

Land Reform in Nigeria: The Nigerian Institution of Estate Surveyors and Valuers Perspective - Challenges and Prospects

Muhammad Bashar NUHU, PhD, ANVIS, RSV, MNIM, MNES

SUMMARY

Information Technology, GSM, (Global System for Mobile communication) Satellite, Digital Camera etc are the obvious elements of globalization, and all these are one part of globalization. It is in this context, why land reform in Nigeria is imperative. People need to work on resources; working either with the brains or muscle on the land given to us by God, the way we handle this determines our level of poverty or riches. Though we have improved our brains through various learning's, we have not on our land. "Doing Business in Nigeria" – 2010 reveals that Nigeria falls far behind out of the 183 countries in which census was taken. This shows real difficulty in having access to land for business (investment) in Nigeria. This paper is, therefore, to reviews the Land Use Act (LUA) and some of the challenges it has thrown up over the years particularly as it affect real estate investment. Then, the paper considers the circumstances leading to the setting up of the Presidential Technical Committee on Land Reform in 2009 whilst the problems which confront the profession of estate surveyors and valuers to meet in the process of executing its real estate surveying and valuation practice in Nigeria.

Key words; land reform, LUA, valuer,

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1. INTRODUCTION

The LR (Land Reform) committee in Nigeria is aimed towards enabling the states to be effective managers of land. It is aimed to provide a systematic cadastral survey of land in the entire federation (a political entity called Nigeria). The Term of Reference (TOR) makes it an essential body to assist both states and local government (L.G) to carry out the cadastre survey and codify the possessory rights of vast majority of the people access to land and landowners. The TOR includes:

- To collaborate and provide technical assistance to state and L.G in undertaking cadastral survey.
- To detail Individual “*Possessory rights*” using best practices and most appropriate tech. and to determine the proc. Of identification, location and registration.
- To ensure the demarcation of land boundaries and title holdings are demarcated in such a way that communities, hamlets, villages, towns etc are recognized.
- To encourage and assist states and L.G to establish adjudication mechanism for land ownership conflict resolution.
- To make recommendation for mechanism for valuation in both rural and urban areas.

The Land Reform (LR) process is divided into 3 stages

- The front office stage
- The middle office stage
- The back room office stage.

The front office stage involves the field survey and demarcation of land parcels on the ground and map; the middle office stage involves the collation of information the field and also resolution of conflict while the backroom office stage deals with the final registration and issuing of titles. The front office stage really concerns the Surveyor-Generals (S.Gs) having both upstream and downstream sides. The upstream requires collaborative efforts from the Office of the Survey General of the Federation (OSGOF) in providing geodetic framework for mapping in the state. The downstream is related to detailed field survey using field assistants under the direct supervision of the Surveyor-General (SG).

Land Reform is one of the engines needed to steer the slip of development no country has been known to develop without a comprehensive land reform. LR will provide farmers and land owners to approach a bank and obtain loan in Nigeria with their titles. Failure to realize land reform is responsible for some level of underdevelopment, No security to guarantee loans. A

large pool of land savings can only guarantee mortgage housing, when there is poor savings, how can this be realized?

1.1 Preparatory Activities by the Presidential Technical Committee (PTC) on Land Reform

- National sensitization activities – National Executive Council of Nigeria, National Assembly, National Orientation Agency, Media, etc
- Preparation of a Manual for Field Assistants
- Preparation of a Manual for Conflict Resolution Monitors
- Drafting of a Bill for the establishment of a National Land Reform Commission
- Provision of large scale satellite imageries or aerial photographs
- Developing national standards and procedures for undertaking nationwide cadastration
- Undertaking of pilot schemes of an urban and neighbouring rural local government in one State in each of the six geopolitical zones in the country.

1.2 Pilot Scheme on Land Reform in Designated State

- The six states are Katsina (NW), Bauchi (NE), Niger (NC), Ondo (SW), Imo (SE) and Cross River (SS).
- Letters written to Governors of each of these states. Responses have not been expeditious. Committee working with the State Office of NOA.
- Expectation is to spend two days visit in each state
- First day to see Governor and the relevant Ministries and the LUAC if one is already in place. Visit also the Chairman of the Council of Chiefs or Emirate Council.
- Second day to see Traditional rulers and the Chairman of Local Government

The Committee, therefore, selected 8 institutions in the country to prepare a customized curriculum for this purpose and be ready to ‘train-the-trainers’ of these para-surveyors. Six of these institutions are Land Survey Departments in the following University or Polytechnic in each of the six geopolitical zones in the country.

