

**AN APPRAISAL OF THE LEGAL REGIME FOR DOCUMENTATION AND
REGISTRATION OF DOCUMENTS OF TITLE TO LAND IN PLATEAU STATE,
NIGERIA**

BY

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LLM/LAW/P16LAPR8023**

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ZARIA**

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DECLARATION

I, declare that this Dissertation titled “An Appraisal of the Legal Regime for Documentation and Registration of Documents of Title to Land in Plateau State, Nigeria” has been performed by me in the Department of Private Law. The information derived from the literature has been duly acknowledged in the text and a list of references provided. No part of this work has been presented for another degree or diploma at any Institution.

Aisha Isa YUSUF

DATE

CERTIFICATION

This Dissertation titled AN APPRAISAL OF THE LEGAL REGIME FOR DOCUMENTATION AND REGISTRATION OF DOCUMENTS OF TITLE TO LAND IN PLATEAU STATE, NIGERIA by Aisha Isa YUSUF meets the regulations governing the award of the degree of Master of Laws (LL.M.) of the Ahmadu Bello University, Zaria and is approved for its contribution to knowledge and literary presentation.

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DEDICATION

This research work is dedicated to my beloved father. Hon. Justice Yusuf Isa, my husband Mohammed Abubakar and my baby prince Aliyu Mohammed for their encouragement, understanding, moral and financial support.

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LIST OF ABBREVIATIONS

ALL FWLR:	All Federation Weekly Law Report
Anor:	Another
C of O:	Certificate of Occupancy
CA:	Court of Appeal
CAC:	Corporate Affairs Commission
Cap:	Chapter
Ed:	Edition/Edited
Eg:	Example
Etc:	and so on
FSC:	Federal Supreme Court
Ibid:	In the same source as previously cited
JCA:	Justice Court of Appeal
JSC:	Justice Supreme Court
L.F.N:	Laws of the Federation of Nigeria
LPELR:	Law Pavilion Electronic Law Report
LTD:	Limited
LUA:	Land Use Act.
MJSC:	Monthly Judgment of the Supreme Court
No:	Number
NRNLR:	Northern Region of Nigerian Law Report
NWLR:	Nigerian Weekly Law Report
Op. Cit:	Opere Citato (in the work already cited)
Ors:	Other

P:	Page
Paras:	Paragraphs
PLC:	Public Limited Company
Pp:	Pages
PSLO:	Principal State Lands Officer
Pt:	Part
SC:	Supreme Court
SCNJ:	Supreme Court of Nigeria Judgment
V:	versus
Vol:	Volume
WACA:	West African Law Report
WNLR:	Western Nigeria Law Report

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Abstract

Registration of documents of title to land in Plateau State is beset with many challenges. One of them is linkage between the land, the government, and the people create a complex system. This research investigates the challenges of land registration in Plateau State of Nigeria. The aim is to appraise the legal regime for documentation and registration of document of title to land in Plateau State, Nigeria in order to determine whether the process meets the current challenges of registration of land. The methodology adopted in this research is doctrinal which is library oriented and empirical method which involved oral interviews with some land registry staff and some legal practitioners. The result indicates a low level of land registration. This is because of the difficulties such as delay in obtaining governor's consent, charging of exorbitant consent fee, ignorance of landowners, corruption at the land registry, inadequacy of expertise at the Land Registry, Lack of information and communication technology (ICT) Land Registration, and that registration of title cannot cure any defect in title or confer validity which it does not possess.. It has been recommended that sections 21 and 22 of the Land Use Act should be amended to reflect that some designated officers should be appointed to give consent for or on behalf of the governor. If the time of consent expires and the governor did not give the consent it should be deemed that the consent is granted. Plateau State Geographic Information System (PLAGIS) should permits independent registration by property owners so that the whole process will be completely devoid from any form of manual activities there by enabling the property owners to conveniently conduct the whole exercise in the comfort of their homes with less stress as obtainable with registration procedure at the Cooperate Affairs Commission (CAC). There should be integrated systematic enlightening programmed to educate people on the need and benefits of land registration, Also, the Ministry of land and Survey in Plateau State should carry an assessment with the aim of identifying loopholes and weakness that foster corruption and undermine efficient and effective service delivery. Law should also be enacted to sanction corrupt officers in the ministry. There should be established in Nigeria a National Land Registry Training School or Centre for Land Tenure System and Research for training suitable candidates for employment at the land registry. Finally the research recommend the establishment of title insurance to protect lenders and buyers from financial loss sustained from defects in title to a property, as complementary model for achieving effective registration practice in Plateau State.

CHAPTER ONE

GENERAL INTRODUCTION

1.1 Background of the Study

Land is the source of all material wealth. From it everything that we use or value, such as food, cloth, fuel, shelter, metal or precious stones is gotten. We rely on land and from land and to land, our bodies are committed when we die.¹ The availability of land is key to human existence and its distribution and use are of vital importance. Being an important form of wealth, it has long been found necessary to regulate the manner in which land could be acquired, manage and disposed.²

Several varying interests and aspirations exist with regards to land. For example, the desire to buy land and to do so without dispute is ever in increase. The desire for one to use his land as security for advances, the desire that conflicting or competing claims on land should be peacefully resolved or the need to put in place a legal regime which seeks to protect individuals' enjoyment of their land by preventing others from interfering with such use is the concern of everybody and all municipal laws. In other words, there are innumerable needs to which land may be used vis-a- vis varying persons whose demands need consideration. Clearly, there is need the for proper balancing of these various interests, if social, economic, political and importance of land are to be realized.³ Therefore, thoughtful arrangement must exist concerning these varying interests in land which arrangement in most aspect, are to be seen in obtaining certainty and security in land.

¹ Taiwo, A. (2011). *The Nigerian Land Law*. Ababa Press Ltd. Ibadan p .201

² Ibid

³ Igwe, O.W. (2014) *Land Instrument Registration and Title in Nigeria*, Lambert Academic Publishing, River Sate. p. 1

To reduce conflicts that often arise with regard to establishing these various interests in land or establishing priority of such interest over land or solve the most intriguing questions in Nigeria as to how title to land can be made secured or indefeasible,⁴ are the concern of the law. One has to register such land because it is the most important way of laying claim to ownership of land as well as landed property by having document that are relevant and recognizable by various statutes and laws on such property.⁵

Land registration generally is described as a system by which matter concerning, ownership, possession or other rights in land can be recorded to provide evidence of title, facilitate transactions and prevent unlawful disposal.⁶ It is a system of the issuance of an official certificate indicating the name of an individual to whom such title is vested.⁷

Documentation on the other hand as relates to registration consists of documents which provide proof or evidence or record of something. Such documents serve as evidence of ownership of piece of land and need to be registered with land registry of a given state. It is the keeping of record of registered title to land which entails the writing of name of the person and the right held by such person concerning the land in a register. It is the documentation that reveals or shows evidence of registration. Land records therefore, are crucial to any government, the framing of land policy and its execution, may in large measure depends on the effectiveness of land registration which is the making and keeping of records. In Nigeria, land registration is

⁴ Ibid

⁵ Emmanuel, D. (2014) “7 Basic Title Document that is Relevant to Landed Property Ownership in Nigeria”. Retrieved from www.citypeopleonline.com/7-basic-title-document-relevant-to-landed-property-in-Nigeria on 2nd January, 2018 at 2pm

⁶ Echanteh, E.O. and Omirin, M.M. (2015) “Land Registration within the Framework of Land Administration in Lagos”. A paper presented at 21st annual pacific ren real estate social conference at Lumpier Malaysia on 18-21-January at p.1

⁷ Ibid

introduced mainly to simplify conveyance while other benefits derived from it are just secondary.⁸

On the whole, land title documents are deeds of assignment, deeds of mortgage, powers of attorney, charges, lease and debenture. Such documents are required to be registered at the land registry of a given state, and such land should be sufficiently described. Thus, “no instrument executed after the commencement of this law other than power of attorney, shall be registered unless it contains a proper and sufficient description... and a plan of the land affected by such instrument.”⁹ The decision of the registrar on the adequacy of the description and plan of any land in any document meant for registration is final subject to the review of the High Court.

However, it is not every document that relates to land that is registrable. Such documents must be one that transfers, charges or extinguishes some interest in land. In *Olarenwaju v Ogunleye*,¹⁰ the document was simply a form cultivated agreement. Therefore, it is mandatory for a title document to land to be registered at the appropriate land registry to show legal interest in order to make the general public and government aware of such exchange and transaction. Such registered documents spell out the key issues in the transaction between the buyer and the seller so that there will not be any confusion on assumption after the property has been transferred to the new owner.¹¹

The essence of documentation and registration of title documents to land cannot be over emphasized. It relates to issues of authentication and evidence of pertinent transfer of one’s interest in property. Thus, the research aims at examining the law, practice and procedure on

⁸Ehantteh, E.O. and Omirin, M.M. *Op. cit.* p. 3

⁹ Section 9(1), Land Registration Law Cap. 58, Laws of Northern Nigeria, 1963.

¹⁰ (1997)1 SCNJ p.144

¹¹Omonile, L. (2014) What is Deed of Assignment and Risks Involve for not Having a Deed for your Land. Retrieved from <http://www.onlinelawyer.com>, on 10/12/2017 at 10am

documentation and registration of title to land in Nigeria with particular emphasis on Plateau State Land Registry. It also looks at the issues and challenges of the area and proffers some solutions.

1.2 Statement of the Research Problem

Documentation and registration of title which serve as evidence of ownership of piece of land is not devoid of problems, which discourage property owners to register their property. There are laws that govern registration such as Land Instrument Registration Laws of various state and Registration of Title Act, in most cases, these laws have some little differences from state to state. Where property owners are not familiar with this laws and some little difference that may exist from various state is a huge problem. Most at times property registration may be defective if the proper procedure according to the law governing same is not followed, awareness on these laws is fundamental.

Registration of instrument to land in Plateau State is generally cumbersome and expensive, particularly because of the rigorous procedure involved. In the first place, the requirement under the Land Use Act, that the governor's consent shall first be sought and obtained, takes a lot of time and monetary expenses which applicant has to shoulder. The expenses are more on fees chargeable in every steps taken in the process, that is, Certificate of Occupancy preparation fees, development charges among others.

Government sees registration of title to land as a way of raising revenue from property owners by charging high fees on things that are not very important and ordinarily should not be part of the registration process. For example, Certificate of Occupancy premium fees and survey fees,

notwithstanding that the applicant paid highly to a surveyor who already draw out the sketch plan for the land.

Another problem is that registration of title cannot cure any defect in title or confer validity which it does not possess. This phenomenon does not only exposed registered title holder to hidden conveyancing risks but also threatened the effectiveness and public trust in registration of title document regime.

Most at times property owners do not register their instrument to land because they are not aware of the benefit of registration of title. Because as it is now, there are no provision in the extant laws (Registration Law of Northern Nigeria which is still applicable in Plateau State) mandating the land registry officials to periodically sensitized the members of the public on the positive consequences of land registration. A good example is the ease in securing loan at the bank and legibility for compensation in the event government acquires the land for public use. Registration of title to land confers on property owners certain privileges and protection which if known by them will encourage them to register their instrument to land. Therefore, inadequate knowledge of the benefit and privilege that registration of title confers is a problem.

Another perceived problem is inadequate funding of land registry and non-recognition of land administration expert such as the estate surveyor, valuers and lawyers as registrars of titles. Also, disturbing factor of land registration in Plateau State is lack of inadequate Information and Communication Technology (ICT) at the land registry. Unlike Corporate Affairs Commission (CAC) where one can sit in the comfort of his home to do registration. Which is not obtainable with registration at the land registry.

Where challenges associated with a particular system are not identified and addressed that challenges would continue to exist. It is in the light of these that this research also focuses on the challenges associated with the registration of title to land in Plateau State.

Consequently, this work answers the following research questions.

1. What is the legal framework for documentation and registration of title documents to land in Nigeria specifically in Plateau State?
2. What are the practice and procedure for registration of title document in Plateau State land registry?
3. What is the significance of registration of title document?
4. What are the challenges in the registration of title document in Plateau State?

1.3 Aim and Objectives of the Research

The aim of this research is to appraise the legal regime for documentation and registration of document of title to land in Plateau State, Nigeria in order to determine whether the process meets the current challenges of registration of land. To achieve this aim, the research set the following objectives.

1. To examine the legal framework for the documentation and registration of title document in Plateau State.
2. To examine the practice and procedure of registration of title documents in Plateau State.
3. To identify the significance of registering title document in Plateau State.
4. To discover the challenges in the registration of title document in Plateau State.

1.4 Scope of the Research

This research is restricted to the documentation and registration of title documents to land in Nigeria, with more emphasis on Plateau State land registry. Laws that govern registration of title to land in Nigeria, specifically in Plateau State will be discussed such the Land Use Act and Land Registration Law of Northern Nigeria. Reference to registration laws of other states would be made for purposes of supporting some arguments and analysis in order to arrive at informed conclusion.

1.5 Research Methodology

The methodology adopted in this research is the doctrinal. That is the library oriented research comprising the analysis of:

- a. Primary sources which include statutes and case laws.
- b. Secondary sources such as textbooks, law journals, articles by academic writers, seminar/workshop papers and newspapers/magazines were also considered.

Also, empirical research will be used such as current practice and trends arising out of instrument registration at Plateau State Land Registry.

1.6 Literature Review

In order to achieve the objectives of this research, numerous literatures were accessed, assessed and reviewed with a view to identifying the gaps with the view to fill them. Notable among them are standard textbooks on property transactions, law reports, newspapers, magazines seminar and workshop papers. In addition, this work will not only review existing literatures, but will also discuss existing contributions by authors in this area of research.

Oniekoro and Order ¹² in the book titled “Source Book on Drafting Property Law and Practice in Nigeria”, made enormous contributions about this area of research. They discussed registrable instrument such a deed of assignment, power of attorney and mortgages. They went further and discussed registration extensively but did not make any contribution on current problems of registration of title document in Nigeria, such as lack of uniform laws, illiteracy, lack of ITC etc. This lacunae shall be filled by this research.

Dadem,¹³ in his book “Property Law Practice in Nigeria,” discussed registration of title system under Lagos State Laws, where he explained the nature and procedure of registration of title in Lagos State. But he failed to dwell much on land instrument registration.

Adubi, ¹⁴ another erudite scholar, in his book “Legal Drafting, Conveyancing Law and Practice,” discussed registration under contract of sale, mortgages, power of attorney and leases. He went ahead and gave the consequences of non-registration. But he only made mention of registration of title law of Lagos State, as the applicable law regulating property transaction. This law is no more applicable in Lagos State. It has been repealed since the year 2015.

Utuma,¹⁵ in his book titled “Nigerian law of Property” focuses his research on registration of title to land. However, the author did not take time to dwell on the subject matter let alone hammer on the laws of registration of title document in Nigeria.

Smith,¹⁶ is another recent author that contributed hugely on the aspect of land instruments registration in Nigeria. He analyzes land document which are registrable and those not

¹² Oniekoro, F. and Order A. (2011) *Source Book on Drafting Property Law and Practice in Nigeria*, Snap Press Ltd. Enugu pp.65-571

¹³ Dadem, Y.Y. (2012) *Property Law Practice in Nigeria*, Jos University Press Limited, (2nd Edition), Plateau State p.197

¹⁴ Adubi, C.O (2012)*Legal Drafting, Conveyancing Law and Practice*, Light House Publishing Co. Ltd. Ikeja, Lagos p.224

¹⁵ Utuma, A.A (2012) *Nigeria Law of Real Property*, Malthouse Press Limited, Lagos (2nd Edition) p.251

registrable. He went ahead to discuss registration of title under Lagos State by giving out the different types of registration and also the process of first registration. But he only discussed it under the old law of registration of Lagos State. This work shall cover the current legislation on registration of title with particular emphasis on Plateau State.

Anyadubalu,¹⁷ in his book “Banking Law and Mortgages in Nigeria,” dealt extensively on registration of deed of mortgage but did not discuss any title document apart from mortgage. This work shall discuss registration of title documents with reference to Plateau State.

Igwe,¹⁸ in his book titled “Instrument Registration and Title in Nigeria”, dealt with the history of land registration in Nigeria by classifying registration into three (3) types, namely: is the registration of instrument, registration of title and registration of encumbrances. He dwelled more on the federal land registry. However, this work will dwell on registration of title documents in Plateau State.

