
A REVIEW OF THE NIGERIAN LAND USE ACT OF 1978

¹Adamu, S.J. and ²Kawuwa, A.S

¹Department of Geography, Gombe State University, Tudun Wada Gombe, Gombe State, Nigeria.

²Architecture Programme, Abubakar Tafawa Balewa University, Bauchi, Bauchi State, Nigeria.

E-mail: sanidaddy@gmail.com

ABSTRACT

Housing provision as a requirement comes after food in order of priority before clothing. Nigeria is a signatory to United Nation's declaration for "Housing for All by the Year 2000", and effective Housing in the 21st century in Nigeria was not pursued with tenacity of purpose to realistic ends as in other developed countries due to enormous administrative and bureaucratic problems such as lack of access to land for development. This paper reviewed the 1978 Land Use Act which provided the basis for Land administration in Nigeria. It discovered the powers given to the Governors and other approving bodies' serves as a major obstacle to land access for developmental purpose. It went further to recommend the provision of adequate laws to make sure that revocation and compensation are done in compliance with the regulation as well as law that will allow for alienation and surrender of Right of Occupancy without the consent of the Governor. It concluded that Government should administer land for the benefit of its citizens and not political reasons which will help in realizing the dream of a common man in having a house of his own in Nigeria.

Keywords: Act 1978, Governor, Land Use, Right of Occupancy, Review.

INTRODUCTION

There is no doubt that land is the most vital ingredient of national socio-economic development. Land is wealth no matter its nature or conditions. No Land is ever without its purposes, this is because on it depends on every economic activity. How a community or country utilizes Land determined the level and kind of economic development that takes place in that community or country. The history of Land utilization and development in Nigeria dates back to the pre-colonial era. One of the cardinal principles of Land management in Nigeria is that Land belongs to all the people which may be held by individuals and or jointly (in Southern Nigeria) by families or Gandu (in Northern Nigeria). The family head, normally the oldest Man, was regarded as the administrator of Land since it was he who allocated plots of family Land. Such allocations were considered to belong to the individuals so granted for a life time since allottees had complete control over Land. This was the situation in Southern Nigeria. In northern Nigeria, such Land might revert to the Gandu for redistribution to others it must be note, however, that during the pre-colonial period, it was most likely that there were no allocations of plots either by sale or mortgage. Of course, it should be noted that customary tenure did not forbid alienation of Land. It did so by not providing for it sine it was not needed as there was plenty of Land and low population density.

STATEMENT OF RESEARCH PROBLEM

The lack of uniformity in the laws governing land use and ownership, issues of un-control speculation in urban land, access to land right by Nigerians equally, fragmentation of rural lands either as a result of application of traditional principles of inheritance, or population growth and the consequent pressure on land. All this leave the land developer with a complete dilemma on how to acquire land for developmental purposes. This realization, therefore, necessitated a review of the Nigerian land use act of 1978 in order to identify its weaknesses and proper recommendation.

The aim of this paper is to review the Nigerian land use act of 1978 from its Part I to VIII in order to identify its weaknesses and recommend solutions base current realities of housing target for the citizens.

LAND USE ACT 1978

The Land Use Act is divided into eight (8) different parts, and for the purposes of this paper which is the "Review of the Land Use Act 1978" I have try to summarized below the Land Use Act 1978 from part I (one) to (eight) respectively: -

Part I (General)

This part of the Land Use Act is telling us that as from the commencement of this Act on the 29th March 1978, all Lands that are within the territory of the States of the Federation are vested under the Governor of the respective State to hold them in trust and administer them for use and for the common benefit of Nigerians and in Accordance with the provision of this Act. All other Lands, other than that of urban centers which are under the control of the Chairman, and to administer for use to his people and there shall be establish a body in the State/Local Government to be called Land Use and Advisory Committee, they will be responsible for advising the Governor/Chairman in matters that has to do with the Management, Resettlement, Dispute and Compensation of Land, and beside the qualification of the Members of the Committee, they must have at least five years experience in their various field of discipline.

Part II (Principle of Land Tenure)

This Part said that, it is lawful for the Governor to give Right of Occupancy whether or not the Land is in urban areas for all purposes, give easement appurtenant to Statutory Right of Occupancy, impose panel rent for breach of Certificate of Occupancy (i.e. sales, mortgage, transfer of possession, sub-lease without Governors consent), it is lawful for the Governor to give Certificate of Occupancy to the person who was given Statutory Right of Occupancy and if he refuses to pay for the Certificate the Governor can cancel, it is not lawful for Governor to give Statutory Right of Occupancy to person under the age of 21 years, the Governor or his delegates has the Right to go in the day time and check if there is any development improvement effected on the Land, the Governor has the Right to give license for mining and is not proper for the licensee to transfer the license without the consent of the Governor, and the Chairman has the Right to grant Customary Right of Occupancy for Agriculture, Residential and other purposes, and for grazing too, and not more 500h and 5000h for Agriculture and grazing respectively without the

consent of the Governor, it is lawful for Local Government to use Land for public purpose even in an area declare to be an urban area, and is good also for Local Government to grant another Land in respect to Customary Right of Occupancy which is used for Agriculture and is revoke, and the substitute given should be Used for some purpose.