- Rivers State University of Science and Tech.PH (South-South Zone)
- University of Nigeria Nsukka (South East Zone)
- University of Lagos (South West Zone)
- Federal University of Technology- Minna (North Central Zone)
- Kaduna Polytechnic, Kaduna (North West Zone)
- Federal University of Technology, Yola (North East Zone)

Two other institutions, namely the Federal School of Surveying in Oyo and the Africa Regional Center for Training in Aerospace Sciences in Ile-Ife, because of their highly specialized capacity co-opted to co-ordinate and oversee the activities of the regional institutions. Working together over the last six months, these institutions have produced an agreed Training Manual for the “training-the-trainers” program of the Committee.

1.3 Role of State Surveyors - General

- Expediting meeting of committee with Governor
- Development of Operational Strategy for Promoting Land Reform within the LUAC.
- Identifying candidates to be trained as trainers of field assistants;
- Identifying candidates to be trained as field assistants and supervisors
- Working out the logistics for the field operations
- Cooperating with other relevant stakeholders at State and Local Government level;
- Collaborating with the PTC and the Office of the Surveyor-General of the Federation in the execution of the reform.

2. REAL ESTATE SURVEYING AND VALUATION PROFESSION

The real estate surveying and valuation profession is a very young one compared with other Professions. In the United Kingdom, early estate management functions were performed by Bailiffs. Major development decisions were taken by land owners, while agency functions were performed by chartered auctioneers or more often by lawyers. There was then no professional training, and some other trades do indulge in estate surveying and valuation practice. The estate surveying and valuation profession as we know it today began in the 18th century and could be linked with the industrial revolution leading to the establishment of some firms. The land surveyors club was founded in 1834 which metamorphosed to the surveyors institution in 1868. It received its Royal Charter in 1881. The name was retained till 1930 when it was changed to Chartered Surveyors Institution and since 1946 became known as Royal Institution of Chartered Surveyors (RICS). While in the United States, the appraisal industry, as we know it today was founded 1895 by a court reporter Mr. Moon. This led to the formation of the American Society of appraisers in 1935.

Estate management was introduced into Nigerian as a course of study in 1971 through the University of Nigerian Nsukka and The University of Ife (Now Obafemi Awolowo University). Before then, Nigerians were trained as chartered surveyors in Britain where the practice was regulated by two professional bodies – The Royal Institution of Chartered Surveyors and the Rating and Valuation Association of U.K. (now IRRV). To underscore the international relevance of the course and to sharpen the skills of members, the Commonwealth Association of Surveyors and Land Economists and International Federation of Surveyors FIG provides an international forum for all surveyors from the former British Commonwealth, to which Nigeria is an eminent member.

In Nigeria the practice of Estate Surveying and Valuation was founded in 1969 but recognition came in 1975 through Decree 24 of 1975 – the Estate Surveyors and Valuers Decree, after the Federal Government was convinced of the vital role the profession was playing in the overall development of Nigeria. Permit me to stress here that the Decree (now an Act) makes it a punishable offence for anyone to hold out himself as an Estate Surveyor and Valuers, unless he

is elected by the Nigerian Institution of Estate Surveyors and Valuers (NIESV) and registered by the Estate Surveyors and Valuers Registration Board of Nigeria. (ESVABON).

3. THEORETICAL AND CONCEPTUAL FRAMEWORK

Adam Smith (1721-1790) in *Wealth of Nations* described how markets operate. He tried to establish that markets could not function properly without valuation. While, James Anderson (1739 – 1808) and David Ricardo (1772–1823) developed the theory of appropriate rent and returns on land. This led to the notion of discounting of future returns into present value. And Alfred Marshall (1824-1924) formally presented the idea of capitalized values of land and buildings. Irving Fisher (1867-1947) developed and extended the theory of compound interest and maximum productivity. This later transformed into the concept of highest and best use. William Inwood (1771-1843) published the first present value, future value, interest rate factors, level payment and sinking fund table in (1811), which were extended and refined by Hoskold in 1880. Richard Ely (1854-1943) is generally considered as the father of real estate in the United States and even in the world. In 1924 Ely and Morehouse co-authored *Elements of Land Economics*.

Richard Ratcliffe wrote urban land economics in 1949, *Real Estate Analysis* 1961, modern Real Estate valuation: *Theory and Application* (1965) and *valuation for Real Estate Decisions* (1972).

