

**THE LEGAL IMPLICATIONS OF THE LAND USE ACT ON PROPERTY  
DEVELOPMENT IN NIGERIA**

**BY**

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(2020/LW/21513)**

**A PROJECT PRESENTED TO THE FACULTY OF LAW,  
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DEGREE OF BACHERLOR OF LAWS**

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**SEPTEMBER 2025**

## **DECLARATION**

**I, OGBUKWU TEMPLE**, a Student of the Faculty of Law, Alex Ekwueme Federal University, Ndufu-Alike, Ikwo, Ebonyi State, do hereby declare on my honor, that this long essay has not been previously presented, either wholly or in part for the award of any other Degree, Diploma, Certificate or Publication in any University, other Higher Institutions or elsewhere.

Signed.....

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## **CERTIFICATION**

**OGBUKWU TEMPLE**, a Student of Faculty of Law has satisfactorily completed the requirements for the award of the Degree of Bachelor of Laws. To the best of our knowledge, the work embodied in this long essay is original and has not been submitted in part or full for any other Degree, Diploma, Certification or Publication of this University or elsewhere. This work has been assessed and approved by the Undergraduate Studies Committee of the Faculty of Law, Alex Ekwueme Federal University, Ndufu Alike, Ebonyi State.

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**EXTERNAL EXAMINER**

**DEDICATION**

This work is specially dedicated to the George family, the unwavering pillars of my world, you were my refuge during late nights and moments of doubt. Your love, laughter, and endless support carried me through the highs and lows of this journey. You reminded me to stay grounded, to find joy amidst the intensity, and to keep sight of why this work matters to me. To my peers and collaborators, who shared this intellectual odyssey, your feedback, debates, and camaraderie shaped this essay in ways I could not have achieved alone. To my legal role model Anoke Uwadiegwu, whose wisdom and guidance lit the path when I found myself lost in a sea of ideas, your patience, expertise, and belief in me gave this essay its foundation. And lastly to my own boss and mentor Obulor Nso Nnadum managing partner Tent and Towers law firm, who personally carried me as his own in this path of legal excellence. This essay is not just a collection of words on a page, it is a reflection of the community that surrounded me, the voices that uplifted me, and the hands that steadied me when I faltered. Each page carries traces of your influence, your encouragement, and your belief in the power of ideas. For that, I am forever grateful. This work is for my lecturers, my cheerleaders, my confidants, my inspirations. Thank you for being part of this story. As I present this work, I do so with a heart full of appreciation for each of you. You have made this journey not only possible but profoundly meaningful.

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## TABLE OF CONTENTS

<b>Title Page</b>	<b>ii</b>
<b>Certification</b>	<b>iii</b>
<b>Declaration</b>	<b>iv</b>
<b>Certification</b>	<b>v</b>
<b>Dedication</b>	<b>vi</b>
<b>Acknowledgements</b>	<b>vii</b>
<b>Table of Contents</b>	<b>viii</b>
<b>Lists of Cases</b>	<b>xiii</b>
<b>Lists of Statutes</b>	<b>xiv</b>
<b>List of Abbreviations</b>	<b>xv</b>
<b>Abstract</b>	<b>xix</b>

### CHAPTER ONE

#### INTRODUCTION

<b>1.1 Background to the Study</b>	<b>1</b>
<b>1.2 Statement of Problem</b>	<b>3</b>

<b>1.3 Aim and Objectives of the Study</b>	<b>4</b>
<b>1.3.1 Aim of the Study</b>	<b>4</b>
<b>1.3.2 Objectives of the Study</b>	<b>4</b>
<b>1.4 Scope and Limitations of the Study</b>	<b>5</b>
<b>1.4.1 Scope of the Study</b>	<b>5</b>
<b>1.4.2 Limitations of the Study</b>	<b>5</b>
<b>1.5 Significance of the Study</b>	<b>5</b>
<b>1.6 Research Methodology</b>	<b>6</b>
<b>1.7 Chapter Analysis</b>	<b>6</b>

## **CHAPTER TWO**

### **CONCEPTUAL THEORETICAL FRAMEWORKS AND LITERATURE REVIEW**

<b>2.1 Conceptual Framework</b>	<b>7</b>
<b>2.1.1 Definition of Terms</b>	<b>7</b>
<b>2.2 Theoretical Framework</b>	<b>9</b>
<b>2.3 Literature Review</b>	<b>13</b>

<b>2.3.1 Land Tenure System in Nigeria Before the Act</b>	<b>13</b>
<b>2.3.1.1 Northern States Land Tenure System</b>	<b>14</b>
<b>2.3.1.2 Western States Land Tenure System</b>	<b>14</b>
<b>2.3.1.3 Eastern States Land Tenure System</b>	<b>15</b>
<b>2.3.1.4 Southern States Land Tenure System</b>	<b>16</b>
<b>2.3.2 Creation Of Family Land Under Customary Law Before The Act</b>	<b>17</b>
<b>2.3.3 Determination of Family Land Before the Act</b>	<b>17</b>
<b>2.3.4 Customary Tenancy Before the Act</b>	<b>18</b>
<b>2.3.5 A Review of the Land Use Act of 1978</b>	<b>19</b>
<b>2.3.6 System of Land Holding Under The Act</b>	<b>22</b>
<b>2.3.6.1 The Right of Occupancy Under the Act</b>	<b>23</b>
<b>2.3.6.2 Method of Acquiring Land Under the Act 1978</b>	<b>25</b>
<b>2.3.7 A Review of the Power of the Governor on Revocation of Rights of Occupancy And Compensation</b>	<b>26</b>