Part III (Rents)

This part is saying that the Governor is empower to fixed the amount of rent to be paid, when fixing the amount he have to take into consideration the prices of rent in the neighborhood and also the Circumstances that his state is into at that particular time. And in a situation when the Governor decides to increase the amount of rent to be paid, the Governor is expected by this Act to write it formally. At the same time the Governor has every right to grant Statutory Right of Occupancy free of charge or at a reduce rent price in as the Land is going to be used for public interest.

Part IV (Alienation and Surrender of Right of Occupancy)

This part of the Act is also telling us that it shall not be lawful for any Right of Occupancy or thereof, to be alienated either by assignment, mortgage, transfer of possession, sub-lease or otherwise without the Governors consent even if the court order for it sale.

Part V (Revocation of Right of Occupancy and Compensation)

Here, this part of the Act is also telling us that it shall be lawful for the Governor to revoke Right of Occupancy for the overriding public interest (i.e. if minerals are discovered in an area, and mining is suppose to take place there), and their shall also be revocation for the breach of the provision of Certificate of Occupancy as section 10 deemed to contain, the revocation of the Right of Occupancy shall be sign under the hand of an officer whom the Governor delegate, and the holder and Occupier shall be entitled to Compensation, payment will be made with interest in case the Compensation is delay, and in a situation where an erected Structure is revoke an alternative Accommodation would be provided, and if is more Comfortable than his previous Accommodation, he will repay back.

Part VI (Transitional and other Related Provisions)

This part of the Act shall have effect in respect of Land in an urban area, and that any person who before the Commencement of this Act who have already developed the Land either for Agriculture or residential purposes, the Land shall continue to be held by them who were vested with the Land immediately before the commencement of this Act.

Part VII (Jurisdiction of High Court and Other Courts)

It said that High court shall have exclusively right to Land subject to Statutory Right of Occupancy granted by Governor. Area or Customary Court shall have jurisdiction in Customary Right of Occupancy granted by Local Government. And proceeding for the recovery of rent payable in respect of any Certificate of Occupancy will be taken to Magistrate Court.

Part VIII (Supplemental)

Under this part of the Act, what we have is the definition of term used in the Land Use Act. (i.e.):

- Statutory Right of Occupancy: means Right of Occupancy granted by Governor.
- Customary Right of Occupancy: Right of a person or community lawfully using or Occupying Land in accordance with the Customary Law, and Customary Right of Occupancy granted by Local Government.
- Agriculture purpose, include the planting of any crops of economic value.
- Government means Government of the Federation
- Grazing, agricultural operation for growing fodder for livestock on the grazing area etc.

WEAKNESSES OF 1978 LAND USE ACT:

Below are some of the weaknesses observed in the Act:

- Excessive power vested in the hand of the Governor.
- Revocation and compensation problem.
- Problem of alienation
- Slow approval of Certificate of Occupancy due to bureaucracy
- Provide avenue for land speculators third party activities

RECOMMENDATIONS

- (i) **Government Proactive Action:** Government should continue to held Land in trust, and to administer them for Use and for the common benefit of the Nigerians, but the excessive powers that are vested in Governors be reduce and a mechanism or adequate laws for check and balance in their activities be introduced, so as to address the issue of Governors abusing the Act by way of allocation titles deeds of Land at will for personal and political gains. By so doing a common Man on the street will have easy access or Right of acquiring Land for himself, rather than making acquisition of Land the privilege of the elites.
- (ii) **Revocation and compensation:** Let there be adequate laws to make sure that Revocation and Compensation are done in compliance with the regulation not at will and discretion for personal or political gains of the Governor/Chairman.
- (iii) **Alienation:** Let there be a law that will allow or give room for alienation and surrender of Right of Occupancy without the consent of the Governor because of the long protocol involve in it.

CONCLUSION

With reference to the above stated weaknesses or short comings identified in the existing Nigerian Land Use Act 1978, and the few recommendations given, we

believe if this recommendations were successfully implemented, the problem of ownership, control and use of land will no longer be a problem in our country, and as such this will help our country in attaining its vision 20:2020 target in housing requirements. It will also provide easy and fast ways of land availability that will contribute in increasing housing stock for conducive living and working environment in Nigeria

REFERENCES

Federal Government of Nigeria (1990). *Land Use Act, Law of the Federation of Nigeria*. [Http://www.online Nigeria.com/Land Management in Pre-Colonial Period](http://www.online Nigeria.com/Land Management in Pre-Colonial Period). Accessed on 24th August, 2013.

Nigerian Institution of Surveyor (2011). *Hon. Rotimi Ameachi's Address at the 46th Annual General Meeting of the Nigerian Institution of Surveyors* in Port-Harcourt Rivers State, Nigeria.

[Http://www.nigeria news world.com/conte](http://www.nigeria news world.com/conte). Call for the Review of Land Use Act. Retrieved on 11TH September, 2013.

Mabogunje, A. L. (1992). *"Perspectives on Urban Land and Urban Management Policies in Sub-Saharan Africa"*. Chichester, John Wiley and Sons.

Reference to this paper should be made as follows: Adamu, S.J. and Kawuwa, A.S (2014), A Review of the Nigerian Land Use Act of 1978. *J. of Environmental Sciences and Resource Management*, Vol. 6, No. 2, Pp. 59 – 63.