James Arnold Grasskamp (1933-1988) is considered as the founder of feasibility Analysis for new developments proposals, because of his philosophy that ‘everything mattered’ to the real estate market. He promoted DCF analysis as a valuation approach long before personal computers made it an easier task.

The major challenges that this land reform would address within the perspective of estate surveying and valuation profession includes:

- I. Land use misuse and under use
- II. Ease land acquisition, allocation ,documentation, retrieval and dissemination of land information in Nigeria
- III. Improve and integrate land revenue base of the states of the federation
- IV. Automate Land management and Development control

The land reform should facilitate attainment of realistic and achievable revenue plan base. This could include the following:

- a) Land title searches
- b) Map sales
- c) Certify true copy
- d) Change of use form and approval fee
- e) Annual land rate on telecom Mast.
- f) Ground rate and land related charges

For land reform to succeed the following should be focused to:

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5/10

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- a) Continuity
- b) Sustainability
- c) Policy on GIS should have a set out guidelines, regulations and legislation
- d) There should be clear budgetary support at the initial stages and self sustaining at the long run.
- e) There should be awareness of the objectives of LF by all concern i.e. administrators, professional bodies and the general public who are the end users.

The main task of the LR should include but not limited to the followings:

- a) Import digital data
- b) Digitize analogue data
- c) Overlay a and b
- d) Mapping data
- e) Planning data
- f) Ground rent and other land rated charges.

The LR should, among others, solve the followings:

- a) Multiple allocations
- b) Unattended applications
- c) Forgeries
- d) Encroachment/conflicts
- e) Revenue generation
- f) Unplanned growth
- g) Misuse of land for non compatible uses etc
- h) Under utilization of large expanse of arable land across the state

4. PROSPECTS OF LAND REFORM

Security of tenure and land rights of citizens is an important foundation for economic development. For many of these, land titles are the main sources of collateralization for obtaining credit from informal and established financial institutions. Consequently, securing land rights and land titles is particularly relevant for all socio-economic classes in the nation's economy but especially to the farmers whose pervasive poverty to date derives from not having definitive property rights appropriate to a market economy. Furthermore, fees and taxes on such landed properties are very important sources of revenue for governments particularly at the State and Local Government levels. A national programme that thus sets out to enhance and secure the property rights of all groups in the society can only end up creating a economic empowerment.

Funding Land Reform programme should therefore be a national effort to be borne by all three tiers of government in proportion to their capabilities (Mabogunje, 2007).

For a country striving to be one of the twenty largest economies in the world by the year 2020, the situation with respect to land rights and transactions in land still leaves very much to be desired. The World Bank publication on “Doing Business in Nigeria 2010” rated Nigeria 178th out of 183 economies in respect of difficulties of registering properties in the country. Mabogunje (2007) attributed this to the following reason “a large share of land in the country is not formally registered [whilst] informal titles cannot be used as security in obtaining loans which limits financing opportunities for businesses” especially small and medium-size enterprises. If Nigeria is to meet the challenges of competing effectively in an increasingly globalizing world, it is thus imperative that it gives very urgent and sustained attention to promoting its land reform program in all of its ramifications to facilitate property development. Land Titling and Registration is essential for economic development of a Nation. The Nigerian nation had had a multiplicity of land tenure system until the 1978 Land Use Act which harmonized all the systems.

5. IMPACT OF LAND USE ACT ON PROPERTY DEVELOPMENT

The Land Use Act (LUA) has impacted both positively and negatively on the availability of land for development in Nigeria in such a way that it has provided access and freedom for individuals to acquire land in any part of Nigeria and people have better and secured titles to their land. But on the other hand, it has also made it difficult to acquire land because of government bureaucratic process of acquiring land and the issuance of Certificate of Occupancy and the vesting of lands to the government; all this has made it difficult for individuals to acquire land.

The Land Use Act has an impact on property development in a way that brings sanity and gives an insight or idea of the kind of property to be constructed in an area for a particular purpose by zoning into either commercial, residential etc

Table 1: Impact of Land Use Act on property development in FCT, Nigeria

OPTION	FREQUENCY	PERCENTAGE
Negative Impact	23	72%
Positive Impact	9	28%
TOTAL	32	100%

Source: field survey.

The table above shows the percentage impact of Land Use Act on property development in FCT, Nigeria which indicates that 72% believed that it has negative impact on property development due to the vesting of land into the hands of the government which brings about, long process of acquiring land for development and obtaining Certificate of Occupancy, subsequent land transactions consent of the Governors, the charges involve are at high cost, speculations and corruption by the people handling issues of land.