## **CHAPTER THREE**

### **LEGAL REGIME AND INSTITUTIONAL FRAMEWORK**

<b>3.1</b>	<b>Legal Regime</b>	<b>28</b>
<b>3.1.1</b>	<b>National Legal Regime</b>	<b>28</b>
<b>3.1.1.1</b>	<b>The Land Use Act, 1978 (Cap L5 LFN 2004)</b>	<b>28</b>
<b>3.1.1.2</b>	<b>Nigerian Urban and Regional Planning Act, Cap N138 LFN 2004</b>	<b>30</b>
<b>3.1.1.3</b>	<b>Environmental Impact Assessment Act, Cap E12 LFN 2004</b>	<b>32</b>
<b>3.1.1.4</b>	<b>Surveyors Act (Cap S16 LFN 2004)</b>	<b>33</b>
<b>3.1.1.5</b>	<b>Companies and Allied Matters Act (CAMA) 2020</b>	<b>34</b>
<b>3.1.2</b>	<b>African/Regional Legal Regim</b>	<b>36</b>
<b>3.1.2.1</b>	<b>African Union Declaration on Land Issues and Challenges in Africa (2009)</b>	<b>36</b>
<b>3.1.2.2</b>	<b>African Charter on Human and Peoples’ Rights (Banjul Charter)</b>	<b>38</b>
<b>3.1.2.3</b>	<b>ECOWAS Revised Treaty (1993)</b>	<b>39</b>
<b>3.1.2.4</b>	<b>Framework and Guidelines on Land Policy in Africa (F&amp;G)</b>	<b>41</b>
<b>3.1.3</b>	<b>International Legal Regime</b>	<b>42</b>
<b>3.1.3.1</b>	<b>Universal Declaration of Human Rights (UDHR) – Article 17</b>	<b>43</b>
<b>3.1.3.2</b>	<b>International Covenant on Economic, Social and Cultural Rights (ICESCR)</b>	<b>44</b>

**3.1.3.3 Voluntary Guidelines on the Responsible Governance of Tenure of Land,  
Fisheries and Forests in the Context of National Food Security (VGGT) (FAO) --**

**46**

<b>3.2</b>	<b>Institutional Framework</b>	<b>47</b>
<b>3.2.1</b>	<b>Federal Ministry of Housing and Urban Development</b>	<b>48</b>
<b>3.2.2</b>	<b>State Ministries of Lands and Survey</b>	<b>50</b>
<b>3.2.3</b>	<b>Nigerian Urban and Regional Planning Commission</b>	<b>51</b>
<b>3.2.4</b>	<b>Nigerian Institution of Estate Surveyors and Valuers (NIESV)</b>	<b>52</b>
<b>3.2.5</b>	<b>Courts (High Courts, Court of Appeal, Supreme Court)</b>	<b>53</b>

**CHAPTER FOUR**

**THE LEGAL FRAMEWORK AND ITS IMPACT ON LAND TENURE, PROPERTY  
DEVELOPMENT, AND FINANCE IN NIGERIA**

<b>4.1</b>	<b>The Regulatory Framework and Its Impact on Land Tenure</b>	<b>54</b>
<b>4.2</b>	<b>Challenges and Constraints on Property Development</b>	<b>57</b>
<b>4.3</b>	<b>Compensation and the Principle of Justiciability</b>	<b>59</b>
<b>4.3.1</b>	<b>Constitutional Basis for Compensation</b>	<b>59</b>

<b>4.3.2 Challenges in Assessing Fair Compensation</b>	<b>60</b>
<b>4.3.3 Judicial Enforcement of Compensation Rights</b>	<b>62</b>
<b>4.3.4 Socio-Economic Impacts of Compensation Practices</b>	<b>63</b>
<b>4.4 The Role of the Land Use Act on Mortgage and Real Estate Finance</b>	<b>65</b>
<b>4.4.1 Gubernatorial Consent and Mortgage Transactions</b>	<b>65</b>
<b>4.4.2 Impact on Real Estate Investment</b>	<b>66</b>
<b>4.4.3 Constraints on Mortgage Market Development</b>	<b>67</b>
<b>4.4.4 Role in Real Estate Finance Regulation</b>	<b>68</b>
<b>4.5 Proposed Reforms and Legislative Amendments</b>	<b>69</b>

**CHAPTER FIVE  
CONCLUSION**

<b>5.1 Summary of Findings</b>	<b>72</b>
<b>5.2 Recommendations</b>	<b>73</b>
<b>5.3 Contributions to Knowledge</b>	<b>74</b>
<b>5.4 Areas for Further Studies</b>	<b>75</b>
<b>5.5 Conclusion</b>	<b>76</b>

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### **TABLE OF CASES**

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Section 4, 9, 19.