Oniekoro,¹⁹ was able to discuss the new law in Lagos State that repealed the Registration of the Title Law and Registration of Title which is the Land Registration Law of Lagos State. He also dealt with the composition of the Land Registry of Lagos State.

Fatula²⁰ in this book title “Fundamentals of Nigeria Real Property Law”, discuss the registration of land instruments and title in Nigeria. He divided the method of registration into two which are: the registration of instruments and registration of title. He observed that the law governing

¹⁶ Smith, I.O (2013) *Practical Approach of Law of Real Property in Nigeria*, Ecowatch Publication Limited, Lagos p.445

¹⁷ Anyadubale, P. (2013) *Banking Law and Mortgage in Nigeria*, Bank – Watch Communication Ltd. Lagos pp 494-496

¹⁸ Igwe, O.W, *op.cit* at p. 1.

¹⁹ Oniekoro, F.J (2016) *Property Law Practice*, Key Point Mcq and Model Answer, Chenglo Limited, Enugu. p,101.

²⁰ Fatula .O. (2012) *Fundamentals Of Nigeria Real Property Law* , Afribic Press, Ibadan p.159 .

Registration of instruments is the Land Registration Act No. 36 of 1924²¹. The Land Registration Act No. 36 of 1924, was until the introduction of federalism the only law on this subject throughout Nigeria. On the other hand, registration of title as a statutory requirement was introduced into Nigeria by Registration of Title Act, 1935 which was applicable in Southern Nigeria.²²The learned author was unable to dwell on instruments registrable. This work will discuss the instrument that are registrable in Plateau State.

Robert and Wade²³, observed registration under two folds: registration under the traditional system of conveyancing and registration under the new system (registration of title.). The traditional system of conveyancing was reinforced by two different registrations namely: the registration of deed and registration of charges. The registration under the new conveyance is the registration of title. The laws which the above authors used are now abolished. This work will deal with the new laws.

Smith²⁴ observed that registration system is divided into three (3). The first was the registration of deeds which deals with the method of creating property right.²⁵ It will not assist where interest are created informally without writing.²⁶That the second type of registration of specific interest²⁷. That system looks at the substance of the interest rather than the form of creation. While the third is the registration of title. It is the most modern of the three, it started from the late nineteenth

²¹ *Ibid*

²² *Ibid*

²³ Magamy, R. and Wade H.W R (1984) *The Law of Real Property*, Stevens and Son Ltd, London, 3rd edition, p169

²⁴ Smith R.J (2006) *Property Law*, Pearson Education Ltd, United Kingdom (5th edition) p. 217

²⁵ *Ibid*

²⁶ *Ibid*, p. 218.

²⁷ *Ibid*.

century²⁸. This author based his research on Registration of Land in England. However, we are going to dwell more on registration of title document in Nigeria, specifically, Plateau State.

Imhanobe,²⁹ was able to discuss registered documents of title to land in Nigeria. He went ahead to explain procedure for registration and also the advantage of registered title to land. We observed that when the author was discussing, he only made reference to Lagos State Land Registration which is registration of title. This work will lay emphasis on land instrument registration in Plateau State.

Taiwo,³⁰ in his book titled “*Nigeria Land Law*” observed that there are three (3) types of registration in force in Nigeria. They are: the Registration of Instrument/Deeds, Registration of Title and Registration of Encumbrances or charges³¹. He also gave brief history of land registration in Nigeria but was unable to discuss the documents which are subject to registration in Nigeria. This work will bring out and discuss the documents of title to land in Nigeria.

Maren and Samuel,³² observed that there are three transacted instruments in the greater Jos metropolis. One of these transactions is assignment.³³ This has to do with the processing of legal documents for the transfer of land or landed property. It has the highest occurrences from 2007–2014. The second is the one on mortgage. The processing of documents for land given in mortgages while the third is the form of transaction in respect of re-lease. The processing of contract document to grant the use or occupation of property during a specific period for

²⁸ *Ibid*

²⁹ Imhanobe S.O (2007) *Legal Drafting and Conveyancy*, Sylvester Imhanobe Legal Research Ltd, Maitama Abuja pp. 284-294

³⁰ Taiwo A., op.cit, pp. 139-150

³¹ *Ibid*

³² Maren, M.D, Samuel D.W et al (2007-2014) “Land Reform Implementation and its Impact on the land Registration of Property Title and Instrument Greater Jos Metropolis”, *International Journal of Real Estate Studies*, vol. 10, p52

³³ *Ibid*

exchange of specific rent. However, no attempt was made by the authors to discuss some of the instrument registrable in the state such of mortgages, certificate of occupancy and power of attorney.

It is observed that the land title documents discussed by the above authors are not exhaustive as there are other titled documents which this research will bring out. Hence, this work will fill the gaps left by the existing literatures.

1.7 Justification of the Research

The study of the appraisal of the law on documentation and registration of title documents in Plateau State would be a table tool for lawyers/legislators to be rightly guided on the areas that need amendments as regards the law governing registration of title documents to land in Plateau State. This is because the strength and weakness of the relevant laws, if explored, would open the eye of legislators to areas that need attention as to the laws. Also, the general public will find the research helpful because the research explores and explains legal steps and procedures to follow in documentation and registration of title documents to land in Plateau State.

This research will also be of tremendous assistance not only to property owners or purchasers but also to legal practitioners who specialized in property transactions. Estate managers, Students, the academic and the general public will also benefit. On the whole, it serves as a guide to any person who wishes to carry out research on this area of study.

1.8 Organizational Layout

For the purpose of clarity, orderly presentation and organization, this research work has been arranged into five chapters.

Chapter one which is the General Introduction contains background of the study, statement of the research problem, aims and objectives of the research, scope of the research, research methodology, justification of the research and literature review including other documents on the contents of registration of title documents.

Chapter two dwells on the historical development of the legal frame works on registration of instrument related to land in Nigeria. It discusses the laws governing registration in Nigeria, meaning of registration, types of registration and essence of registration of documents.

Chapter three is on documentation and registration of title documents in Plateau State Land Registry. It deals with the structure of Plateau State Land Registry and its functions, practice and procedure of registration in Plateau state, document that required registration in Plateau State and how they are registered.

Chapter four discusses issues and challenges of registration in Plateau State. This includes delay in obtaining governor's consent, lack of independent ICT at the land registry, illiteracy of property owners, inadequacy of expertise at the land registry, corruption of some land registry staff.

Chapter five as the concluding chapter. It contains the summary, findings and Recommendations that aimed at enhancing and promoting the use of registered title document in Plateau State of Nigeria.

CHAPTER TWO

HISTORICAL DEVELOPMENT OF THE LAWS ON REGISTRATION OF DOCUMENTS OF TITLE TO LAND IN NIGERIA

2.1 Introduction

Registration of documents which creates interest in land provides a safe and easy means of recording transaction on land. Its primary object is to facilitate and secure transaction on land and in assisting the conveyancer in the course of investigating interest on land. Three methods of registration are involved. These methods are (1) the Registration of Instruments (2) Registration of Title and (3) Registration of Encumbrances. The law governing registration of instruments is the Land Registration Act ¹. However, with the introduction of federalism, each region and their successor's state re-enacted the 1924 Act under their laws. Registration of Title on the other hand as a statutory requirement was introduced into Nigeria by Registration of Title Act of 1935. Registration of Title Act was applicable in southern states of Nigeria. While registration of encumbrances were designed to strengthen the traditional system of registration by enabling a purchaser to discover encumbrances and transactions affecting title. Registration of instruments and encumbrances are applicable in Northern Nigeria.² This chapter examines the salient features of these legislation.

2.2 Historical Development of Registration of Land in Nigeria

The establishment of Land Registration in Nigeria occurred as early as 1863 when English law was first introduced into the colony of Lagos after it was ceded to the British Crown. This was later extended to some parts of the Protectorate of Southern Nigeria in places like Asaba and the

¹ No. 36 of 1924

² Taiwo, A. (2011) *The Nigeria Land Law*, Ababa Press Ltd, Ibadan, p. 140

Old Calabar.³ The repealed edition of the Land Registration Ordinance⁴ was enacted, and these enactment gave the governor power to establish more offices in some parts of the Colony and Protectorates. Thus, a land registry was established in the Northern Protectorate for the first time in Kaduna in 1915⁵ to take care of the interest the Land and Native Rights Proclamation, 1910, which provided that all instruments affecting land which were registrable must be registered within six months of the execution in case of a will, within a year of the testator's death.⁶

As a result of the amalgamation of the Southern and Northern Protectorates in 1914, the provision of both the Land Registration Ordinance of 1907 and Land and Native Rights Proclamation of 1910 for registration of land instruments were repealed and replaced by a single enactment called the Land Registration Ordinance of 1915. This was later amended by the Land Registration Ordinance of 1924 which until the creation of the federal system in 1945, was the law of registration of instruments affecting land throughout Nigeria.⁷

Land Registration Act of 1924 required all documents with which an interest in land is transferred or charged to be registered so as to facilitate search into the root of any title to be alienated.⁸ In 1935, another system of registration was introduced by the Registration of Title Act. The Act made provisions for registration of title to land as distinct from registration of instruments affecting land.

There was the Registration of Land Act, 1964 which was to come into force on 1st January, 1965 but was never implemented. With the creation of three regions namely; North, West and East,

³ *Ibid*

⁴ Cap 99 Laws of Nigeria 1958

⁵ *Ibid*

⁶ *Ibid*

⁷ *Ibid*

⁸ Nuhu, M.B (2009) "*Enhancing Land Title and Registration in Nigeria*". Retrieved from <http://www.futminna.org> on 28th December, 2017 at 4pm

each of these regions enacted the registration of instruments laws precisely the same provisions as those contained in 1924 Ordinance. The Western Region for instance, enacted its Land Instruments Registration Law, while in Northern Region was known as Land Registration Law (cap 58 of 1963 edition of Laws of Northern Nigeria).⁹ With division of the country into 36 states now, all states inherited similar provisions of their parent regions.

The Land Use Act promulgated as a military Decree in 1978 does not abolish the laws relating to registration. Rather, it preserves those laws as existing laws. Section 48 of the Act¹⁰ provides

“all existing laws relating to the registration of title to or interest in land or the transfer of title to or any land shall have effect subject to such modifications (whether by way of addition, alteration or omission) as will bring those laws into conformity with this Decree or its general intendment”. Therefore, the Land Use Act preserves the existing laws relating to registration of title to land or any other interest in land.

The laws applicable to Registration of land in Nigeria include

1. Various States Land Instrument Registration Laws,
2. Registration of Title Act, 1964 and
3. Land Use Act, 1978

2.2.1 Land instrument registration laws of various states

Many states in the federation have laws that require that instruments used in land transactions should be registered.¹¹ Each state of the federation establishes the land registry office usually

⁹ Utuama. A.A (2011)*Nigeria Law Of Real Property*, Malthouse Press Limited, Lagos (2nd Edition) p.107

¹⁰ Land Use Act

¹¹ Examples are Land Registration Law of Northern Nigeria, Cap 56 Laws of Northern Nigeria, 1963. Land Instrument Registration Laws Cap L58 Lagos State, 2003, Cap 83 Laws of Kwara State, Laws of Kaduna State e.tc

located at the state capital for the purpose of regulating the procedure of registration of instruments.

Registration of instruments requires that land which is to be registered should be sufficiently described. Thus “No instrument executed after the commencement of this law other than a power of attorney, shall be registered unless it contains a property and sufficient description (and) a plan of the land affected by such instrument.”¹² The decision of the registrar on the adequacy of description and plan of any land in any instrument meant for registration is final, subject to any review by the High Court.¹³ The plan in the instrument must be signed by a surveyor. Similarly, an instrument which requires the consent of the governor or any public officer will not be registered unless such consent is endorsed on it or the registrar is otherwise satisfied that such consent had been given.¹⁴

However, the law applicable to registration in Plateau State is the Land Registration Law of Northern Nigeria 1963. This is because the State has not enacted its own law. This law was enacted to consolidate and amend the law related to the registration of instruments and filing of judgment affecting land in Northern Nigeria. The law provides that every instrument executed before and after the commencement of the law and not registered, be registered.¹⁵ No instrument requiring the consent of the Governor or any public officer be registered unless such consent is obtained.¹⁶

¹² Section 9 (1a) Land Registration Law, Cap. 58 Laws of Northern Nigeria, 1963. `

¹³ Dadem Y. Y. *op. cit.* p.23

¹⁴ Ibid

¹⁵ Section 5& 6 Land Registration Law Cap 58 1963 of Northern Nigeria.

¹⁶ Section 10 Land Registration Law Cap 58 1963 of Northern Nigeria

2.2.2 Registration of Titles Act of 1935

This Act provided generally for registration of interests and titles in land, with the exception of mining leases and leases granted under the provisions of the Minerals Act¹⁷ and Petroleum Act¹⁸. It was enacted in Nigeria in 1935 as Registration of Title Act¹⁹ and was meant to apply only in Southern part of Nigeria. With the introduction of federal structure of government in 1954, it became a regional legislation. In the Western and Bental region, it was renamed Land Title Registration Law²⁰ and in Eastern region, it retained the original title, Registration of Title Law. But in spite of all these, the statute applied only in Lagos, it's began operation in other parts of Nigeria in 1954. The part of Lagos where the statute applies was designated as Registration District. Registration under the Act clarified instances where registration was compulsory and instances where registration is permitted but not compulsory. Registration is compulsory if it involved: (i) exclusive ownership of land; (ii) a lease of a term not less than 40 years; (iii) assignment of a lease of a term not less than 40 years. Registration was permitted if it involves: (i) registering power of sale whether in law or equity; and (ii) a lease of a term not less than 5 years. Other interests that may be registered under the law included certificates of occupancy, leasehold interests, mortgages, charges, power of attorney, easement and profits *aprendre*. A registered owner of a land could transfer it. But the transfer would not be complete until the transferee had been registered as the new owner. Until the registration is completed, the transferor of the land would remain the owner of the land.²¹ This law has now been repealed by the Land Registration Law 2015.

¹⁷ Section 65 mineral and mining Act, 2007.

¹⁸ Section 2 Petroleum Act, Cap P10 LFN, 1990, as amended.

¹⁹ Cap 181 laws of federation 1938

²⁰ Cap 72 Laws of Eastern Nigeria 1963

²¹ Ifeoma . ., *Op.cit*, p.201.

2.2.3 Land Use Act 1978

The law guiding land administration in the whole territory of Nigeria is the Land Use Act.²² (Originally promulgated as Land Use Decree No. 6 of 1978). The law adopted the nationalization of all lands in Nigeria as introduced by the Land Tenure Law of 1962 of the Northern Region.²³ This is the most popular law governing registration in Nigeria. The most significant thing about the law is that it vests all land in each state in Nigeria in the governor of the state to hold in trust. As a trustee to all lands, the governor becomes the overlord while the original exclusive owners technically become tenants.²⁴ The Supreme Court in *Nkwocha v. The Governor of Anambra*²⁵ held that “the tenor of the Act as a single piece of legislation, is the nationalization of land in the country by the vesting of its ownership in the State, leaving the private individual with an interest in land which is a mere right of occupancy...”. The law converted and reduced the fee simple (exclusive ownership of land) of the original exclusive owners to right of occupancy (often for a period of 99 years) which is often evidenced by the Certificate of Occupancy.

The Land Use Act created a right of occupancy regime in place of the hitherto unrestricted property rights. It vests all lands within a state in the governor but created a two-level management structure; One, at the level of the state governor the second at the local government level.²⁶ It also recognized the dichotomy in the existing land rights which birthed the concept of

²² Cap L5, Laws of the Federation of Nigeria ,2004

²³ Ukaejiofor, A.N. (2007) Identifying appropriate Tools for Effective Land Governance in Nigeria (4612), FIG congress, 2007, Sydney, Australia, 11-16 April, 2007.

²⁴ Ifeoma P. (2018) Law Governing Real Estate Practice in Nigeria and What every Realtor should know about the law. Retrieved from <http://www.bolairamos.com/law- governing –real- estate practice- in Nigeria -and what every realtor should know about the law.>, on 20/07/2018 at 11am.