While on the other hand 28% of the developers under study believe that the Act has positive impact on property development in such a way that it has brought about sanity and security of tenure and better title to land owners.

6. SUMMARY OF FINDINGS

The following are the summary of findings;

1. The procedures for acquiring land through government in the take a longer period to process the application form and the processing of the C-of-O, while through private purchase does not take time, which has made some developers to acquire through both processes.
2. The study reveals that Land Use Act affect property development especially residential and commercial development as a result of vesting of all land in the hands of the Government, that any individual, organization or Co-operate body cannot alienate, transfer, sale part of their properties without the consent of the Governors.
3. It has been observed that despite the long processing of title document and granting of land by the government, developers in the study area prefers to acquire land through the government in order to have a better title to their lands than the Open market due to fraud.
4. Expenses incurred in acquiring land through Government are at high cost.
5. Acquisition of land through the Government is associated with problems of double allocations.
6. Acquisition of land in the study area through open market purchase is at high risk due to issuance of fake title document but it is also less time consuming. Valuation during acquisition process only crops/economic trees on land are valued or development on such lands, not considering that the land itself has a market value.
7. The land reform committee at presence suffers from government provision of budget to enable it finance its activities effectively. Similarly, the committee is presently behind schedule with an undone execution of its programme/activities.

7. RECOMENDATIONS

1. Long bureaucratic process involved in allocation of land should be streamline in order to ensure timely approval of land allocation and subsequent transactions in land should be fasten.
2. The cost incurred should be reduced to a minimum amount.
3. Experts and high technical skilled manpower should be employed to minimize the problems of double allocation.

4. Need for a comprehensive cadastre survey to provide for a comprehensive digital cadastre survey and to capture the entire land holding in the country and establish coordinates there from.
5. Establishment of a Geographic Information System in the entire states of the federation. A geographic information system is required that will not only be useful for data processing with reference to spatial coordinates but also non – spatial information for planning purposes.
6. Scrapping of consent provisions to subsequent transactions. The insistence of always securing the consent of the State Governor either to assign or mortgage a property has been the greatest impediment to the development of real estate market in Nigeria. Therefore the delays and exorbitant cost is forcing many people to operate in the informal market with its attendant risks and makes management of the real estate resources and market in the country difficult.
7. Removal of other obnoxious and anti development provisions of the Land Use Act such as, the powers of the Governor to revoke a Statutory Right of Occupancy are a disincentive to long term development. Land Use Act needs a reform, that is, it should be amended especially in Sections 1, 21 and 22 where consent of the Governors is involve before transfer, leasing or sales in land is carried out by a holder of title to land to limit the powers of the Government.
8. The land reform committee should be upgraded to a Commission status to guarantee funding and sustainability. There is no doubt that land reform for a country of the size of Nigeria is bound to be a long and tortuous venture touching virtually all parts of the country. As such, it is a task beyond the scope of a Committee and requires the setting up of a Commission which could guide and coordinate the process across the length and breadth of the country. Such a Commission has already been proposed and a Bill to establish it is currently before the National Assembly. A Commission would guarantee the land reform process a firm, legal and sustainable institutional foundation and ensure for it more secure and robust funding. It would also ensure that the land tenure laws, the operating regulations and procedures for land transactions are made uniform, open and ‘business friendly’ so as to facilitate and promote modern economic and developmental processes with minimum bureaucratic hindrance.

8. CONCLUSION

From the research carried out, it revealed that, 75% of the developers in the study area acquire their lands through the government, 25% through both government and open market and none acquire land through private owners alone. This indicate that despite the long process involved, the cost, and bureaucratic bottle neck, private developers in the area prefer to acquire their lands through Government because they believed it is more secured and they have better title to their lands. And those who also acquire through open market ensure that they document the title in the land registry there by applying for change of ownership. Most of the 72% of the developers have obtained their Certificates of Occupancy. Therefore, the Land Use Act has negative impact on property development, it makes access to land difficult, and has positive impact on residential and commercial property development by way of securing developers title to land. This implies

that the Act has Negative impact on property development in the study area. Emphasis should be given to security of documents in order to prevent fraud. Land reform should have the capacity to regularize undocumented land in the state.

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CONTACT

Muhammad Bashir NUHU, PhD, ANVIS, RSV, MNIM, MNES
Department of Estate Management,
Federal University of Technology, Minna
Email:mbnuhu@futminna.edu.ng