Companies and Allied Matters Act (CAMA) 2020

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African Union Declaration on Land Issues and challenges in Africa (2009)

Paragraph 10, 12, 14, 16.

African Charter on Human and Peoples' Rights (1981)

Article 14, 21, 24,

ECOWAS Revised Treaty (1993)

Article 27, 55, 59.

Universal Declaration of Human Right (1948)

Article 17(2).

International Covenant on Economic, Social and Cultural Rights (1966)

Article 1(2), 11, 15.

## **LIST OF ABBREVIATIONS**

LUA	Land Use Act
CAMA	Company and Allied Matters Act
EIA	Environmental Impact Assessment Act
C of O	Certificate of Occupancy
FBN	First Bank of Nigeria
ECOWAS	Economic Community of West African States
UDHR	Universal Declaration of Human Right
LFN	Laws of the Federation of Nigeria
FHC	Federal High Court
ICESCR	International Covenant on Economic, Social and Cultural Rights
VGGT	Voluntary Guidelines on the Responsible Governance of Tenure of Land
FOA	Fisheries and Forests in the Context of National Food Security
CAP	Chapter
NLRDTP	Nigeria Land Registration, Documentation, and Titling Programme
NUDP	National Urban Development Policy
NIESV	Nigerian Institution of Estate Surveyors and Valuers

## ABSTRACT

The Land Use Act of 1978 is an instrument regulating the use of property(land) in Nigeria, with each state having its law on property. The legal term for property development refers to the process of acquiring land, planning, designing, constructing and eventually setting buildings on the land, whether for residential, commercial or industrial use, essentially by transforming raw land into developed property for occupation and profit. It encompasses all aspects, from land acquisition to construction completion and sale. This research uses a doctrinal approach which involves historical analysis, comparative and descriptive methodology in its findings. Chapter one covers the introduction of the work, chapter two encompasses the conceptual theoretical framework and literature review, chapter three streamlined the legal regime and institutional framework, chapter four examines the legal framework and its Impact on land tenure, property development, and finance in Nigeria, and lastly, chapter five deals with the conclusion of the work. This research tends to examine the impact of the Land Use Act on land development, administration and management, various laws that govern property law in Nigeria, and the approach to court in cases relating to land development in both rural and urban areas of the country, the remedies sort on erroneous development of land. This study also reveals the issue of ownership, allocation, utilization and potential conflicts arising from the Act's implementation, including inefficient land administration practice in Nigeria, inadequate land use planning, challenges in acquiring land for development in Nigeria, disputes over customary land right and environmental concerns associated with land development in rural areas, while highlighting potential solutions to address these legal issues through proper policy adjustments, improved regulatory frameworks, community and customary engagement strategies.

## CHAPTER ONE

### 1.0 INTRODUCTION

#### 1.1 Background to the Study

The Land Use Act was enacted in 1978 with the aim of stimulating economic development by ensuring effective and equitable utilization of land and land resources in the country. However, the objectives of the Land Use Act 1978 has been impeded by two major obstacles. The first is the inherent contradictions and defects in the law, and the second is institutional weakness and lack of political will to implement the Act fairly and equitably. The consequences of the population pressure, urbanization and socio-economic growth have great social and economic impact on development of land and land issues in Nigeria. Modernization saw people moving from the rural areas into urban centers where modern facilities are found. The population pressure in cities and towns made residential accommodation in particular, a problem in those areas. The congested urban areas are in need of expansion but land where this expansion is to be made is scarce.<sup>1</sup> The Land Use Act is a statutory approach used by the federal government to consolidate and harmonize the multiple land tenures system common in the country before its enactment, and also aims at ensuring the protection of the rights of all Nigerians in relation to land. It repealed the age long tradition of private ownership of land by individual in the south and introduced a uniform system of land tenure throughout the country. This implies that land tenure system under this era means that, an individual cannot have an interest in land beyond the terms granted to him by the statute (usually 99 years) and such interest is renewable upon expiration. The act vested all land comprised in the territory of each state (except land vested in the Federal Government and its agencies) solely

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<sup>1</sup> Adewale Taiwo, *The Nigerian Land Law* (R ed, Princeton & Associate Publishing Com. Ltd 2016).

in the hand of the Governor of the state who would hold such land in trust and administered it for the benefit of every Nigerian<sup>2</sup>.

The Land Use Act creates a tripartite system of land holding in Nigeria, namely; state, federal and local government land holding system.<sup>3</sup> When the Act was enacted on 1978, it received different philosophical view from different individuals, organizations and institutions in the country. While many strongly favoured the enactment of the Act, many others, particularly, the traditional rulers criticized it as a means of depriving them of their tradition and property. The enactment of the Act settled major issues pertaining to ownership of land, and they includes

- It reduces the bitter controversies resulting at times in loss of lives and limbs, which land is known to be generating
- It restructured the system of land ownership and management in the country
- It enable the government to bring under control the use to which land can be put in all parts of the country, hereby, facilitating planning and zoning programmes for particular uses.
- It settles the diversity of customary laws on land tenure system and the difficulties in applying the various customs of different people. And
- It settles the rampant practice in southern Nigeria regarding to fraudulent sales of land. The same land would be sold to different persons at the same time, giving rise to much litigation.