²⁵ (1984) 6 S.C. 362.

²⁶ Akintunde O. (2018) The Land Use Act And Land Administration In 21st Century Nigeria: Need For Reforms. *Afe Babalola University Journal of Sustainable ,Development ,Law & Policy* VOL. 9: 1. P, 84.

*actual grant*²⁷ and *deemed grant* of rights of occupancy²⁸ under the Act. Whilst trying to remedy the inadequacies in the existing laws, the Land Use Act created its own genre of problems in land administration in Nigeria.²⁹

The Act vests all land comprised in the territory of each State of the Federation in the governor of the State in trust to be administered for the use and common benefit of all Nigerians in accordance with the provisions of the Act.³⁰ Under the provisions of section 3 of the Act, the basis of the control and management of land by the governor or the local government is determined by the designation of land as urban area and confining the undesignated areas to the control of the local governments. The Land Use Act in section 2 empowers the governor to control and manage land within an urban area only, while the local government is empowered to administer land outside a designated urban area. It is imperative, therefore, that for the governor to control and manage land in the state, there must be a defined territory called urban area clearly spelt out in a gazette. Without the classification or demarcation of an area as urban, the governor has no area of control and management of land in the state, as all lands are presumed to be non-urban area by the Act.³¹ Unfortunately, there has been no nationally approved standard for this demarcation as envisaged by the Act. The National Council of States saddled with the

²⁷ Actual Grant: An actual grant is naturally a grant made by the governor of a State under section 5 of the Act or a local government under section 6 of the Act; whilst a deemed grant comes into existence automatically by operation of the law. See, *Savannah Bank Limited v Ajilo* (1989) 1 NWLR (Part 97) 305. See generally, Prince Nwafuru, Principles and Cases on Deemed Grant of Right of Occupancy <https://www.academia.edu/12623272/Principles_and_Cases_On_Deemed_Grant_of_Right_of_Occupancy> accessed 25 April 2018 at 11am

²⁸ Deemed Grant: This expression, though not specifically defined in the Land Use Act, emerged from the coinage used to express the provision of section 34 of the Land Use Act to describe the right of those who held interests in land in Nigeria, before the Act came into force. By the Act, a person in this category continues to hold those interests in the land as if a right of occupancy had actually been granted to him by the State. A holder of a right of occupancy deemed granted by the State. The expression was coined by Prof. Jelili A. Omotola. Read the Amicus curie submission of Prof. Jelili A. Omotola in *Savannah Bank v Ajilo* (1989) 1 NWLR (Part 97) 305.

²⁹ Akintunde O. *Op.Cit.*, p. 84

³⁰ Land Use Act 1978, S.1.

³¹ Valentine O, "Understanding the Land Use Act" (*Lawsprings & Co*) <<http://lawsprings.com/index.php>> accessed 24 December 2016 at 12:45pm

responsibility is yet to come up with any regulation in that respect. In line with section 6(2), the Act empowers the local government to grant customary rights of occupancy to any person or organization for the use of land in the local government area. The import of the provision is to invest the local government with powers of land administration over lands in its domain not declared as urban land by the governor. It is however to be noted that this provision lacks much substance in view of other provisions of the Act that vests the governor with unfettered powers of management of land irrespective of whether the land is urban or non-urban.³² For instance, where the governor exercises the powers under section 3 of the LUA, declares all the lands in the state as urban land, there will be no land for the local government to manage and or superintend. Even where the governor divides the land in the state into urban and non-urban lands, the administrative power vested in the local government by this section is so minute as to be inconsequential. Under the Act,³³ once the land is subject of statutory rights of occupancy and or certificate of occupancy, its management is beyond the powers of local government irrespective of the location of the land in the State.

Also, the terms and conditions contained in a certificate of occupancy issued by the governor constitutes a contract between the governor and the holder of the certificate, and the local government has no role to play even where the land is under its jurisdiction. Furthermore, the local government cannot grant land for agriculture or grazing without the consent of the governor once the grant is in excess of 500/5000 hectares respectively.³⁴ Additionally, the consent of the

³² Land Use Act 1978, s 2(5)

³³ *Ibid*

³⁴ The Act provides that “No single customary right of occupancy shall be granted in respect of an area of land in excess of 500 hectares if granted for agricultural purposes, or 5,000 hectares if granted for grazing purposes, except with the consent of the Governor.” *Ibid* s. 6(2).

governor is required in certain circumstances with respect to the alienation of customary right of occupancy.³⁵

Since the commencement of the law, no land-owner can sell, lease, assign or transfer his/her land without first seeking and getting the consent of the governor.³⁶ Any land transaction or any instrument in this regard without the consent of the governor will be void. However, the Act also provides that all existing laws relating to registration of title, or interest to land or transfer of title to or any interest shall have effect subject to modification as will bring those laws into conformity with the Act or its general intendment³⁷. The Act³⁸ aims at providing guidance for effective land administration in Nigeria. The highest interest in the land is the right of occupancy. This can either be statutory or customary right of occupancy which is granted by the state governor in respect of land in both the urban and rural area.³⁹

2.3 Registration of Land

Registration is a method of officially recording of something, usually registered to claim more rights or to protect ownership.⁴⁰ Land registration generally describes system by which matters concerning ownership, possession and other rights in Land can be recorded (usually with a government agency or department) to provide evidence of title. It also facilitates transactions and prevent unlawful disposal which vary according to jurisdiction.⁴¹ It is also a system by which ownership of real property is established through the issuance of an official certificate indicating

³⁵Ibid Section 21.

³⁶Section 22

³⁷Section 48 *Ibid*

³⁸*Ibid*

³⁹Section 1, 9, and 34 *Ibid*

⁴⁰Houghton, M. H. (2010) "Webster's New World College Dictionary", 4th edition, retrieved from <http://www.Collins dictionary.Com /dictionary English/document>.

⁴¹Udoka, I.S (2017) "Effect of Land Title Registration on Property Investment in Nigeria", *International Journal of Advanced Studies in Economic and Public Sector Management, Dept of Estate Management, Akwa Ibon State polytechnic* vol.5 p.3.

the name of the individual in which such ownership is vested.⁴² The basic idea behind such registration is to confer on every owner or purchaser a title guaranteed by the state. It is believed to make conveyance simple, cheap, speedy and reliable by obviating most of the difficulties and hazards to which a purchase of land is exposed under the system of registered conveyance. It is necessary to determine record, disseminate information about ownership, value, use of land Act to defend individual right of ownership where the need arises. Despite its huge benefits, it is sometimes mitigating by poor administrative procedures experienced by applicants.

2.4 Types of Registration in Nigeria

Land registration is categorized into three different aspects in Nigeria; firstly, the government statutory system of Registration of Instruments affecting land, secondly, there is the government statutory system of Registration of Titles to land which applies only to Lagos State, This was later extended to some parts of southern Nigeria.⁴³ Thirdly, is registration of encumbrances or charges. However, for the purpose of clarification, these are examined with particular reference to the historical background.

2.4.1 Registration of Instruments

The maintenance of a public register in which documents affecting interests in land are copied or abstracted is generally known as registration of deed.⁴⁴ This is the oldest kind of registration in England and it is limited in extent. The law relating to the registration of deeds and registration of title has a remarkable similarity throughout the English speaking world. In America, a system

⁴² Omirin, M.M and Thontteh, E.O (2015) "Land Registration Within The Frame Work Of Land Administration Reform In Lagos State", *21st Annual Pacific- Rim Real Estate Society Conference (Press)*,Kuala Lumpur, Malaysia. p.1

⁴³ Taiwo .A. op cit p.140

⁴⁴ Ibid p.142

of registration of deeds was established in Plymouth Colony in 1626 and in Virginia and Connecticut in 1939. A system of recording transactions relating to land was established in South Africa in 1685 and in 1707 the Middlesex Registry in England was setup. This was followed in 1708 by the Yorkshire, Belfast and Dublin registries.⁴⁵ The torren system of registration was then introduced into South Australia in 1858 because of the difficulty which was realized in the system of registration of deed. It was cumbersome and merely formed a record of dealing in land and also a mere record of an isolated transaction. It cannot be evidence of the legality of the transaction itself.⁴⁶

Under the Torrens system, the title of land was investigated and recorded, and the person registered as owner had full title to the land. This system soon spread to New Zealand and Canada in 1924. The New Zealand went further to amalgamate her two systems of registration by Land Transfer Act. Apart from this, the Torrens system is only compulsory in the sense that the crown grants made after the introduction of this system in these countries must be recorded for other types of transactions to remain voluntary.⁴⁷

The above was the experience of some countries in respect of registration in 1883 when by the Registration Ordinance of that year registration of deed was introduced in Lagos. This statute, according to its preamble, was to provide for the registration of instruments affecting land in the Gold Coast from where the Colony of Lagos was being administered. In 1901, a similar statute was introduced in the Protectorate of Southern Nigeria and in the North.⁴⁸ In 1907, a consolidation applied to the Colony and the Protectorate of Southern Nigeria. In 1915 under the

⁴⁵ Oluyede, P.A.O (1978), *Nigeria Conveyancing Practice, Drafting and Precedents*, Ibadan University Press, Ibadan p. 221

⁴⁶ *Ibid*

⁴⁷ *Ibid* p. 222

⁴⁸ *Ibid*

Law Registration Ordinance No. 29 of that year a further consolidation took place which in effect was to unite the Colony and the two Protectorates. The South and the North, for the purpose of registration of instruments. The 1915 Ordinance with amending Ordinance No. 12 of 1916 and No. 15 of 1920 were consolidated in 1924 to become the Land Registration Ordinance No. 36 of that year.⁴⁹ The provisions of which either directly or indirectly still apply in Nigeria.

The meaning of Instrument as stated in the Land Registration Act of 1924, is as follows:

A document affecting land in Nigeria, where one party called the grantor, confers, transfers, charges or extinguishes in favor of another party called the grantee, any right or title to, or interest in land in Nigeria includes a certificate of purchase and power of attorney under which any instruments may be executed, but does not include a will.⁵⁰

Once a document purports to transfer and/or confer interest in land or howsoever described, it becomes an instrument that must be registered⁵¹. Where the document does not confer title to land, it needs not be registered. It is settled that priority, as regards registrable instruments, is determined not by the date the instrument is made but by the date of registration. In *Amankra v. Zankley*⁵² it was held that:

When two persons claim the transfer of a legal estate, he who did not register his conveyance cannot plead it or give it in evidence. If they both registered their deeds, each takes effect as against the other from the date of registration. Which means that the one executed earlier loses its priority if it was registered later. What count is the date and hour of registration.

⁴⁹ *Ibid* p.221

⁵⁰ Section 2 of Land Registration Law, Cap 58 Laws Of Northern Nigeria, 1963.

⁵¹ *Niger Construction Ltd. v. Ogbimi* (2001)18 NWLR (Pt. 744), *Ikonne v. Nwachukwu* (1991) 2 NWLR (Pt. 172) 214.

⁵² (1963) 1 All NLR 304; (1963) NSCC (Vol. 3) 243

To qualify as an instrument, a document must be a means by which an interest in Land passes from one person to another. Thus, a purchase receipts is not a registrable instrument.⁵³ If it is a mere acknowledgement of sales or payment and does not confer or transfer interest in land under the Land Instrument Registration Law of Western Nigeria, it is not a registrable document. An agreement for sale or lease of land is not a registrable instrument, but if qualifies as an estate contract and therefore registrable in the rest of the country.⁵⁴ Also, a sale agreement is generally not a registrable instrument, but an agreement to mortgage land is a registrable instrument under the various registration laws in Nigeria. A power of Attorney is only registrable where it specifically relates to an interest in land. A registrable instrument for the purpose of registration must be accompanied by a plan of the land. However, in the case of power of attorney, no such plan is required.⁵⁵

An instrument executed after the commencement of the Act where the grantor or one of them whereof is an illiterate is not registrable unless it is executed by such illiterate grantor or grantors in the presence of either a magistrate, the President of a Grade “A”, customary court judge or justice of the peace, who shall subscribe it as a witness.⁵⁶ A document of partition which transfers separate interest to different individuals is a registrable instrument, but where it does not transfer or extinguish right in land is not registrable.⁵⁷

In general, registration of instruments constitutes actual notice of the interest to all persons who acquire the land or any interest in it. Failure to register it within six (6) months renders it void against a subsequent purchaser and where an interest is void by reason of non-registration, a

⁵³ *Elegbede v. savage*(1951)20 NLR 9.

⁵⁴ Utuama. A.A opcit pp. 107 and 108.

⁵⁵ Nuhu, M. B. (2009) “Enhancing Land Titling And Registration In Nigeria”, Estate Management Department , E.E.T Federal University Minna retrieved from <http://www..futminna> on 28/12/2017 at 4pm.. p. 3.

⁵⁶ Taiwo. A, *op cit*, p. 143.

⁵⁷ *Yuwonweokwu v Egbunke* (1959)ENLR 53.

purchaser shall not be prejudicially affected by notice of it. If such instrument is executed outside Nigeria, non-registration within 12 months makes it void from the date of execution. Where an instrument executed by the same grantor on the same land two or more grantees lay claim to the land, the one whose registration was first in point of time will gain priority. At any rate, registration does not create any title where non-existed nor does it help to cure defect therein.⁵⁸

Where an instrument is registered, a certified copy of it shall be received in evidence without any further or other proof in all civil cases.⁵⁹ Where an instrument has been duly executed in the sense that all act necessary to render it complete and give it validity have been performed, the mere denial by one of the executants being a party to the execution cannot avail him nor affect the validity of the registered instrument.⁶⁰

2.4.2 Registration of title

Historically, Ordinance No. 13 of 1937 introduced the (Torrens) system of registration of titles into Nigeria from Tanganyika,⁶¹ now known as Tanzania. Sir Donald Cameron favoured the introduction of the registration system of Tanganyika when he was the Governor of Lagos and some parts of the country.⁶² The draft Ordinance was based on the English Land Registration Act, 1925, which was agreed to in principle by the Secretary of State in 1930. It was considered too complicated and the Tanganyika Law Registration Ordinance No. 15 of 1923 was chosen as a suitable model. Although, the Tanganyika Ordinance appeared to be home-made, it bore strike

⁵⁸ Fatulu O. *Op.cit.* p.160 and section 25 *Land Registration Law cap 58 Northern Nigeria*.

⁵⁹ *Adelaja v Alade* (1999) 4 SC (Pt 1) 81

⁶⁰ Ibid

⁶¹ Imhanobe, S.O. (2010) *Legal Drafting and Conveyancing*, Temple Legal Consent, Maitama, Abuja, p.415

⁶² Oluyede P.A, *Op cit*, p.231

similarities to the Torrents system. It also made use of certain provisions in the English Transfer Acts of 1875 and 1897⁶³.

In 1933, the draft based on the Tanganyika Ordinance was sent to the Secretary of State who sought the advice of Sir John Steward-Wallace, the Chief Land Registrar at her Majesty's Law Registry in London as to the suitability of the Ordinance in Lagos, Nigeria. In 1935, when the Lagos Ordinance came into force, Mr. Hunter who came to Lagos for a different reason in 1928 from her Majesty's Land Registry was nominated the Registrar by Sir John Steward Wallace and Mr. Hunter introduced as much as the London practice as he deemed necessary.⁶⁴ The Act was adopted by Lagos State as the Registration of Title Laws applicable to some part of Lagos municipal. It was also adopted by the FCT as Registration of Title Act, Cap 546 Laws of Federation of Nigeria (Abuja) 1990.

The basic idea behind registration of title is to confer on every purchaser a title guaranteed by the state. The system was devised to make conveyance simple, cheap, speedy and reliable by obviating most of the difficulties and hazards to which a purchaser of land is exposed under the system of unregistered conveyance.⁶⁵ Usually under the system of unregistered conveyance, a purchaser must satisfy himself from the abstract of title, the deeds, and his investigation of title, his searches and inspection of this system of registration. The proof of title becomes easier as the register becomes an evidence of title.⁶⁶ A purchaser or any other transferee of interest in land shall not therefore require any evidence of title, but shall depend on the evidence derived from the registrar as well as from a statutory declaration as to what does not constitute encumbrances.

