. Through land reform, digitalization, simplification of processes, enhanced security of tenure, improved dispute resolution, capacity building, and public awareness initiatives; Nigeria can create a conducive environment for investment, economic growth, sustainable development, gender equality, and transparent land governance. By taking proactive steps to address these issues, Nigeria can pave the way for a brighter future where land serves as a catalyst for progress and prosperity for all its citizens.

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