Land being the most universal, valuable, controversial assets, the one and the only foundation of all human activities, requires a planned system of holding, control and regulations so as to avoid misuse and abuse of rights of the holders thereof. It may be germane to note that land without a

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<sup>2</sup> Section 1 of the Land Use Act 1978 (CAP 203).

<sup>3</sup> Adewale Taiwo, *The Nigerian Land Law* (R ed, Princeton & Associate Publishing Com. Ltd 2016).

valid control and regulation, ownership of land may depend purely on the physical strength of an individual or how violent the person can be. This situation may result to anarchical system of land holding. This work therefore reveals the legal effect of the Land Use Act of 1978 on property development in Nigeria, x-rays the current position of law on registrable instrument, unearths the principles of law embellished in the case of *Benjamin v Kalio*<sup>4</sup>, and *Abdullahi v Adetutu*<sup>5</sup>. Since its enactment, the Land Use Act has been subjected to intense fire as seen almost every part of it has been subjected to criticism. Since its commencement, notwithstanding the fact that the Act repealed the aged system of land ownership, the Act has replaced the old system of land ownership with a standard of land ownership in Nigeria (thereby reducing communal war in relation to land). The Land Use Act as enacted, was motivated by the need to make land accessible to all Nigerians, prevent speculative purchases of communal land, streamline and simplify the management and ownership of land, make land available to governments at all levels for development, and provides a system of government administration of rights that would improve tenure security.

## **1.2 Statement of Problem**

Deducing it from the above, it is germane to pinpoints certain quagmire which needs urgent legal frontier attack, and they include:

1. Has the objective of the Land Use Act in enhancing land acquisition, ease of accessibility and security of title for property development been achieved or has it retarded them?
2. What effect has the Act posed on the price mechanism of land and buildings and on compensation?

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<sup>4</sup> [2018]15 NWLR(pt 164)

<sup>5</sup> [2019] LPELR 47384(SC)

3. Is the Land Use Act implemented to its fullest on land's property apart from over use of such powers by state governors?
4. What are the problems prompted by the Land Use Act in property development in Nigeria and what is the best mechanism to tackle the controversial problems generated by the Land Use Act in relation to property development in Nigeria?
5. Is there a constitutional right to own and access land in Nigeria?
6. And is there any conflict between section 43 of the constitution of the federal Republic of Nigeria and section 1 of the Land Use Act?

### **1.3 Aim and Objectives of the Study**

#### **1.3.1 Aim of the Study**

The aim of the study is to scrutinize the effects of the Land Use Act of 1978 on property development in urban and non-urban area of Nigeria in terms of ease of accessibility of land, ease of acquisition and security of title, and to x-ray various laws regulating property development in Nigeria.

#### **1.3.2 Objectives of the Study**

To achieve the aim of the study, the following objectives were determined, which includes;

1. To x-ray the extent to which the objectives of the Land Use Act has been achieved
2. To identify the various socio-economic problems generated by the Land Use Act on property development in urban area (especially the major cities in Nigeria).
3. To unearth the effect of the Land Use Act on land accessibility, acquisition and security of title on property development in urban and rural areas.

4. X-ray various laws regulating property development in Nigeria.

5. And to recommend better area of study on the Act in relation to property development as a means of providing effective means for increasing property stock in Nigeria.

## **1.4 Scope and Limitations of the Study**

### **1.4.1 Scope of the Study**

The scope of this work only covers Nigeria jurisprudence, since its impact only deals in Nigeria. In examining the effect of the Land Use Act on property development, attention was therefore focused on urban and non-urban area of the country. In doing this however, recourse was had to the general problems of property development, and Pre Land Use Legislation in Nigeria. This will act as a prelude to a proper understanding and appreciation of the effect of the Land Use Act on property development in Nigeria.

### **1.4.2 Limitations of the Study**

Data collection proved the most difficult aspect of this work. Recourse to secondary data was also affected to an extent by non-availability of appropriate study materials. The greatest problem was however posed by finance.

## **1.5 Significance of the Study**

The significance of the study covers a great extent in organizing a stage for a more urgent and comprehensive appraisal of the impact of Land Use Act on property development in Nigeria. In addition to this, the study will also travel a long way in educating the government on whether to review the Land Use Act or not in order to accelerate the development of properties in the country.

It is germane to note that this work will also be of a great important to the following persons who may wish to carry out further research on the Land Use Act;

1. Research students for whom it will open an avenue for further research work.
2. Land administrators and policy makers to whom it will give a general view of the problems and thereby pave way of reviewing the Land Use Act in order to facilitate development in the country.
3. Property Developer, for whom it will raise great hope for better future access to land which will promote the development of more property stock.
4. And to all indigene of Nigeria who may now find it easier to participate in land matters for more effective property and overall development of the state.