⁶³ Ibid

⁶⁴ Ibid

⁶⁵ Smith, I.O. (2013) *Practical Approach of Law of Real Property in Nigeria*, Ecowatch Publication Limited, p.450

⁶⁶ Ibid

The advantage of registered title as the Supreme Court pointed out in *Onagoruwa v. Aderemi*⁶⁷ is that:

The purchaser can discover from the mere inspection of the register whether the vendor has power to sell the land and what the more encumbrances are except in the case of what may be classified as overriding interest... which binds the proprietor of registered land even though he has no knowledge of them and no reference is made of them in the register. Otherwise, a registered owner of land is not affected by notice of any unregistered estate, interest or claim affecting the estate of any previous owner, nor is the concern to inquire whether the terms of any caution or restriction existing before he was registered as owner of such land have been complied with.

The above advantage of title of registration equally applies to other forms of transfer as prescribed by the Registration of title law.

In terms of the provision of the Registration of Title Act, 1935, every conveyance of a fee simple estate in any land for a consideration which consists wholly or in part of money and every grant of a lease of any land for a term of not less than forty years; and every assignment of a lease of any land having not less than forty years to run from the date thereof for a consideration which consists of money or partly of money and a grant of state land or lease of state land for a term of not less than five years must compulsorily be registered.⁶⁸ However, by virtue of section 6(6) of the Act⁶⁹, registration was optional for any person who has power to sell or is entitled at law or in equity to an estate in any land, or any person entitled at law or in equity to a lease of any land for an unexpired term of not less than 5 years. Thus, the Act recognizes two types of registration; voluntary registration and compulsory registration.

⁶⁷ (2001) 13 NWLR (pt. 721) 38 at 56, 63

⁶⁸ Taiwo .A. *Op. cit.* p.147

⁶⁹ Registration of Title Act, 1935

Compulsory registration is required in case of a conveyance of fee simple estate for a consideration consisting wholly or partly in money or in respect of a lease granted for a term that is not less than 40 years or in respect of an assignment of a lease that is not less than 40 years.⁷⁰ Application for first registration of the interest comprised in the conveyance, grant or assignment must be made by the grantee within 2 months of its execution, or where the time extended, any extension thereof otherwise, and the instrument is void as regards the grant or conveyance of the legal estate.⁷¹

Registration is said to be optional and therefore voluntary in respect of some categories of persons, who apply to be registered as owners of the respective interests, whether or not transactions are being effected on the land. These persons include anyone who has power to sell or is entitled at law or in equity to an estate in fee simple in any land whether subject to encumbrances or not, or any one entitled at law or in equity to lease any land for an unexpired term that is not less than 5 years whether subject to encumbrances or not.⁷²

The Registrar of title is obliged to investigate every application for first registration made to him. He is required to have such application published in the official gazette. He may also advertise the application in any newspaper circulating in Nigeria as well as take further necessary steps to ensure effective investigation of the application of, within two months of the adverts, if no objection is received, and the registrar becomes satisfied that the application should be registered as the owner of the whole or part of the land. He must register him or her and where he refuses the application, the applicant can appeal to High Court. However, objection of first registration may proceed on any ground after registration. Registration does not validate the title of the first

⁷⁰ S.5 (1) Laws of Lagos State Cap. R4 2004

⁷¹ Ibid

⁷² S. 6(1) Laws of Lagos State Cap. R 2003

registered owner. Where the title is proved to be defective, registration offers no protection whatever to the first registered owner, not even again, if an unsuccessful objector to the registration. In essence, where forged documents have been used to secure registration, registration would be void and ineffective in conferring of estate in the land owner.⁷³ Until the register is rectified however, the registered owner remains the legal owner. The title of the subsequent registered owner, being a purchaser for a value who derived his title from the first registered owner would not be defeated by such defeat in the first registered owner title.⁷⁴ Where this would appear to be the correct interpretation of section 53(2) of the Act⁷⁵, is quite surprising in the light of the principle of *nemo dat quod non habet* (no one can give what he does not have). The Act⁷⁶ provides: “Nothing in this section shall deemed to invalidated any estate acquired by any subsequent registered owner being a purchaser for value or by any person deriving title under such a registered owner.” Thus, in *Labebedi v Lagos Metal Industries Ltd*⁷⁷, Elias CJN held that fraud or forgery invalidated not only the title of registered owner immediately affected by it, but also registered transferee from him even though he gave value or acted innocently.

2.4.2.1 Differences with Registration of Instrument

Section 86(1) of the Registration of Title Law (RTL) provides that no document affecting registered land executed after the first registration shall required to be registered under the Land Instruments Registration Law.⁷⁸ The section attempts to contrast the fact of registration under the Registration of Title Law (RTL) and the registration under the Land Instrument Registration Laws of the various states of Nigeria. Apart from this contrast, there are other distinctions

⁷³ Fatulu *Op. cit.* p.163

⁷⁴ Ibid

⁷⁵ Registration of Title Act 1935

⁷⁶ ibid

⁷⁷ (1973) 1 SC1

⁷⁸ Cap 85 , laws of Kaduna state, 1991

between the regime of registration of titles and registration of instruments. Some of the differences are set out below:

- i. The entries in the Register are conclusive proof of title and an epitome or abstract of title is not required to deduce title of the vendor. Because property under the registration of titles system does not require the production of an epitome or abstract of title by a vendor to prove his ownership,⁷⁹ unlike the system of registration of instruments
- ii. Under the system of registration of titles the registered owner is not affected by notice either actual or constructive of any registered owner, nor is he concerned to inquire whether the terms of any caution or restrictions existing before he was registered as owner of such land have been complied with. Thus, short of rectification of register, a registered owner's title is indefeasible. But under the system of instruments, a purchaser's title is subject to interests and claims for which he has notice.
- iii. Under the system of registration of title, a purchaser investigating title must obtain a letter from the proprietor of the title or a sworn declaration from the court that he has the consent and authority of the proprietor to conduct a search. While under the system of registration of instruments, no such authorisation is required.
- iv. The registry under the registration of title system is a private one unlike the registry of registration of instruments.
- v. Under the system of registration of titles, the property register describes and identifies the land and the survey plan is available for inspection at the land registry, but under the system of registration of instruments, the identity of the land must be specifically proved.

⁷⁹ Dadem, Y. Y. *Op.Cit*, p.197

- vi. Registration under the title system is mostly conducted through the use of forms. The law sets out altogether 18 forms in the schedule for use in respect of specific transaction.⁸⁰ Unlike the system of instrument which requires deeds and contract.

The summary of the above differences is that the system of registration of title is simpler, cheaper, speedier and more reliable than that of the system of registration of instruments.

2.4.3 Registration of Encumbrances (or Charges)

Encumbrance is a liability or interest such as mortgage or other security over real or personal property.⁸¹ It is also a right to, interest in, or legal liability on real property that does not prohibit passing title to the property to another but may diminish its value. It can be lien, legal or equitable charges.

The system of registration of encumbrances was introduced in England and Wales in 1839 for the pending action but extended to certain annuities and rent charges in 1855 and further extended in 1888 and 1900. In England, the registrable interests remained comparatively few until 1925 with the enactment of the Land Charges Act of 1935.⁸² In the context of English land law, a legal interest will bind the purchaser even if he did not know of it at the time of purchase, but he will be affected by an equitable interest as if he had notice of it.⁸³

In Nigeria, registers are provided at the land registry in which any person claiming to be entitled to certain encumbrances on any land should register his claim. There is no investigation or guarantee of the claim by the registrar. All that the applicant needs to do is to fill in a form

⁸⁰ Dadem, Y.Y. *Op.Cit*, p.197.

⁸¹ Stewart W.J. (2006) *Collins Dictionary of Law*, retrieved from <https://legaldictionary>. The Free Dictionary.com/encumbrance. On 20/08/2019 at 12:43 pm.

⁸² Taiwo, A. *Op.Cit*, p.150.

⁸³ Akintola, S.O. and Taiwo, E.A, (2003-2006), "The Purchaser Pendente Lite and the Issue of Notice". *The Modern Approach 7 Nigeria Law and Practical Journal*. pp 87-100.

containing the necessary of particulars all files in the appropriate registry.⁸⁴ The object of this system is to enable a purchaser of land when investigating the title to discover easily whether certain encumbrances exist, and to protect the owners of such encumbrances against defeat by a purchase of legal estate without notice.⁸⁵ Where the mortgagor is a corporate entity registration will not take place only at the land registry but also at the Corporate Affairs Commission (CAC). The following documents will be required for registration at the CAC

1. Evidence of payment of stamp duties
2. Evidence of payment of CAC registration fee
3. Duly completed and executed form CAC 8 (particulars of mortgage /charges created
4. Four copies of duly stamped and executed Deed

However, it is observed that registration of encumbrances is to a large extent a statutory modification of the classical doctrine of notice, because it relieves the purchaser of the duty to search further. It insures the owner of an equitable encumbrance against the risk of it being defeated and it eliminates arguments as to whether the purchaser had notice. The encumbrances will however be defeated if it is registrable but unregistered.

⁸⁴ Magarry & Wade (1984) *The Law of Real Property*, Stevens and Son Ltd, London, 3rd Edition p.1026.

⁸⁵ Ibid

CHAPTER THREE

DOCUMENTATION AND REGISTRATION OF TITLE TO LAND DOCUMENTS IN PLATEAU STATE LAND REGISTRY

3.1 Introduction

In Plateau State, Nigeria, land administration is centralized, under the Ministry of Lands, Survey and Town Planning (MLSTP) having the most important role. Other ministries play a less significant role in land issues. Basically, the discovery and subsequent exploitation of tin ore, columbite and allied minerals on the Jos-Plateau by the British, led to the establishment of the headquarters of Minefields Surveys in 1936. This marked the beginning of the land process on the Plateau Province and the Office (Minefields Surveys) was directly under then Northern Nigeria Ministry of Works and Surveys.¹ In April 1972, the Department of Land and Surveys was carved out from the Ministry of Works and remained so until the creation of Plateau State out of Benue Plateau in 1976. It remained a ministry until the year 1981. The period of 1981 to 1986 saw the merger of Environment Department and the Planning Department into what was then called Ministry of Housing and Environment. In February 1986, there was the re-organization and subsequent elevation to the status of a full-fledged ministry which is the Ministry of Lands, Surveys and Town Planning.² The Ministry is responsible for the registration of documents of titles. It processes statutory land titles and carries out activities that are geared towards the implementation of national land policies at the state level (Plateau State).³

¹ Plateau State Government (2015). *Plateau State Geographic Information System (PLAGIS)*. Retrieved from <http://www.plateaustate.gov.ng/page/planned-projects> on 14/12/2019 at 4pm.

² *Ibid*

³ Daniel M, Wapwera, S. D. and Omogor, C. O. (2016) Land Reform Implementation and its Impact on the Registration of Property Title and Instrument in Greater Jos Metropolis, *International Journal of Real Estate Studies*, Vol.10, p.2.

3.2 The Structure of Plateau State Land Registry

In Plateau State, the Ministry of Land, Survey and Town Planning is structurally organised with five sections and departments. The Land Ministry is made up of five departments, out of these three departments are technical departments, while two departments are non-technical departments. The technical departments are Land Registry, Survey Department and Town Planning Department. While the non-technical departments are Administration Department and Account Department

However, this research deals with the Land Registry. The Land Registry is divided into sections which are: Deed section, Land Administration section and Valuation section

3.2.1 Deed section

The Deed Section is the heart, the very soul of the Registry. It is the pivot on which all the activities in the registry revolve.⁴ The section is usually headed by a qualified estate surveyor/valuer being the Deputy Registrar. The staff of the section are degree holders in either Geography, Geo Planning or Estate Management.⁵ They keep registers and allied books where all the particulars of registrable instruments under the law are entered. All documents for registration are scrutinized in the section to ascertain whether such documents are registrable instruments before further necessary action is taken in respect of such instruments. Deed section functions as the storehouse of all records of all land transactions. The whole processes of

⁴ Igwe, O.W. (2014) *Land Instrument Registration and Title in Nigeria*, Lambert Academic Publishing, p.27.

⁵ Am indebted to Mr. Haruna chip who gave me the opportunity to interview him on 2nd September 2019 at Plateau State ministry of Land Survey and Town Planning.

registration such as detaching, presentation, numbering, checking and stamping are all carried out in the Deed Section, under the headship of Deputy Registrar.⁶

- i. *Detaching Section:* The Detaching Section is where the instrument is given particulars having regard to the time of arrival of the document or instrument, date, month and year.
- ii. *Stamping Section:* The stamping section is where Stamp Duties are presented on the instruments to show that all the facts contained in any copy of the instrument are correct and contained in other copies.
- iii. *Presentation Section:* It is at the presentation section that the contents of the original copy of the instrument are replicated for other routine official work.
- iv. *Numbering Section:* Another section in the Land Registry is the numbering section. This is where as the name implies, the instrument is given a number.
- v. *Checking Section:* The importance of the checking section is in the nature of it being the last point of call before the instrument is finally signed by the Registrar of Deeds. The instrument is further subjected to scrutiny to ascertain that all that is required to be done respecting registration has been duly complied with.

3.2.2 Administration and finance section

The Office of the Registrar and the accounts units make up the Administration and Finance Section. This is the engine room of the registry. All the activities of the establishment are coordinated from here. The office also provides the secretarial needs of the other sections. It also oversees the day to day running of the registry. Generally, this is the place where the Registrar of Deeds oversees the workings of the registry. It has the onerous responsibility of ensuring the

⁶ Ibid

efficient performance of the registry's functions and duties as spelt out under the law. After all processes of registration have been completed in other sections, the document is delivered here for the registrar's endorsement.

The Registrar, through the Accounts Unit, prepares and submits to the commissioner in each year, annual budgetary estimates of expenditure and income during the next succeeding year. The Accounts Unit also keeps proper accounts and proper records of the registry. It handles collection of all statutory fees chargeable for registration of titles and instruments and such other duties as may be associated with an accounting office.

3.2.3 Valuation Section

Valuation is the act of determining the worth of a commodity in the open market for a purpose and at a particular time. It is therefore an estimate of the capital value of property at a particular time.⁷The Valuation Section at the Plateau State Land Registry manages all property valuations in the land. The aim of the Valuation Section is to provide efficient, accurate and reliable valuations. The Valuation Section conducts property/estate assessment for the purposes of payment of stamp duties on transfer, payment of property tax and probate applications.

3.3 Registratable Land Documents and the Process of Registration in Plateau State

The documents that are registratable in Plateau State Ministry of Land, Survey and Town Planning are as follows:

1 Deed of Assignment

⁷ Umeizulike I. A. (1992) *A Guide In Instrument Registration and Land Registry Practice In Nigeria*, Yemi Oladele Agencies Law Publisher, Ikeja, Lagos p. 118.

- 2 Deed of Mortgage
- 3 Deed of Release
- 4 Certificate of Occupancy
- 5 Power of Attorney
- 6 Devolution Order

3.3.1 Deed of assignment

A deed of assignment is variously defined as follows: An agreement under which some or all assets of an insolvent debtor are assigned to a trustee for selling them and distributing the sale proceeds equitably among the creditors.⁸ It is also a legal instrument with probative value which signifies an agreement or part binding on the parties who have entered into it.⁹ It is a conveyance of realty by writing signed by the grantor in which title to realty is transferred from one party to another. As a written instrument, it is signed and delivered by the person who conveys the land, tenement or hereditaments to another.¹⁰ Every conveyance is affected to pass all the estates, rights, titles, interests, claims and demands which the conveyancing parties respectively have in the property conveyed, or expressed or intended to be, or which they respectively have power to convey.¹¹ The validity of a conveyance depends on its compliance with all statutory requirements concerning the execution and perfection of instruments. The Stamp Duties in Plateau State is 3% of the value of the property paid at the Plateau Board of Inland Revenue and the cost of registration of a deed of assignment is 8% of the value of the property. An applicant has to pay the sum of five thousand Naira (N5,000.00) in order to seek for consent.¹² It takes more than

⁸ Oxford Law Dictionary (2006) Oxford University Press, New York (6th edition) p. 153

⁹ Dadem, Y. Y. *Op.cit*, p.197

¹⁰ *United Bank for African Plc v. Jimmy King (NIG) Ltd* (2008) ALL FWLR pt. 429, p.596

¹¹ S. 63 of CA 1881 and 88 of PCL 1959

¹² Plateau State Government, *Op cit*.

three months in processing the document. Three months is too long to obtain governor's consent. It is clear that this delay is because the LUA gives only the governor the power to give consent or withhold consent. It is submitted that the law be amended to reflect that governor's consent should be given through appointed officers rather than given to a central figure called governor to either give or withhold consent.