### **1.6 Research Methodology**

This work makes use of primary and secondary sources of material, and applies qualitative techniques in its findings, that is, a library base research work. It also applies a doctrinal approach of data collection, and uses analytical, descriptive and comparative method of research to source out its information.

### **1.7 Chapter Analysis**

This research work is organized in five chapters, for easy understanding, as follows Chapter one is concern with the introduction, which consist of the background of the study, statement of problem, aim and objectives of the study, scope and limitations of the study, significance or the study, research methodology, and chapter analysis. Chapter two highlights the conceptual theoretical framework of the study, thus the review of related literature. Chapter three highlights the legal and institutional frameworks of the study. Chapter four of the study x-ray the attitudes of the court on other land related matters, and chapter gives summary of the findings, recommendations, contributions to knowledge, area for further studies and conclusion.

## CHAPTER TWO

### CONCEPTUAL THEORETICAL FRAMEWORKS AND LITERATURE REVIEW

#### 2.1 Conceptual Framework

In Nigeria, like most African countries today, customary system of land regulations are being undermined and weakened, and more formal regulative mechanisms are being developed. Land rights for many rural and urban dwellers are becoming insecure and unclear, and it is generally recognized that vulnerable groups like the poor, women, youth and indigenous people are particularly adversely affected. To an average Nigerian, land is the essence of human self-definition as the ability to own, control and use land is not only an important expression of both private and proprietary right but also a measure of economic wealth and power. This part of this research deals on conceptual clarification of the work.<sup>6</sup>

##### 2.1.1 Definition of Terms

2.1.1.1 Land Use Act: The Land Use Act of 1978 is an act of the national enacted for the control, management and regulation of land in Nigeria.

2.1.1.2 **Land:** Land includes not only the surface of the earth but also, the soil beneath the surface and the right of the air space above the surface; buildings and any chattels which have by sufficient attachment to the soil or to buildings, become fixtures; natural crops (*fructus naturales*), but not industrial growing crops (*fructus industriales*)<sup>7</sup>. The Interpretation Act also defines that

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<sup>6</sup> Oludayo Gabriel Amokaye, *Land Use Act upon Land Rights in Nigeria*, in Robert Home(ed) Local Case Studies in African Land Law, (The World Bank Washington, DC, Pretoria University Law Press) 59.

<sup>7</sup> Adewale Taiwo, *The Nigerian Land Law* (R ed, Princeton & Associate Publishing Com. Ltd 2016) p.13.

immovable property or land includes “land and everything attached to the earth or permanently fastened to anything which is attached to the earth and all chattels real.”<sup>8</sup>

**2.1.1.3 Property:** Property is one or more components (rather than attributes), whether corporeal or incorporeal of a person's estate or so belonging to, as in being owned by a person or jointly a group of people or a legal entities.

**2.1.1.4 Development:** Development is the process by which a nation improves the economic, political, and social well-being of its people. The term has been used frequently by lawyers and jurists, economists, politicians, and others in the 20th and 21st centuries. The concept, however, has been in existence in the West for centuries. Modernization, Westernization and especially Industrialization are other terms people have used while discussing economic development. Economic development has a direct relationship with the environment and environmental issues.

**2.1.1.5 Property Development:** Property development includes series of activities from the purchase of land, development of facilities and buildings to meet customers' requirements. It also includes either the sale or lease of the land of properties on completion.

**2.1.1.6 Ownership:** The concept ownership has a double essence. Conceptually, the concept of ownership is socio-economic but functionally, it is an instrument of social policy. To Professor Dias, ownership is the aggregate of certain jural relations involving claims, duties, powers, immunities and liabilities concerning the thing owned. All these things constitute ownership. Ownership may be either corporeal or incorporeal.<sup>9</sup> In land law, ownership signifies the maximum (absolute) right or interest that exists on land.<sup>10</sup>

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<sup>8</sup> Section 3 of the Interpretation Act.

<sup>9</sup> Adaramola Funso, *Jurisprudence* (4<sup>th</sup> ed, LexisNexis 2008) p. 185.

<sup>10</sup> *Ibid* at 17

2.1.1.7 Rights: it is defined as an advantage conferred on a person or group of persons to use and enjoy the land to the exclusion of other persons which is recognized and protected by law. These rights vary in degrees, and broadly speaking, these are denoted by the concept of “ownership” and “possession”.<sup>11</sup>

**2.1.1.8 Possession:** It refers to the state of having a thing in one’s own power or control, coupled with the intention of exercising such control. It is the physical control a person has or exercises in relation to land.<sup>12</sup> Under Nigeria land law, possession is of two types, that is, actual possession and possession imputed by law which is derived from title.

**2.1.1.9 Customary Right of Occupancy:** Means the right of a person or community lawfully using or occupying land in accordance with customary law and includes a customary right of occupancy granted by a local government under this Act<sup>13</sup>.