Procedure for registration of Deed of assignment

1. *Lodgment of Application:* An applicant first fills the application form which will be completed and return along with :

- i. Tax payer Identification Number Printout
- ii. Form of Identification

Survey Report

- iii. Passport Photograph
- iv. Income Tax Clearance
- v. Change of Ownership
- vi. Three (3) copies of Deed of Assignment
- vii. Customary Evidence of Ownership
- viii. Sales Agreement

- 2. Assessment of the property to determine the CV (Current Value)
- 3. Payment of consent fee, registration fee and outstanding ground rent
- 4. Internal Processing of Application and linked Property File: A Property file is created (or located if the property already has a file) and the verification of submitted documents, and the scrutinisation of data needed for advanced fee computation done at this stage. If

from the property file, it is discovered that the applicant owed state in any manner with respect to land rights, this is duly noted and used to compute the fees expected of the applicant.

5. Printing of acknowledgement of application by given the applicant his property file number.
6. Approval is sought from the governor, once the approval is secured then
7. Submission of duly stamped deed for registration
8. Registration of the deeds
9. Amendment of records to read the new title holder's name.

3.3.2 Legal mortgage

Defining what a mortgage means has always been tricky and difficult. This led Lord Macnaghten to point out that “*No one.... by the light of nature ever understood an English mortgage of real estate.*”¹³ In *Adenekan v. Awolewa*,¹⁴ the court defined a mortgage as an ordinary contract between a mortgagor and mortgagee. It can also be defined as an agreement which may be expressed by deed between persons in which a borrower of a sum of money puts his property as collateral for the money given with the understanding that the property will be conveyed back to him upon the repayment of the money and any interest on it.

A mortgage may be legal or equitable. If the mortgagor has a legal interest in land, he may create a legal mortgage. If the mortgagor has only equitable interest in land, he can create an equitable mortgage of the interest. Therefore, a legal mortgage is a transfer of a legal estate or interest in land or other property for the purpose of securing the repayment of a debt. A legal mortgagee has

¹³Dadem, Y. Y. Op.Cit, p.135

¹⁴ (2004) All FWLR pt 216, p. 510

absolute power to convey the legal interest in the mortgaged property to a purchaser for value acting in good faith.

The cost of registration of legal mortgage in Plateau State is 3% of the value of consideration. The Stamp Duties presently is 3% of the value of the property paid at the Plateau Board Revenue. Also, the applicant has to pay the sum of Five Thousand Naira in order to seek for consent.¹⁵ Where the mortgagor is a corporate entity registration will not take place only at the Land Registry but also at the Corporate Affairs Commission (CAC). The following documents will be required for registration at the CAC.

5. Evidence of payment of stamp duties
6. Evidence of payment of CAC registration fee
7. Duly completed and executed form CAC 8 (particulars of mortgage /charges created)
8. Four copies of duly stamped and executed deed.

3.3.2.1 Procedure for registration of Legal mortgage

- i. Filling of application form for consent and registration of deed of Mortgage
- ii. Computation and payment of Consent fee, Registration fee and Outstanding ground rent.
- iii. Approval and conveyance subject to submission of duly stamped deed for registration
- iv. Submission of duly stamped deed for Registration
- v. Registration of deed

¹⁵Plateau State Government,, *Op cit.* p.3.

3.3.3 Deed of release.

A deed of release is a legal document that removes a previous claim on an asset. It provides documentation of release from a binding agreement.¹⁶ A deed of release might be included when a lender transfers the title of real estate to the home owner upon satisfaction of the mortgage. A deed of release literally releases the parties from previous obligations.¹⁷ When the mortgagor pays his mortgage debt to the mortgagee, the latter prepares a deed of release which is the document evidencing that the mortgagor's liabilities and obligations under the mortgage deed have been discharged, and the security of mortgage, as it were, is now surrendered to the mortgagor free from encumbrances. A mortgage deed of release is then created when the borrower meets all mortgage payment terms or makes a full prepayment to satisfy the loan. The lender holds the title to the property until that time and is formally a lien holder of record on the property until full and final payment is made. The title provides secured collateral for the loan payments for the life of the loan, reducing the default risk for the lender.

After the mortgagor had obtained the deed of release from the mortgagee, it is taken first to Plateau State Board of Inland Revenue for payment of stamp duty which is 3% value of the property¹⁸. The deed must on its face therefore disclose the quantum of credit involved so that the assessment of the stamp duties would not need to call for copy of the mortgage deed in the land registry in order to ascertain the amount of credit and thus save time. It may be argued that stamp duties need not to be charged on the deed of release in so far as such duties have been paid in respect of the parent transaction which is the mortgage deed. In some states the payment of

¹⁶ Beverly B (2019) *Deed of Release*, Investopedia retrieved from <http://www. Deed-deed-of-lease-investopedia> on 14/04/2019 at 2pm

¹⁷ *Ibid*

¹⁸ Plateau State Government (2015) *Op. cit*, p 4

stamp duties in respect of deed of release is dispensed with. But it may on the other hand be argued that, the two transactions and indeed, the two documents are different and so stamp duties ought to be paid on them. As a matter of fact, the registration of deed of release is as important to the mortgagor as the registration of deed of mortgage is to the mortgagee. The sum of fifteen thousand Naira (N15,000,00) is been paid for registration of deed of release in Plateau State.¹⁹

Procedure registration of Deed of release

- i. Submission of duly stamped deed of release, by the mortgagor with three copies of the deed, which must be accompanied with application requesting for registration of deed of release. Evidence of tax over the years that the mortgage lasted would be annexed to the application for the registration
- ii. Payment of registration fees
- iii. Registration of the document.

3.3.4 Certificate of occupancy

Certificate of occupancy is an evidence of a right which is in existence.²⁰ It is also a grantee's evidence of right of occupancy. A certificate of occupancy as introduced by the Land Use Act, 1978 was first introduced in Northern Nigeria by Land Tenure Law, 1962. It is a method devised by the Land Use Act to link a person to a piece of land. It is not a document of title as it was held in the celebrated case of *Registered Trustee Of Apostolic Church v. Olowelori*²¹ and *Haruna v. Ojukwu*²². Section 9 (1) of the Act.²³ Provides that: "It shall be lawful for the Governor when

¹⁹*Ibid*

²⁰Omotola, J.A (1984) *Essay in the Land Use Act*, Lagos University p.33

²¹(1990) 6 NWLR pt 15 p. 536

²²(1990) 7 NWLR pt 2002, p. 206

²³Land Use Act

any person is entitled to a statutory right of occupancy to issue a certificate under his hand in evidence of such right of occupancy”.

The exercise of this power is protected in section 47 of the Act,²⁴ which ousts the jurisdiction of court to question the power of the Governor to grant a right of occupancy. Certificate of Occupancy is simply a document that identifies a holder with the particular right of occupancy as provides by section 5 of the Act.²⁵ Therefore, he who holds Certificate of Occupancy holds a very good title. With the enactment of the Land Use Act in 1978, Certificate of Occupancy has become the most popular document of title in Nigeria, and preference is given to it than other title documents.²⁶ Unfortunately, the worth of the Certificate of Occupancy is not fully appreciated by those that flaunt it as a document of title. This is evidenced in the celebrated case of *Ogunleye v Oni*,²⁷ where the Supreme Court had decided on the validity of a Certificate of Occupancy issued under the Land Use Act to confer title. Generally, a Certificate of Occupancy is a prima facie evidence and raises the presumption that the holder is in exclusive possession and has a right of occupancy over the land in dispute. However, the presumption is a revertible one and the onus of disproving this right is on the person who asserts the contrary. It is clear from the provisions of section 34 of the LUA that any person without title to a parcel of land in respect of which a certificate was issued acquires no right or interest which he did not have before. This is the weakness of a Certificate of Occupancy issued in this case... a Certificate of Occupancy issued in respect of a parcel of land cannot stop the court from enquiring into the validity and existence of the title that the person claimed to possess before the issue of the certificate. It is important to note, however that a Certificate of Occupancy is not a conclusive

²⁴ *Ibid*

²⁵ Section 5 (a) Land Use Act

²⁶ Imhanobe S.O *Op. Cit*, p 284

²⁷ (1990) NWLR Pt.135, p.745 at 784

proof of title and the ownership of land, as such; the issue of Certificate of Occupancy in respect of any land would not validate any defect in the title of the holder.²⁸ In *CSS Bookshop Ltd v. Registered Trustees of Muslim Community of Rivers State and 3ors*,²⁹ the Supreme Court emphasised that the mere grant of a right of occupancy over a land in respect of which there is already a right of occupancy, or an existing interest in favour of another person does not amount to the revocation of the prior right of occupancy or existing interest of which the certificate of occupancy is issued acquired no right or interest which he did not have before. Also “In *Olohunde & Anor v. Adeyoju*”³⁰ the Supreme Court had this to say:

A certificate of statutory or customary right of occupancy issued under the Land Use Act, 1978 cannot be said to be conclusive evidence of any right, interest or valid title to land in favour of the grantee. It is at best, only a prima facie evidence of such right, interest or title without more and may in appropriate cases be effectively challenged and rendered invalid, null and void.

However, Section 5(2)) of the LUA provides that “upon the grant of a statutory right of occupancy under the provisions of subsection (1) of this section, all existing rights to the use and occupation of the land which is subject of statutory right of occupancy extinguished the previous one.”³¹ In interpreting the above section, the courts before the year 2003, arrived at divergent judicial interpretations.³² However, the issue of priority of claim is between two existing Certificate of Occupancy. This was resolved by the Supreme Court in two cases: *Dantsho v.*

²⁸ *Mojisola Edebiri v. Prince Omotayo O Daniel and Anor* (2009) NWLR pt 1142. P. 15 at 27, 28 and 31; *Edohoeket v. Inyang* (2010) 7 NWLR pt 1192., p. 25 at 42-42.

²⁹ (2006) 11 NWLR pt 992, at 567-568; *Ibrahim v. Mohammed* (2003) 6 NWLR pt 815 @ 615.

³⁰ (2000) 79 LRCN 2297 at 2328 paras D – E, *Kyari v Alkali & 3 Ors* (2001) 5 SCNJ 421, *Napoleon S. Orianzi v. The Attorney-General, Rivers State & Ors.*

³¹ *Saude v Abdullahi* (1989) 4 NWLR pt 116, p.387.

³² *Madaki, A. M. "The Relevance Or Otherwise of Section 5 (2) of the Land Use Act Examined,"* Journal of Private and Property Law, University of Benin (2011) p. 185

*Muhammad*³³ and *Ibrahim v. Muhammad*,³⁴ through the application of the rule of *Nemo data quod non habet*, and the principle of first in time, first in law.

The procedure for Obtaining and registering Certificate of Occupancy in Plateau State is as follows³⁵:

1. *Lodgment of Application*: An applicant first fills the application form which will be completed and return along with :
 - i. Tax payer Identification Number Printout
 - ii. Form of Identification
 - iii. Survey Report
 - iv. Passport Photograph
 - v. Income Tax Clearance
 - vi. Change of Ownership
 - vii. Deed of Assignment
 - viii. Customary Evidence of Ownership
 - ix. Sales Agreement
2. *Application will then be lodged by an intake clerk.*
3. *Preliminary Processing of Application and Registration Fee*:

After Lodgment, the application is checked to ensure the applicant filled all the mandatory fields appropriately. If the applicant did not fill the application form correctly, the processing stops and the applicant is notified. If the applicant does this correctly, then fee payment is checked. If the applicant has not paid the registration fee or paid a wrong amount, further

³³ (2003) 6 NWLR pt (817) p.45

³⁴ 2003) 6 NWLR pt 817 p.615,

³⁵ Plateau State Government, *Op cit.p. 3*

processing on the application is halted and the applicant notified. If however, the applicant has paid the necessary fee and completed the mandatory fields in the application form, the application is moved to the next stage. These fees are

- i. Certificate of Occupancy preparation fee
- ii. Registration fee
- iii. Development charge
- iv. Outstanding Ground Rent
- v. Ground Rent Penalty: 5% of cumulative of the outstanding ground rent
- vi. Certificate of Occupancy Premium fees.

4. *Internal Processing of Application and Linked Property File:*

A Property file is created (or located if the property already has a file) and the verification of submitted documents, and the scrutinisation of data needed for advanced fee computation done in this stage. If from the property file, it is discovered that the applicant owed state in any manner with respect to land rights, this is duly noted and used to compute the fees expected of the applicant.

5. *Issuance of a Demand Notice:*

After all fees owed the State Government by the applicant as well as other fees have been computed, the applicant is notified via Short Message Services (SMS) or Email. Refusal to pay these fees will result in the termination of the application.

6. *Processing of the Certificate:*

After all payments have been made, the payments will be processed to ensure they are exact amount requested in the Demand Notice. If payments conform to the amount requested, the accuracy and authenticity of the land parameter sent in by the applicant is investigated.

Should inconsistencies be discovered, such as wrong survey plan or that the land is already claimed by another title holder, then all processing is halted, and the applicant is notified. Approval to create a new Certificate of Occupancy is sought from the governor after investigation of the site and report confirms that the property conforms to Town Planning Regulations. Once this approval is secured, it is then the Certificate of Occupancy is drafted and printed. Then is taken through the steps necessary to secure the Governor's stamp and signature.

7. Notification of Certificate Availability:

Once the Governor endorses, the applicant will be notified via SMS or Email to come and collect his Certificate of Occupancy.

3.3.5 Power of attorney

A power of attorney is a document which may be under seal that authorises a person to act for another person as his agent. The person who donates the power is called “donor” (principal) while the person to whom it is donated is called the “donee” (attorney). A power of attorney mirrors an agency's relationship but is sui generis and differs from other commercial agencies because its main aim is to satisfy third parties that the agent has the authority of the donor to deal on a subject matter, rather than regulating only the relationship between the principal and the agent.³⁶

However, it's of paramount significance because a power of attorney attracts a flat rate. It also affords the purchaser who is yet to register his deed of assignment, but who has registered the power of attorney a measure of protection against subsequent dealing with the land. In Plateau

³⁶ Dadem, Y. Y. *Op.Cit*, p. 45

State, it is used only as an interim devise to protect the interest of a client pending when the deed of assignment is executed, stamped and registered. It is registrable only when it deals with developed estate or property.³⁷ In Plateau State, power of attorney is usually prepared by a legal practitioner who may be by either the donor or the donee for that purpose.

Procedure for the Registration of Power of Attorney

1. Application for registration by the applicant: the form will be completed and returned with the following:
 - i. Two copies of tax clearance
 - ii. Three copies of executed power of attorney
 - iii. Evidence of development on the site
 - iv. Evidence of having paid the registration fee of ten thousand Naira (N10,000.00),
2. Payment of stamp duties at Plateau State Board of Inland Revenue which is 3% of value of consideration.
3. Registration of the document.
4. After the registration, the documents are minuted to the officer in the Land Registry in charge of the area where the property is situated, from there the power of attorney is collected by the applicant.³⁸

3.3.6 Devolution order

It is the transfer of the right of purchase, from the highest bidder at an auction sale to the next highest bidder, when the former fails to pay his bid or furnish security for its payment within the

³⁷ Plateau State Government *Op cit p. 4*

³⁸ Am indebted o Mr. Haruna chip who gave me the opportunity to interview him on 2nd September 2019 at Plateau State ministry of Land Survey and Town Planning.

time appointed.³⁹ However devolution order is the transfer of rights, powers, or an office (public or private) from one person or government to another by operation of law⁴⁰.