**2.1.1.10 Statutory Right of Occupancy:** Means a right of occupancy granted by the Governor under this Act<sup>14</sup>

## 2.2 Theoretical Framework

The question of why the State will protect a person’s property interest and the means of obtaining a property interest have as a background particular philosophies which provide the justification for how we distribute and allocate property in our society. In this chapter of this research, it tends to examine various theoretical justification for property rights. And they includes

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<sup>11</sup> Adewale Taiwo, *The Nigerian Land Law* (R ed, Princeton & Associate Publishing Com. Ltd 2016) p. 17.

<sup>12</sup> Ibid 23

<sup>13</sup> Section 51 of the Land Use Act 1978.

<sup>14</sup> Section 51 of the Land Use Act of 1978.

**2.2.1 Occupation theory or theory of occupancy:** Jean-Jacques Rousseau, elaborated a theory of property based on first occupation justified by labour. This theory suggests that the party who is the original discoverer and occupant of property was entitled to dispose of those assets. This approach has the advantage of certainty and security as the person in possession can retain possession until someone else shows a better title. This philosophy is reflected in the law of property. If a person retains possession of land over a long period of time this may make this possessory title unassailable by the original owner. This is based upon the concept of adverse possession of land. If you squat on land for many years and the true owner does not remove you from the property in some circumstances you may be acknowledged as owning the land. Property rights arise from being the first to possess or occupy unowned land. This theory informs this study by highlighting modes in which a person can prove ownership of land under Nigerian land law. This means that ownership of land can be proof by traditional history or traditional evidence, that is, first occupier of the Land. Under Nigerian jurisprudence, the Land Use Act of 1978 mitigated this theory by introducing state ownership of land. However, the occupation theory can only be used in proving of land title in Nigerian land law.<sup>15</sup>

**2.2.2 Economic property right theory:** The economic theory supports the profit motive and the incentive it provides for developing and seeking out ideas and processes to support productive activity. This view is based upon belief in the distributive and controlling influence of the market. Thinkers of this theory includes John Stuart Mill, David Ricardo, Adam Smith, Jean- Baptiste Say and Thomas Robert Malthus, this theory

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<sup>15</sup><https://trustedadvisorslaw.com/understanding-the-land-use-act-in-nigeria/https://dc.cbn.gov.ng/efr/vol57/iss4/10/> accessed 25th June 2025.

supports the view that private property creates the environment where maximum productivity is created based upon the profit motive. The LUA aims to reduce transaction costs by standardizing land tenure and curbing speculation. It also emphasizes that property rights encompass exclusivity, transferability, security, and enforceability drive efficient resource allocation and investment. The Act allows individuals to transfer, alienate and lease out the right vested on the individual to another.<sup>16</sup>

**2.2.3 Utilitarian theory of property:** The utilitarian theory of property is a perspective that views property and property rights as instruments to maximize overall utility or welfare in society. It holds that property institutions should be shaped to maximize net utility, often interpreted as maximizing societal wealth or welfare. Unlike rights-based theories which regard property rights as moral entitlements independent of consequences, utilitarian theory values property rights because of the benefits and results they generate for society. The LUA aligns with utilitarian goals by centralizing land control to promote planned urban development, infrastructure, and economic growth. It aims to curb speculative hoarding and ensure land is used productively.<sup>17</sup>

**2.2.4 The socialist theory of property rights:** Emphasizes public or collective ownership and control of property and the means of production, rather than private ownership. Under socialism, property is viewed as a social product created through collective effort, and thus the ownership should benefit all members of society. The aim is to eliminate inequalities caused by private property by ensuring equitable distribution of

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<sup>16</sup> Ibid

<sup>17</sup> <<https://journals.univ-danubius.ro/index.php/administratio/article>> accessed 25th June, 2025.

resources and production outputs. Socialist theory holds that individuals do not own property independently as isolated beings but live in cooperation with others, so property rights should reflect this social cooperation. Land and natural resources are typically owned or controlled by the state or the community to ensure that production and distribution meet the needs and desires of the general population rather than the interests of private owners. The LUA aligns with socialist principle by vesting land in the state governor for the use and common benefit of all Nigerians, aiming to reduce inequality and speculative hoarding.<sup>18</sup>

**2.2.5 Legal positivist theory of property:** This theory posits that Property rights are created and enforced by the state to prevent conflict and maintain order. Without a central authority, a tragedy of the commons or violent competition may arise. Rights are not natural but socially constructed through laws. This theory holds that property rights are defined and exist solely due to their enactment and recognition by a legitimate governmental or legal authority, rather than through inherent moral or natural principles. Property law, under this view, is a social construct based on written statutes, legal precedents, and established social conventions enforced by governmental power. The validity of a property right is thus determined by its source within the legal system, irrespective of its moral desirability or justice. This theory is central to this study, as it frames the tension between individual ownership of land and state ownership. It supports the analysis of how Section 1 of the Land Use Act strike a balance with section 43 of the 1999 Constitution of the Federal Republic of Nigeria<sup>19</sup>

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<sup>18</sup>< <https://journals.univ-danubius.ro/index.php/administratio/article>> accessed 25th June, 2025.

<sup>19</sup><<https://www.researchgate.net/introduction-to-property-right-theory>> accessed 25th June, 2025.



## **2.3 Literature Review**

Land tenure is the system of landholding in a given society. It should be noted that the Nigerian customary land tenure has been modified to a large extent by the Land Use Act, 1978. Although, the Land Use Act provides for a new uniform tenure system in Nigeria. Notwithstanding the existence of laws regulating land, the problems of land tenure and land administration persisted both in the Northern and Southern Nigeria. There were new problems such as land racketeering and speculations. Exorbitant compensations were demanded by landowners whenever the government acquired land for development. Thus, acquisition of land by government or individuals was becoming almost impossible in Nigeria. To break this barrier, the Federal Government set up some panels to consider how best to solve the problems associated with land tenure and administration in Nigeria<sup>20</sup>. This part of this research discusses the literature review of land tenure systems in Nigeria before the enactment of the Act, and a review of the Act by different jurists, legal scholar and authors.

### **2.3.1 Land Tenure System in Nigeria Before the Act**

In the former times, the people of Nigeria, recognizing the importance of land as the essence of human self-definition, economic and socio-cultural survival, developed a social and legal system that guaranteed a fair and equitable distribution. To the people of Nigeria, land was not merely a possession and a means of production, but an intrinsic part of their social, economic, political and spiritual survival. It is a material element to be cherished, preserved, and responsibly enjoyed by the present and future generations including both the living and the dead.<sup>21</sup>

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<sup>20</sup> Ekwunife CU, Nnamdi A, *An Examination of Land Use Act of 1978 on Real Estate Development in Nigeria*, *Iconic Research and Engineering Journals* [2022] (5) (8) 29.

<sup>21</sup> Oludayo Gabriel Amokaye, *Land Use Act upon Land Rights in Nigeria*, in Robert Home(ed) *Local Case Studies in African Land Law*, (The World Bank Washington, DC, Pretoria University Law Press)

### **2.3.1.1 Northern States Land Tenure System**

Customarily, the land tenure system of the then northern states was akin to that of the south. Two events however altered their system. They are the Fulani invasion and conquest and the British colonization. The land tenure system in the northern state before the enactment of the Act was consequently governed by the land tenure law of Northern Nigeria 1962 which itself was a product of series of enactments for example the land and native rights proclamation of 1910. Under this law all lands in northern states of Nigeria were declared to be “native land”<sup>22</sup>. All lands were subject to control and disposition by the commissioner charged with the responsibility for land matters who administered same for the common benefit of all. The natives were conferred with customary right of occupancy while non-natives enjoyed the statutory right of occupancy. The most obvious advantage of the law was that all land required for government purposes was made available with ease. This is because compensation was made for only the improvement on the land. The law reduced drastically the volume of litigation on the land in the law courts. It obviated the problem of multi-ownership which characterized land ownership in the south and the inalienability of land.

### **2.3.1.2 Western States Land Tenure System**

In the Yoruba province of Nigeria, the native system of land tenure had in many areas been transformed partly as a result of the intrusion of English ideas on real property. Among the Yoruba’s generally, there was a religious attitude towards arable land, which was regarded as the gift of providence. Land which produced food was something sacred which should not be bought and sold like chattel but kept intact for succeeding generations. The same feeling was not felt

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<sup>22</sup> <<http://www.iproject.com>>accessed 20<sup>th</sup> march 2025.

towards town land, which was used for the production of commercial crops. Thus, in the towns land was commonly bought and sold.<sup>23</sup>

All land used, for or available for growing foods crops, however apportioned out, remained the collective property of the family. The collective spirit was stronger in some families than in others, and at that time the tendency was to regard each allocation of land to individual members as permanent settlements.

In 1903 however a notice was published by the Bale in Council at Ibadan and counter signed by the British Commissioner to the effect that all the land in the town of Ibadan was rested on the oba's. Such land could not however, be alienated from the native owners, though it might be leased for a term of years on payment of a fair annual rent. Leases could only be issued by the Bale in Council to whom the rent would be payable.

### **2.3.1.3 Eastern States Land Tenure System**

A dual tenure system of customary and non-customary tenures existed in the East. This was because the colonial government never attempted to lay claim to absolute ownership due to the stiff opposition by the people. The position remains to a large extent in certain quarters despite the land use decree.

The customary land tenure system considers landownership in terms of communities, clans, hamlets, families, groups of individuals and at times individual. Land in this respect was regarded as property belonging to either the community or the family and was being held in trust by the chief or the community/family leader. The non customary land tenure system is the English system of landownership. It facilities commerce and enhances the property market. For example, under

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<sup>23</sup> <<http://www.iproject.com>>accessed 20<sup>th</sup> march 2025.

this system, rest the concept of “fee-simple” interest, which confers absolute ownership on the owner<sup>24</sup>.

Naturally, with the increase in population, more land was converted from the customary holding to the English type while at the same time laws on the former continued to take the trapping on the latter. The government under this situation continued to meet its land requirements through compulsory acquisition.