In order to obtain a devolution order from the Plateau State Land Registry, application will be made by the administrator. The applicant is to pay registration fees of five thousand Naira (N5, 000.00) and outstanding ground rent if any, approval of devolution order is sought from the governor. Once the approval is secured, devolution order will be registered. After registration, the original copy of the registered deed of devolution is collected, while the counterpart and filed copies are given to and retained in the Land Registry, and amendment of records will be done.⁴¹

3.4 Requirements for Registration

Before an instrument is accepted for registration, it must meet the following requirements:

3.4.1 Due execution by the parties to the transaction:

An instrument will not be accepted for registration if it is not duly executed by the appropriate parties. In this regard, an instrument executed by an illiterate grantor is not acceptable for registration unless it is attested by either a magistrate or justice of the peace.⁴² If the instrument is executed outside the country, it will not be accepted for registration unless the execution is attested by a person who has authority to administer oaths in any place outside Nigeria, usually a notary public.⁴³ The only document executed outside the country that are exempt from this requirement are those made by members of the armed forces in actual military service, provided

³⁹ *Ibid*

⁴⁰ Stewart W. J. (2006) Collins Dictionary of law retrieved from <http://legal-dictionary.thefreedictionary.com/devolutions> on 25/01/ 2020 at 3pm.

⁴¹ Am indebted o Mr. Haruna chip who gave me the opportunity to interview him on 2nd September 2019 at Plateau State ministry of Land Survey and Town Planning.

⁴² Section. 8(1) Land Registration Law Cap 58 Laws of Northern Nigeria, 1963

⁴³ Section. 8 (2) *Ibid*

the instrument is attested by the appropriate officer in charge of the mission and it bears the certificate or statement that it was executed during actual military service.⁴⁴ However, in Plateau State Land Registry, all the documents are verified by the staff of the registry before they are processed.

3.4.2 The instrument must have a survey plan of the land

A registrable instrument, with the exception of power of attorney is not acceptable for registration if it does not adequately describe the land, usually with a survey plan.⁴⁵ The registrar is given the discretion to determine the adequacy of the description. The survey plan must be signed by a surveyor, usually a licensed surveyor. However, this requirement does not affect the following.⁴⁶

- i. Leases of land or houses for a term not exceeding three years.
- ii. Instruments affecting land, the boundaries of which are defined in a plan attached to an instrument registered after the 1st day of June 1912 and referred to in the instrument presented for registration.⁴⁷
- iii. Mining rights, water rights or assignment of mining rights or water rights.
- iv. Timber licenses granted under Part 3 of the Forest Regulation.
- v. Any instrument affecting land which the governor by endorsement, exempts from the provisions of survey plan.

⁴⁴ *Ibid* .

⁴⁵ Section. 9 (2) Land Registration Law Cap 58 of Northern Nigeria.

⁴⁶ Onukoro F. and Order A. *Op cit*, p. 369.

⁴⁷ *Ibid* .

- vi. Lease of a plot of land forming part of a general layout recognised by the Principal State Lands Officer (PSLO), provided a plan which shows the plot and layout has been deposited in the office of PSLO.

3.4.3 The Consent of the Governor Must be endorsed on the instrument

Consent as defined by Black's Law Dictionary is a concurrence of wills. It is an agreement, approval or permission⁴⁸. It also means voluntary agreement by a person in the possession and exercise of sufficient mental capacity to make an intellectual choice.⁴⁹ Consent in this research means nothing more than permission or concurrence of the governor to alienate right of occupancy.

Governor's consent has its philosophical basis in the concept of ownership of land.⁵⁰ Ownership is of both legal and social interests, hence, the courts utilized the idea in such a way as to give effect to views of changing individuals and social interests.⁵¹ Since alienation is one of the incidents of ownership, one can alienate his interest without the consent of anybody.⁵² The title in all lands comprised in every state became vested in the Governor as a trustee for all Nigerians.⁵³ Therefore, since the LUA has placed some restrictions before one can exercise right

⁴⁸ Brayn, A. G. (2014) *Black's Law Dictionary* (10th Edition), West Publishing Co. U.S.A.

⁴⁹ *Ibid*

⁵⁰ Smith, I. O, *Op cit*, p. 199. See also section.22 of the Land Use Act

⁵¹ *Ibid*

⁵² This was the position in southern part of Nigeria before the promulgation of the Land Use Act 1978. The only consent needed then was that of the family head if it was a family property or consent of the landlord if it was a leasehold land with assignment covenant.

⁵³ See S.1 of the Act, which provides that "subject to the provisions of this Act, all land comprised in the territory of each state in the federation are hereby vested in the Governor of that state and such land shall be held in trust and administered for the use and common benefit of all Nigerians in accordance with the provision of this Act.

of ownership (which consists of limitless number of claims, liberties and so on with regard to the land owned), one wonders if indeed land can be owned.⁵⁴

Nonetheless, the basis for its justification can be traced back to the customary jurisprudence of (1) consent of the family head before alienation of family property and (2) Consent of the landlord in a leasehold relationship before transfer of interest by the tenant where there is a covenant to that effect.⁵⁵ From the foregoing, it can be summarized that consent provisions has the following philosophical basis; to keep the governor informed of all developments in relation to lands in his State since he is the trustee of all lands in the State.⁵⁶ However, it creates unending problems and controversies which in turn create hardship and obstacles in land transaction in Nigeria. The *locuss classicus* case on this requirement was the one in *Savanna Bank Ltd v. Ajilo*.⁵⁷ The facts of the case were that, the proceedings leading to the appeal were initiated in the High Court of Lagos State by the respondents, Ammel O. Ajilo and Ammels Photo Industries Limited as plaintiffs. The first/plaintiff/respondent became the owner of the land in dispute by a deed of conveyance dated 23rd June, 1965. By a deed of mortgage dated 5th September, 1980, the land was mortgaged to the defendant appellant Bank to secure money owed to it by the second plaintiff/respondent. When the first defendant/appellant attempted to exercise the statutory power of sale conferred by law on a mortgagee of the legal estate, the first respondent mortgagor brought an action in the Ikeja Division of the High Court of Lagos, claiming that the deed of mortgage was invalid on the ground inter alia that, the consent of the Governor was not obtained for the creation of the mortgage as required by section 22 of the Land Use Act, 1978.

⁵⁴ Smith I.O. *Op. cit* , .p.445.

⁵⁵ See *Cook v. Shoes* (1951) IKB p. 952

⁵⁶ Section 1 of the Land Use Act

⁵⁷ *supra*

Hotunu J, after considering all the submissions of Counsel made to him, granted all the reliefs claimed by the plaintiff(s) respondents. Thus, he declared “...*I am of the opinion that failure to obtain the required consent of the Governor under Section 22 of the Act has rendered the deed or mortgage Exhibit “A” null and void abinitio and the mortgage transaction illegal*”. Dissatisfied with this judgment, the appellants appealed to the Court of Appeal and the question for determination was “whether a holder of a deemed statutory right of occupancy in respect of developed land under section 34(2) of the Act requires the consent of the Governor under S. 22 of the Act to alienate the right of occupancy in any manner”. The Court of Appeal answered the question in affirmative, thereby unanimously dismissing the appeal and upholding the decision of the trial court. Dissatisfied again, the appellants appealed to the Supreme Court which also dismissed the appealed and upheld the decision of the Court of Appeal.

Obaseki JSC who read the lead judgment held different views which appeared to be illuminating. This is because; he took time to consider every point raised by Counsel in that case. He therefore noted thus:⁵⁸

Although the first Plaintiff/Respondent by the tenor of the Land Use Act committed the initial wrong by alienating his statutory right of occupancy without prior consent in writing of the Governor, the express provisions of the Land Use Act make it undesirable to invoke the maxim *ex turpicausa non oritur actio* and the equitable principle enshrined in the case of *Bucknor-Maclean v. Inlaks Ltd (1980) 8-11 SC1*.

He also went further to draw a distinction between the actual grant under sections 5 and 6 of the Act. However, his Lordship was of the view that the distinction between deemed and actual grants is only in form but not in substance.⁵⁹ This goes to show that it was merely a distinction

⁵⁸ Ajilo (supra) p. 350, see also Omotola, J.A. “*Interpreting the Land Use Act*” The Journal of Nigeria Law (JNL) (1992) Vol. I No. I p. 108 at 109

⁵⁹ (supra) per Obaseki JSC,

without difference, since the deemed grant must be treated as if it was a grant actually made by the governor.

On the above regard, his Lordship put it thus:⁶⁰

That there is a distinction between a deemed grant and an actual grant goes without saying, that the same incidence flows from both grants also goes without saying. In origin, a deemed grants is different from actual grant. A deemed grant under the Land Use Act is a grant by operation of law. An actual grant is made by the activities of the Military Governor under the Land Use Act.

With respect to his Lordship, this writer submits that the distinction leads to further confusion as nothing is said to make a demarcation between the two grants. His Lordship also opined that the provisions of section 34 (7) which requires Governor's consent before alienation of deemed statutory right of occupancy under that section is limited to under developed land under section 34 (5) and (6) and does not apply to developed land under section 34 (2).

In short, the Supreme Court unanimously held that all transactions under which interest in land is being transferred require Governor's consent for their validity. Though the decision may be said to settle consent controversy, it opened up new line of debate.⁶¹

The Land Use Act and various State laws made it a requirement for the governor's consent to be obtained to transaction involving alienation of interest to land. Any alienation of land without the consent of the governor or approval of the local government council whichever is applicable is void.⁶² However, without the consent of the governor, the document of transfer cannot be accepted for registration. Therefore, section 22 of the Act⁶³ makes it compulsory for holder of

⁶⁰ Ajilo (supra) p. 350, see also Omotola, J.A. "*Interpreting the Land Use Act*" The Journal of Nigeria Law (JNL) (1992) Vol. I No. I p. 108 at 109

⁶¹ Smith J.O *op cit*, p. 210

⁶² Section 21 and 22 Land Use Act

⁶³ *Ibid*

right of occupancy to first and foremost seek and obtain the consent of the governor before any alienation of the right of occupancy or any part thereof by assignment, mortgage, transfer of possession, sublease or otherwise, is however made. Where the owner of the property failed to obtain the consent of the governor any transaction made shall be deemed void at law. In the celebrated case of *Ugochukwu vs. CCB Ltd*,⁶⁴ the court held that, it is the duty of a holder of right of occupancy to seek consent of the governor before alienation of his property. This is to avoid subsequent claim on the property in practice. However, in practice not in law, it is the purchaser that is the person to whom interest is transferred who actually secures the consent. This is understandable, as the purchaser is the party who stands to lose his or her interest if the transfer is not perfected.⁶⁵

The general rule is that failure to obtain the consent of the governor, the transaction may not merely be void but also illegal. In the celebrate case of *Solake vs. Abed*,⁶⁶ Lord Unsworth J. observed that:

- i. Where a statute does not only declare a contract or transaction void but imposes a penalty for making it, the contract is not merely void but also illegal.
- ii. Where a statute declares a contract or transaction as null and void, but it does not imposes a penalty for making it, this as a general rule, the contract is void but not illegal.

The position of the law is that consent of the Governor for alienation is required at the time of perfection not the time of negotiation.⁶⁷ Hence, parties to land transaction can commence performance or negotiation before obtaining governor's consent. But the contract will be

⁶⁴ (1996) 6 NWLR Pt.456 p.524

⁶⁵ *Savannah Bank v. Ajilo* (1981) 1 NWLR pt 97 p. 303

⁶⁶ (1962) 145 NLR 230

⁶⁷ Taiwo, A. *Op.cit*, 234

incomplete until consent is obtained.⁶⁸ Thus, in *Awojugbagbe Light Industries Ltd v. Chinukwe*⁶⁹ and *Federal Mortgage Bank of Nig. Ltd v. Agnes Omolara Akinola*,⁷⁰ the court held that it is a common practice that before the Governor's consent is sought, a form of tentative agreement for alienation of the property must have been entered into by the parties but such agreement is only inchoate and can only be completed when the governor finally approves or gives his consent. It also held that a holder of statutory right of occupancy is not prohibited by section 22(1) of the Land Use Act from entering into a form of negotiation, which may end with an executed agreement for presentation to the governor for his necessary consent or approval⁷¹. However, governor's consent is not required in the following circumstances:

(a) ***Equitable Mortgage:*** Section 22 (a) of the Land Use Act provides that: "Governor's consent shall not be required to the creation of a legal mortgage over a statutory right of occupancy in favour of a person in whose favour an equitable mortgage over the right of occupancy has already been created with the consent of the Governor". This section is problematic, in that it exempts equitable mortgage from the series of transactions that require governor's consent, while section 51 of the same Act defines mortgage to include equitable mortgage. This is a serious conflict that misleads courts to give controversial judgments. So, it is our view that the said section (though by strict interpretation of section 51 of the Act, it requires consent), makes it easier for a holder to alienate his right.

(b) ***Reconveyance or Release:*** Section 22 Paragraph (b) of the Act also provides "consent shall not be required to the reconveyance or release by a mortgagee to a holder or occupier of a

⁶⁸ *Ibid*

⁶⁹ (1995)4 NWLR (pt. 390) 379 S.C...

⁷⁰ (1998) 1 NWLR (Pt.270) 485

⁷¹ *Calabar Central Co-operative Thrift and Credit Society Ltd and 2 others v. Bassey Ebonng Ekpo* (2008) 6 NWLR (Pt.1083) 362 at 417.

statutory right of occupancy which that holder or occupier has mortgaged to that mortgagee with the consent of the Governor”.

(c) ***Up-stamping of Mortgages:*** Governor’s consent is not required in granting new facility so long as consent had been obtained when the first mortgage was created. Thus, in *Owoniboye Tech Service Ltd. v. U.B.N Plc.*⁷² The Supreme Court held that Governor’s consent is not required for Up-stamping. Again, this principle of no further consent is required for Up-stamping applies even where the previous consent was granted under a law that ceases to exist.⁷³

In Plateau State, the procedure for obtaining consent is very technical and cumbersome. The application for consent is written in an appropriate form which should be completed and signed by the parties to the transaction. The application is usually accompanied with the following⁷⁴.

- i. A Sale Agreement signed by both parties. That is, the purchaser and the vendor along with the Certificate of Occupancy.
- ii. A sketch plan and site analysis of the plot
- iii. The chairman’s signature where the land is allocated
- iv. Opening of file by the ministry of land

The cost of processing consent is also exorbitant in the state. An application for consent is submitted along with evidence of payment of some unnecessary fees such as payment of development charge, outstanding ground rent, C of O Premium fees, C of O Preparation fee,

⁷² (2003) 15 NWLR, pt. 844, P.545

⁷³ See *Adepat v. Babatunde* (2002) FWLR pt. 91 p. 1503

⁷⁴ Plateau State Governments, *Op cit*, p. 4.

survey fees, processing fees, revenue fees⁷⁵ and many other fees that make land transaction too costly.

Also there is a discretionary power of the governor of state in granting consent for alienation that a holder cannot challenge, even by a court's order of mandamus,⁷⁶ certainly frustrates land transactions in the state. This is because the Land Use Act which gives the governor the powers to grant consent does not define how these powers can be exercised. There are no criteria as such to guide their exercise⁷⁷. These may be the reason why governors have tended to believe that these powers are absolute⁷⁸. Their beliefs are probably strengthened by the fact that they are also empowered to fashion out regulations under which their consent may or may not be given.⁷⁹ More so, it has been said that the power vested in the governor to grant or withhold consent to a subsequent alienation of right of occupancy is couched in a language that makes the exercise discretionary⁸⁰. It has again been argued that the discretion contained in the various consent provisions is for the holder to obtain the consent of the governor, but not for the governor to give his consent⁸¹. Consequently, it is for this reason that this power, being discretionary "cannot be enforced as of right or by the order of mandamus from the High Court or any other court of record"⁸². However, the Supreme Court in limiting the power of the governor's discretion held in the case of *Stitch v. AG.F & others*⁸³ that:

⁷⁵ *Ibid*

⁷⁶ Yakubu M.G. *Land Law in Nigeria*, Macmillan Publishers; Nigeria (1985) p. 206

⁷⁷ Smith J.O., *Op cit* p. 447

⁷⁸ *Ibid*

⁷⁹ Yakubu, M. G. *Op.Cit*, p.206

⁸⁰ *Ibid* at 206. See also Smith I.O. *Op cit*. 215

⁸¹ See the case of *R v Minister of Land Survey (1963) NWLR 58* where Reed Ag. SPJ held that order of mandamus did not lie against the governor in the circumstances.

⁸² Smith I.O., *Op.cit*

⁸³ (1968) NWLR (pt. 46) 1007,

The discretionary power of the Minister under Section 3 of the Finance Act 1981 is clearly within the reviewable jurisdiction of the courts whether the Minister failed to exercise his discretion, or refused to exercise the discretion or misused the discretionary power, and whether he gave reasons for the exercise, it being a principle established by the courts that once a prima facie case of misuse of power had been established, it will be opened to court to enter that the Minister acted unlawfully even if he declined to supply a justification at all or supplied a justification which is untenable in law. The Minister must act fairly and not to the prejudice of the citizens⁸⁴.

Notwithstanding the above development, the exercise of power of discretion to grant or not to grant consent hinders the development of land transactions in Nigeria and it still continues to do so until when such power is authoritatively defined and limitations are clearly set out.

In Plateau State, it takes more than three months in obtaining governor's consent which is too long a time to obtain governor's consent. It is clear that this delay is because the Land Use Act gives only the governor the power to give consent or withhold consent. It is submitted that law be amended to reflect that governor's consent should be given through appointed officers rather than giving to a central figure called governor to either give or withhold consent.

3.4.4 The instrument must be stamped

Stamping of documents is one of the post completion matters parties to a conveyance agreement must execute. The stamping of instrument is the embodiment of the stamp on the registered

⁸⁴ See also *Iwuji v. Federal Commissioner of Establishment* (1985) INWLR (pt. 3) p. 497 where it was held that once the exercise of such power is based on condition precedent and the beneficiary has satisfied or fulfilled such condition or requirement, the donor i.e. the person empowered to exercise such power is duty bound to do so.

instrument in order to make such registered instrument have an important effect or influence at law. The Stamp Duty Act requires that some documents must be stamped, the registered land instrument inclusive. This is because the government generates revenue through or from the imposition of tax on some transactions affecting land. The stamp duty Act established the stamp duties offices and the procedure for stamping legal documents is therefore provided. However, some categories of persons are exempted from the payment of the commercial rate duties such as ministries, governmental institutions and diplomats.⁸⁵ After the execution of the deed, that is, when the instrument has been duly registered at law, the purchaser's solicitor will deliver two or more copies of the registered instrument to the stamp duties officer for assessment for payment of stamp duty.

Therefore, after the assessment, payment of stamp duties is made through designated banks and after payment, the stamp duties accept the documents and within two or three days, the document is stamped with the words or inscription "Duly stamped" impressed on it and the commissioner for stamp duties will append his signature to it and the documents are ready for collection.⁸⁶ Penalty may be charged where document is stamped outside thirty (30) days.⁸⁷ This categorically means a conveyance must be stamped "*ad valorem*" (based on the value) latest within thirty (30) days of first execution.

Failure to pay stamp duties makes the instruments

- i. Not registrable and inadmissible in evidence.⁸⁸

⁸⁵ Section 9 Diplomatic Immunities and Privileges Act, cap D 21 LFN, 2004.

⁸⁶ Imhanobe, S, *Op.cit* p. 251.

⁸⁷ Section. 23 (3) of Stamp Duties Act.

⁸⁸ Sec 22 Stamp Duties Act cap .S 8 LFN 2004.

- ii. Inadmissible in evidence, a court may order payment of duties (despite lateness) to make the document admissible.

3.5 When Registration can be refused.

Non-fulfillment of the requirement stated above may render the instrument unacceptable for registration. It is important to note that there are certain documents or instruments which are not eligible for registration in Plateau State. These include document that are

- a. Declared to be void by the law or,
- b. Prohibited from being registrable by the law ,
- c. Not a true copy of the original or
- d. Not in compliance with any Regulation made Under the Law.⁸⁹

In such cases, the registrar shall write in red ink on the document “registration refused”.⁹⁰ The instrument shall then be returned to the person that presented it for registration and if this is not done within twelve months, the document is liable to be destroyed by the registrar.⁹¹ An instrument that has been refused registration can be re-presented for registration if the cause of rejection is remedied⁹².

3.6 Effect of Non-Registration

The effects of non-registration of a registrable instrument are

1. A registrable instrument that is unregistered is inadmissible as evidence of title to land.
2. An unregistered registrable instrument losses priority in relation to a registered instrument.
3. Non-registration in respect of property in registration district of Plateau State renders the transaction void.

⁸⁹ Section 17 Land Registration Law Cap 58 1963 of Northern Nigeria.

⁹⁰ Section 18 *Ibid*.

⁹¹ Section 18(2) *Ibid*.

⁹² Section 18(3a).

3.6.1. The unregistered instrument is inadmissible as evidence of title to land.⁹³

Although inadmissible as evidence of title, a registrable instrument that is unregistered is admissible to prove payment of money.⁹⁴ This was reiterated in the case of *Agwunede & Ors v. Onwumere*⁹⁵ where the respondent as plaintiff sued the appellants as defendants claiming declaration of title, damages for trespass and injunction. Both sides called witnesses. It was the case of the plaintiff-respondent that the land in dispute was once pledged to the defendant but that they had redeemed it per exhibit “c” a receipt. The appellant, on the other hand, claimed that the land was sold to them. The trial court dismissed the claims of the plaintiff-respondent. On appeal, the court of appeal reversed the decision of the trial court, holding among other things, that exhibit “c” which was relied upon by the trial court was not admissible in evidence, not having been registered. The Supreme Court relying on previous decision such as *Ogunbami v. Abowaba*⁹⁶ and *Fakoya v. St. Paul’s Church, Sagamu*⁹⁷ held that the receipt was admissible as evidence of the personal contract of sale between the plaintiff- respondents and defendant-appellants and no more.

3.6.2 The unregistered registrable instrument loses priority: In relation to a registered instrument over the same property, the unregistered instrument losses priority. The order of priority of property instruments is the order of registration and not the order of creation.⁹⁸ The doctrine of priorities is expressed in the maxims *quid prior est tempore portior est jure* (he who is first has the strong right) and it dictates that the first in time takes priority. In *Kayode v.*

⁹³ Section 15 LRL Northern Nigeria

⁹⁴ *Ogunbami v Abowaba* (1951)13 WACA 222

⁹⁵ (1994)1 SCNJ 106

⁹⁶ Supra

⁹⁷ (1966)All MLR 68

⁹⁸ Section 16 LRL Northern Nigeria

*Odutola*⁹⁹ the appellant and the respondent bought the disputed land, a parcel of land at Milete area, Ibadan from the same vendor, the Ikuola family of Ibadan. The respondent pleaded, among other things, a deed of conveyance dated 15th December, 1952 registered as No. 26, at page 26 in volume 58 of the land registry, Ibadan. The appellant pleaded and relied on a deed of conveyance registered in 1964. Evidence was led show that although the appellant completed the building on the land, the respondent had sued him in 1964 at the high court Ibadan, over the land, a case in which the respondent was non-suited in 1973. The respondent subsequently commenced the current suit, claiming damages for trespass and an injunction. Although the trial court held that the respondent's title was unimpeachable, it nevertheless dismissed his claim in the ground of laches and acquiescence. On appeal to the court of appeal, the judgment of the trial court dismissing the claims of the respondent and was set aside and the reliefs of the damages and injunction were granted. On further appeal to the Supreme Court, the issues that were submitted for determination, among others, were the issues of priority amongst competing deeds, and whether or not the defence of laches and acquiescence could be avail the appellant. It was held that where two deeds of conveyance are registered, priority is determined by the time of registration. On the issue of laches and acquiescence, the court held that for a person to be held to have waived the right to assert title, that person must have acted fraudulently in a way that misled the adverse claimant to believe that he or she (the adverse claimant) had a right to property, and the adverse claimant must also have made an honest mistake as to his or her title to the property.¹⁰⁰ The mere fact that registration of document will not cure any defect in any instrument, or confer upon it validity which would not otherwise have had.¹⁰¹ In fact, registration

⁹⁹ (2001)11 NWLR (pt725)659

¹⁰⁰ Order .A and Oniekoro F (2011) *Source Book on Drafting Property Law and Practice in Nigeria*, Snap Press Ltd Enugu, p. 374

¹⁰¹ *Orumwense v. Amu*(2008) ALL FWLR part 442 p. 1141

alone does not validate spurious or fraudulent instrument of title or a transfer or grant which in law is patently invalid or in effective.¹⁰²

3.6.3 Non-registration in respect of property in registration district of Plateau State renders the transaction void. Under the land registration law a registrable instrument which is not registered with two months of its execution becomes void.¹⁰³ If the transaction involves transfer of land involving non indigenes, the transaction is void. If the registered within the execution of the instrument was done outside the country, the mandatory period for registration is twelve months¹⁰⁴. The registrar may extend the time for such registration if he is satisfied that the delay in registration was not due to the default or negligence of the person acquiring the title.

3.7 Significance of Registration of Land Title Documents

The significant of registration of land title document are as follows¹⁰⁵

- a. To provide a reliable record of information and evidence of ownership affecting land and property
- b. To provide security for landed property owners by reducing land disputes
- c. Registration of a document under the present deeds registration system gives it priority over unregistered documents and other documents registered after it.
- d. By registration, your interest in the property is put on notice to any person who is interested in the property
- e. To have absolute proof of ownership and a clear plan showing the extent of that ownership will be provided by the registry giving an accurate reflection of the extent of the land from

¹⁰² Dadem Y, *Op cit* , p. 260, *Kyari v., Alkali* (2001) FWLR., part 60, pp. 1506-1507.

¹⁰³ Section 14 LRL Northern NIGERIA.

¹⁰⁴ *Ibid*

¹⁰⁵ Plateau State Governments, *Op cit*, p. 4.

the ground. Many unregistered properties do not have plans under registration of title system

- f. Registration provides greater protection against claims for ‘Adverse Possession’, more commonly known as squatting and makes them easier to defeat.
- g. It prevents fraud which can occur from copying or withholding title deeds or a person seeking to claim that they own another person’s land.
- h. For persons interested in a property, for example, a purchaser or mortgagee, they can obtain more information from the land register. If necessary, they can check and verify all land documents affecting that property with the assistance from private legal practitioners before making their decisions in dealing with the property.

3.8 Functions of Plateau State Land Registry

Plateau state Lands Registry performs these functions:¹⁰⁶

- 1. Registration of all instruments affecting land take place in the Land Registry. Statutory fees are chargeable for services rendered by the registry in respect of such transactions. To keep an up to date records of all registered instruments affecting land in the state. All Registry Copies of registered instruments are retained and kept in the office.
- 2. Apart from helping the public to conduct searches over property, the registry also assists in the placement of *Caveat Emptor* on property where competing interests are involved.
- 3. The registry is the only legally recognized office to issue Certified True Copies of any registered instruments affecting land in the state.

¹⁰⁶ *Ibid*

4. The Registrar or any other officer as the registrar may directly attends court proceedings as legal custodians of registered instruments and tenders same in court.
5. Preparation of physical development plan such as spatial

CHAPTER FOUR

ISSUES AND CHALLENGES OF REGISTRATION OF LAND IN PLATEAU STATE

4.1 Introduction

Registration and documentation of instruments relating to land in Nigeria exist to provide steps or procedures for the proper transfer of land which is to ensure easy transfer of interest in land and to guarantee security of title as well as to do away with unnecessary land litigations in Nigeria. Many developing countries consider land registration as high priority in their quest for economic development.¹ Plateau State land registration is beset with challenges. The linkage between lands, the government and the people create a complex system with unique obstacles.² These obstacles which are delay in obtaining governor's consent, corruption of some staff at the registry, inadequacy of expert at the land registry often discourage land owners from registering their land. The land registration process is inaccessible to most people and appears not to provide tenure security in the perception of local land users.

However, the above cases indicate the failure of land registration in different contexts buttress the need for a holistic investigation of the challenges which constrain the registration of land because there are plethora challenges facing the registration and documentation of documents of title to land in Plateau State. This chapter will examine the challenges under the following paragraphs.

¹ Feder, G & Nishio, A(1999). The Benefits of Land Registration and Titling: Economic and Social Perspectives. *Land Use Policy* ,15(1), pp 25-43

² Daniel, M., Wapwera, S. D. and Omogor, C. O. (2016) Land Reform Implementation and its Impact on the Registration of Property Title and Instrument in Greater Jos Metropolis, *International Journal of Real Estate Studies*, Vol.10, p.2.

4.2 Delay in Obtaining Governor's Consent

Unnecessary delay which emanates from the rigorous procedure of securing consent of the Governor, sometimes leads holders of land into frustration and dissatisfaction.

For this reason, James asserts that:

The system is potentially open to abuse. Large areas of administrative discretion exist in the controlling mechanism and potentially so in establishing priority in processing applications. A lethargic administrative machinery slows down many proposed development. As a partial response to delays in getting transactions approved, and reaction to exorbitant charges. Therefore, many transactions are taking place without the parties seeking consent. This practice could have an adverse consequence on the individual rights holder. Contravention of the regulations are likely to lessen respect for this and other administrative procedures, while at the same time it sacrifices the national interest which justifies the existence of the regulations.³

Therefore, this unnecessary delay results in waste of time of holders of land. For, before the consent of the governor is sought, a holder has to fill some forms and pay some charges that sometimes take some months before the consent is granted. This therefore hinders the development of lands in the state.

This rigorous procedure of securing consent in Plateau State which sometimes takes months or even years before consent is granted is a challenge faced in land registration. This makes land registration very difficult and expensive for ordinary citizens because there is no time limit by which governor should give consent under sections 21 & 22 of the Act.⁴ The delay always works hardship and frustrate effort of applicants to acquire land for themselves and their families.

³ James, R.W.(1982) *Nigerian Land Use Act: Policy and Principles*, University of Ife Press Ltd. Ile-Ife Nigeria p.181

⁴ Land Use Act

4.3 Ignorance of Property Owner

The level of registration awareness in Plateau State is very low due to ignorance of the land owners and as such, causes hindrance to land registration⁵. Majority of land owners who purchase or inherit their lands do not register their land. They do not know the value attached to documentation of land transaction, or see the reason why they should register title to their land. They believe that, it is only when they want to sell or take a loan from the bank that they need registration.

These demonstrate that ignorance is a significance constraint to land registration in Plateau State. The staff of the land registry do not conduct orientation to the general public on the need for land registration and the advantages attached thereto. This nonchalant attitude constitutes serious problem to land instrument registration in Plateau State, as most at times, defective titles unknown to the parties are transferred from one person to another and to another consecutively which resulted in bitter ligation.⁶ In Nigeria, a professional is only needed in the activities involving transaction of land when the whole contract in respect of transferring the land is concluded or completed and subsequently resolved into litigation. This means, therefore that most of the people only engaged the services of a lawyers when the actions have been instituted against them challenging their titles in the land fundamentally. Perfection of title of land, the cumbersome nature of the procedures involved and delay associated with the processes.⁷

⁵ Empirical research conducted on by the researcher on 2nd September 2019 at the land registry revealed that most people are not aware of registration or did not consider it necessary.

⁶ Imhanobe, S.O (2010) *Legal Drafting and Conveyance*, Temple Legal Consent, Maitama, Abuja, p.415 P. 194

⁷ Madaki, A.M (2010) *Conveyancing and Legal Drafting*, National Open University Courseware, Lagos. 20

4.4 Inadequacy of Experts at the Land Registry

The concept “expertise” consists of those characteristics, as skills, abilities and knowledge of a person who is an expert of a system or particular field of human endeavour. Inadequacy of experts at the land registry is one of the challenges of land administration in Plateau State. In an oral interview conducted at Plateau State Land Registry, the Deputy Registrar stated that “the number of staff in the Land Registry are six (6) and just four 4 of them are degree holders in their respective disciplines such as Geography, Estate Surveyor/Management, while others are Ordinary National Diploma (OND) and Secondary School leavers”.

However, there are few experts in land related areas of specialization and the workload is too cumbersome for those few experts to handle their core areas of specialization.⁸ The quality of staff at the registry is not encouraging as non-lawyers administer files related to land transaction at the registry without acquiring or having the legal knowledge as a prerequisite requirement to that effect. These unprofessional staffing being not experts in legal field, lack the expertise to carry out their activities effectively and efficiently as demanded.⁹ It has been rightly observed that, the implication of unqualified persons administering the registries are that so many irregularities are perpetrated, and there are multifarious defective titles that require the system over hauling with immediate effect.¹⁰ The irregularities here in complained of, are partly due to lack of professionalism and majorly due to the mischievous and fraudulent nature of some registry officials in carrying out the land registry practices. This may not be unconnected with the fact that, as this writer discovered, unlike in Abuja Geographical Information System

⁸ Am indebted to Mr. Haruna .C, who gave me the opportunity to interview him on 2nd September 2019 at Plateau State Ministry of Land Survey and Town Planning.

⁹ *Ibid*

¹⁰ Imhanobe, S.O, *Op cit*, p.195

(AGIS), there is no registry mal-practice monitoring unit in Plateau State land registry at present. On the aspect of lack of professionalism the research revealed that some of the registry officials do not have even a diploma in any field as they are merely secondary school leavers. This has led to so many defective titles and frustration.¹¹

The problem as relates to inadequacy of expert/qualified hands at the land registry is unfortunate. There is no law in Plateau State that categorically prescribed qualifications for individuals who should be employed as staff of the registry. They got their expertise through the job training,

A leaf should be borrowed from the Corporate Affairs Commission (CAC) a body which is charged with the administration of companies affairs in Nigeria. The Companies and Allied Matter Act CAMA¹², which governing this body states that: “The Registrar-General of the (CAC) must be a legal practitioner so qualified to practice for not less than ten years and has experience in company law and administration for not less than eight years.”¹³

It is our humble view that all the staff of the land registry in Plateau State should be dominated with legal professional, expert in Geo-Planning and Estate Management for the purpose of realizing and achieving, efficiency, effectiveness and convenience thereby abrogating in expertise in land registries in Plateau State.

4.5 Corruption of Some Land Registry Staff

The

word corruption connotes the impairment of a public official’s duty by bribery. It is the act of gross impropriety.¹⁴ Corruption connotes improbably and all forms of reprehensible indecorous

¹¹ Madaki, A.M Op.Cit, p.171

¹² Cap C20 LFN (2004),

¹³ Section 8 CAMA C20 LFN (2004) p. 116

¹⁴ Ishaku. B.P (2014) *Judicial Law Dictionary*, B.P Ishaku and Co Publishers, Ikeja, Lagos. P. 48, *Ojo v. FRN* (2008) 11 NWLR pt 1099, 46 at 519

or infamous conduct especially when it is evinced in the performance of official, quasi-official responsibility.¹⁵ Corruption generally refers to an inducement by means of an improper consideration to violate some duty.¹⁶ It is also defined as depravity, perversion or taint, an impairment of integrity, virtue or more principles, especially the impairment of public official's duties by bribery.¹⁷ In *Biobaku v. Police*,¹⁸ *Bairamian J.* held that the word corruption does not mean improperly. He went on to define corruption thus:

The mischief aimed at by section 98 of the Criminal Code is the receiving or offering of some benefit, reward or inducement to sway or deflect a person employed in the public service from the honest and impartial discharge of his duties. In other words, as a bribe for corruption or its price.

Thus, corruption is a predicament that has entrenched itself in all sectors, both in developed and developing countries. However, research carried out in this work shows that it is more prevalent in the developing countries.¹⁹ Corruption manifests itself in different forms under different environments and contexts. Therefore, it is impossible to have a universal definition that encompasses all. However, corruption has widely been defined as an abuse or misuse of public office for personal gain.

Corruption at the land registry strikes when local officials (staff) demand bribes for basic administrative duties. Administrative corruption involves bribes and illegal payments made to register land, acquire official documents and approve building permits. However, corruption has been considered as a critical challenge in land registration process. These include administrative

¹⁵ Oyeboode, A. (1999) *An Overviews of Corruption in Nigeria*. A Paper at the Round table on the impact of corruption on the political Reform and Economic Recovery of Nigeria organized as part of the 20th Anniversary celebration of the Institution, Nigerian Institution of Advanced Legal Studies, March 30-31, p.2

¹⁶ Richard, L.B. (2007) *Longman Dictionary*, 7th Edition

¹⁷ Bryan, G. (2014) *Black's Law Dictionary*, 10th edition. West Publishing Co. U.S.A., p.348

¹⁸ (1951) 2 NLR 30

¹⁹ Pellegrini L. and Gerlagh, R. (2008) *Causes of Corruption: A Survey of Cross County Analysis and Extended Result Eco, Gov.* 9 pp. 245-263

corruption done by public officers, making land owner to make unofficial payments to land registry officials in service delivery by substantially reducing the processing time. One of the respondents during the research was orally revealed that:

The speed of the procedure depends on who is following it up and how much you are able to give outside the official fees.... No official time frame, it depends on what you can do and your relationship, with the land officials. Land registration in Plateau State, usually required connection to facilitate registration in good time.²⁰

These are manifestations of corrupt interviewed practices of some land registry staff by making unofficial payments in order to register your land.²¹ The other respondent corroborated this response and further stated that: "Corruption in Plateau State land registry has been attributed to unprofessionalism, ethnicity, lack of transparency/equity, inadequate resources, and lack of motivation, political patronage, red tape/bureaucracy and greediness".²²

However, corruption in public sector leads to loss of integrity, citizen trust compliance with regulation and competent employee.²³ In addition, corruption leads to inefficiency, poor performance and poor quality of service.²⁴ In the land sector, the consequences of corruption include land grabbing, frauds, high cost of land transaction, numerous boundary land dispute, persistent long queues and litigations.²⁵

²⁰ Am indebted to Barr. *Mohd. A.A, and UMAR A* who gave me the opportunity to interview them on 2nd September 2019 at A.A SANGEI & co (Doka Chamber). They revealed that they have to part with money to some staff land registry before some application are process in good time.

²¹ *Ibid*

²² *Ibid*

²³ Maina J.N (2013) *Impact of Corruption in Service Delivery in the Ministry of Land*, (unpublished) Master of Public Administration at University of Nairobi, Faculty of Art, p. 33.

²⁴ *Ibid*

²⁵ *Ibid*

It is our humble view that that they should be installed in all offices beginning from reception to the most higher office in the Land Registry modern security devices like cameras, specialised machine for forensic testing, the forensic testing to be conducted where a fraud is discovered involving any officer who treats and keeps / handles what file(s) The services rendered by Land Registry should be commercialized to the extent that applicant can access the services on their own without necessary involving third parties. This will involve the use of modern technology i.e. ICT devices and by this, the people being desirous of accessing such services, may do so at the convenience and comfort of their homes without stress. The punishment for corrupt practice should be dismissal from service. This will go a long way in preventing this social menace at the Land Registry.

4.6 Lack of Independent ICT Land Registration

ICT or Information and Communications Technology (or technologies), is the infrastructure and component that enables modern computing.²⁶ Although, there is no single, universal definition of ICT, the term is generally accepted to mean all devices, networking components, applications and system that combines people and organisation (businesses, government) to interact in the digital world.²⁷ Manual recording was used by land related departments of Ministry of Land and Survey in Plateau State, the manual record-keeping became inefficient, time consuming and prone to abuse. Several successful attempts were made in the past to solve the problems. The attempt failed because of the gross under estimation of the gravity of the problems and the ill-defined scope of the projects. Former Governments of Plateau State saw the need to move along

²⁶ Rouse M. (2017) *ICT (Information and Communication Technology or Technologies)* retrieved from <https://searchiotarget.com/definition/ict-informationandcommunication>. on 20/4/2019 at 6pm.

²⁷ *Ibid*

with the global trend of modernization and computation.²⁸ This led to the establishment of a computerization land data and special data information infrastructure, which is today known as Plateau State Geographic Information System (PLAGIS). PLAGIS is a system that computes information in all Plateau State land in a functional digital format. It is a more flexible system.²⁹ The reason for the establishment of PLAGIS is to enable quick and secure access to land information management by providing the world's best available technology service to which all citizens are entitled in fair, honest, timely and effective manner. It provides better quality and faster services in processing land applications and other related duties. Also it guarantees titles accuracy and legality to registered interests in land. Although there is now PLAGIS, which purports to computerize registration of land in the state but the system does not allow independent registration by assignee in the comfort of their homes. All processes of land registration are still done manually. It is at the final stage that registration is captured electronically at the PLAGIS. It is important that land documentation and registration should be a process one can sit in the comfort of his home as obtainable with registration procedure at the Cooperate Affairs Commission (CAC). PLAGIS is only interested in documenting title electronically and not in easing the process of land registration and making it flexible for assignees. The large amount of data involved is subject to many changes, need to be kept up to date and must be accessible for retrieval. Consequently, operation can only be carried out efficiently and effectively with ICT support.³⁰ However, the system is inefficient. The inefficiency manifests in record keeping problem delay in the process of registration application, lengthy and cumbersome processes. The powers of the Governor under the LUA to grant rights

²⁸ Plateau State Government (2015a). *Plateau State Geographic Information System (PLAGIS)* Retrived from <http://www.plateaustate.gov.ng/page/planned-projects> on 14/12/2019 at 4pm .

²⁹ *Ibid*

³⁰ Christian I. (2009) *ICT and Land Administration*, Gim Article, Geomares Publishing. Retrieved from www.cit.landadminsitrnation.giminternational on 22 march 2019 at 6:20pm.

of occupancy and the requirement for his consent for alienation of land are the major causes of the delay and lengthy process.³¹

³¹ Section 21 & 22 LUA

CHAPTER FIVE

SUMMARY AND CONCLUSION

5.1 Summary

Registration and documentation of instruments relating to land in Nigeria is a significant area governed and regulated by laws, rules and regulations. This is because land is very essential but limited resources. Therefore, the issue of its acquisition and documentation of the relevant instruments has being taken seriously.

The importance of land registration cannot be overemphasized. Its role in motivating investment in land, providing security of tenure and information for land transactions. Land registration plays an important role. Therefore, it is important in addressing documentation of instruments in Plateau State, Nigeria. The consequences of non-registration of land title documents leads to uncertainly in ownership of interest in land, whereby applicant has what is called ownership of interest in land if they register it. That is to say, the interest the applicant has in law is fee simple interest or absolute ownership. But where the registration is not made, it automatically means, the claimant does not have ownership of interest in the land as he has no evidence to prove that he actually acquired the land.

This research has discussed the Legal Regime of Registration and Documentation of Title Documents in Plateau State Nigeria. It started with the general introduction by introducing the topic, the statement of the problem of the research, which is expensive and cumbersome, where government sees registration of instruments as a way of raising revenue from property owners, charging exorbitant fees. It takes one, a very long time before registration is perfected due to unnecessary delay in obtaining governor's consent, inadequacy of experts at the land registry and lack independent ICT at the land registry.

The research has also taken a look at the historical development of the laws in registration of instruments relating to land in Nigeria. The types of registration in Nigeria such as the registration of instruments, registration of title and registration of encumbrances.

It further takes a look at documentation and registration of instruments in Plateau State Land Registry. The research discussed the practice and procedure of the registration in Plateau State Land Registry and also the registrable land document and the process of the registration.

Finally, the work also looks at the issue and challenges of registration of land in Plateau State, which often discourage land owners from registering their lands.

5.2 Findings

Having discussed and analyzed the entire chapters of this research, the writer finds that;

1. Registration of instrument to land in Plateau State is generally cumbersome and expensive, particularly because of the rigorous procedure involved. In the first place, the requirement under the Land Use Act, that the governor's consent shall first be sought and obtained, takes a lot of time and monetary expenses which causes delay in obtaining governor's consent and Certificate of Occupancy by people who intend to register their instruments. It practically takes more than three months to obtain such consent in Plateau State. This could be attributed to the fact that, the governor is the only central figure according to sections 21 and 22 of the LUA to give consent or withheld same. There are many applications for consent which naturally will overwhelmed the office of the Governor due to political, administrative, ethnic, social and religious factors. Also registration of title cannot cure any defect in title or confer validity which it does not possess. This phenomenon does not only exposed registered title holder to hidden conveyancing risks but also threatened the

effectiveness and public trust in registration of title document regime. This is a major discouragement to registration of land in Plateaus State.

2. Although there is now PLAGIS, which meant to computerize registration of land in the State but all processes of land registration are still done manually. It is at the final stage that registration is captured electronically at the PLAGIS.
3. It has also been found that most property owners in Plateau State do not see the need to register land instruments. This is because they are ignorant of the advantages attached to registration of land instruments. It has been revealed that Plateau State Land Registry does not conduct periodic orientation of the general public on the need for land registration and the advantages attached thereto. More so, there is no law that mandates the land registry to do so.
4. The lack of human resources that are expert in land registry is found to be one of the key factors affecting land registration in Plateau State. The implication of unqualified persons administering the registry is that so many irregularities are perpetrated. The unqualified persons lack the expertise to carry out their activities effectively and efficiently as demanded.

5.3 Recommendations

In the introductory chapter of this research work, towards the end of the work, some suggestions would be proffered as to how to solve the problems which will be identified in this research work, and to provide recommendations as to the best way of remedying some of the problems found in this research work.

Consequently upon the above findings, the researcher has the following recommendations:

1. To solve the problem cumbersome and expensive way in obtaining governor's consent and certificate of occupancy that causes delay, it is suggested that sections 21 and 22 of the LUA should be amended to reflect that some designated officers should be appointed to give consent for or behalf of the Governor. Alternatively, a day should be fixed be it either the first or last Thursday of every month for Governor to sit himself for the purpose of giving consent. And he should carry out his responsibility without fear or favour based on political, ethnic, social, and religious considerations. Also, the said Act should be amended to reflect that Governor's consent should not take more than a month and where consent is withheld such should be communicated within one month of the application for same. There should also be a time limit by which Governor should give consent or alternatively, the consent clause under sections 21 and 22 LUA be reviewed. If the time expires and the governor does not give the consent, it should be deemed that the consent is granted. Also this research recommends the need for establishment of title insurance to protect lenders and buyers from financial loss that may sustained from defects in title to property. This will solve registration risk, which land registration *per se* cannot cure. These risks include: Hidden perils at the time the title is transferred, risks of loss or destruction of public records, cost of defending title claim amongst others. In view of the fact that insurance regulation (title insurance inclusive) is exclusive preserved of Federal Government, the National Insurance Commission should pioneer the reform suggested. This will bring sanity to land registration and will reduce unnecessary delay that hinders the development of land transaction in Plateau State.
2. It is recommended that PLAGIS should make available digital cadastral data and ownership information through the net that is, converting land registry paper-based information to

digital information and making it available on line. So that the whole process will be completely devoid from any form of manual activities there by enabling the property owners to conveniently conduct the whole exercise in the comfort of their homes with less stress as obtainable with registration procedure at the Cooperate Affairs Commission (CAC). This will lower costs for clients in the form of fees and information payments to receive data from PAGIS land registry, there will be greater transparency and fewer opportunity for bribery. It will also decrease work load for PLAGIS staff which will allow them focus on transaction registration and backlog reduction as will contribute greater transparency, clarity and efficiently land registration.

3. It is recommended that in order to solve the problem of ignorance of property owners on the need to register land instruments, the Registration of Land Instruments Law of Northern Nigeria Cap 58, 1963, applicable in Plateau State should be amended to make it mandatory for land registry to conduct periodic orientation exercise in order to educate the general public on the need to register land instruments and the advantage attach there to. Also, government reformed measures should integrate systematic enlightenment programs to educate people on the need and benefits of land registration. They should also try and educate the people in the area to create a clear understanding of land policy, in particular, individual responsibilities, their right of ownership, how to register their instruments and the benefit of land instruments registration.
4. This research recommends that there should be established in Nigeria a National Land Registry Training School or Centre for Land Tenure System and Research for training suitable candidate for employment at the land registry. The duty to establish the centre should not rest squarely on the Federal gGvernment but the State Government as well, given

the fact that land registry business is majorly conducted at the sSate level. Also, the retired experts in this field especially land Law University lecturers should establish Non-Governmental Organisations (N.G.O) so as to train young people for employment at the Land Registry. Federal or State universities should have in their curriculum incorporated in their regular courses Land Registry Practice and Documentation. Better still, create a department squarely for that purpose and where this practice is honestly adopted, any student who passes through the department should be the preferred candidate for employment at the land registry. Land registry should be managed and manned by lawyers and other related professionals with some rudimentary knowledge of land law. Also, people with at least, diploma in law irrespective of the fact that they have qualifications in other fields, should be employed to ensure efficiency of service at the land registry. These would go a long way to provide the best practice and stamped out the problem of inadequacy of expert at the land registry.

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