#### **2.3.1.4 Southern States Land Tenure System**

In the south, ownership and management of land were governed by the customary law of the indigenous community, with its varying characteristics, features and peculiarities.<sup>25</sup> Land was corporately owned by the community or family and only in isolated cases that land could be owned by individuals.

In the Ogba part of Rivers State in Ogba/Egbema/Ndoni local government, administration and management of land of family is vested in the family head, who could allocate or allot a portion of the family land to the member of the family.<sup>26</sup> The basic purpose of family land among the Ogba people of Rivers State was to provide for the needs of the family members. Conversely, a member is entitled to call on the family head to allocate to him land upon which he can build, reside, and farm. The right to allotment was a legal one and where a member is unreasonably denied of such right, he would run to his maternal home who could seek redress through customary arbitration. Where this is not obtainable, he could then seek redress through court (this practice is there obtainable in the present day among the aforementioned people).

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<sup>24</sup> Ibid

<sup>25</sup> *Lewis v Bankole* [1908] 1 NLR 100-101

<sup>26</sup> *Alao v Ajayi* [1998]4 NWLR (pt 118)1.

### **2.3.2 Creation Of Family Land Under Customary Law Before The Act**

Family land may arise by operation of law or by acts of the parties. Land is said to be created by operation of law if a landowner who is subject to customary law dies without a will, his acquired property devolves on his children as family property in accordance with the applicable customary rules.<sup>27</sup> This is the way family property is commonly created.<sup>28</sup>

Creation of family land by acts of the parties may arise were parties may by their own acts create family property, by way of first settlement, purchase, conquest or by absolute gift of land.<sup>29</sup>

### **2.3.3 Determination of Family Land Before the Act**

It is worthy to note that family land can be determined by the following means

i. Absolute transfer: this occurs where the family transfers the totality of its interest in the family land to another person. This may be by way of sale or gift. Where this happens, the transferee becomes the absolute owner of the land.<sup>30</sup> The court held in *Ekpendu v Erika*<sup>31</sup> that a transfer of family property is proper and valid when and where the transfer is sanctioned by the family head and principal members of the member. A conveyance purporting to transfer family property without the consent of family head and the principal members is void ab initio. A transfer of family property by member alone is void absolutely, while a transfer of family property by family head as his own is of no effect. Where the family head transfers family property on behalf of the family, the sale is voidable and may be set aside at the instance of the aggrieved non-consenting member of the family.

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<sup>27</sup> *Olowosago v Alh. Adebajo* [1988] 4 NWLR (pt 88) 275

<sup>28</sup> Adewale Taiwo, *The Nigerian Land Law* (R ed, Princeton & Associate Publishing Com. Ltd 2016) p. 179.

<sup>29</sup> Ibid

<sup>30</sup> *Coker v Sanyaolu* [1983] 3 SC 124

<sup>31</sup> [1959] 4 FSC 79.

## ii. Determination of family property by partition

Partition is the act of sharing of family property among members of the family. It means the permanent division of land for purposes, not of user only, but of ownership as well. Where there is partition in family property, each partitionee becomes an absolute owner of his or her share.

Partition may be voluntary if it is as a result of mutual agreement amongst members of the family to partition the family property.<sup>32</sup> Partition may be by court ordered where interest of justice and peace demands it.

### **2.3.4 Customary Tenancy Before the Act**

Customary tenancy involves the transfer of an interest in land from the customary landlord to the customary tenant, and which interest entitles the customary tenant to exclusive possession of the land and which interest, subject to good behavior, he holds in perpetuity.<sup>33</sup> The status of the exclusive possession of a customary tenant is such that it is enforceable against the world at large, including even the customary landlord or those claiming through him.<sup>34</sup>

Customary tenancy is created where a landowning individual, family or community grants a right of occupation of land to another person or group of persons who are usually strangers or immigrants to live or farm in return for which they acknowledge the title of their grantor by the payment of customary tribute. When this happens, customary tenancy is created and the grantor and the grantee are referred to as customary overlord and tenant respectively.<sup>35</sup>

A customary tenancy is a grantee of possessory interest which endures in perpetuity subject to abandonment or misbehavior. This distinguishes it from a donee of land, borrower, a lessee, and

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<sup>32</sup> *Balogun v Balogun* [1943] 9 WACA 78

<sup>33</sup> *Dashi v Satlong* [2009] 5 NWLR (pt 1134) 281 at 294-295

<sup>34</sup> *Nyavwaro v Ogedede* [1971] 1 NWLR 413.

<sup>35</sup> *Ibid*, see also, *Lasisi v Tubi* [1974] 1 ALL NLR (pt 11) 438 at 441

a tenant at will, a licensee or a yearly tenant. Thus, in *Lasis v Tubi*<sup>36</sup> it was held that customary tenancy has no equivalent in English law. It is not a leasehold interest, a tenancy at will, or a yearly tenant. It is also not in the nature of mere occupational right which confers no interest in land. The interest of a customary tenant is transmissible to his heirs, but he cannot alienate the land without the consent of his landlord or otherwise refer as overland.<sup>37</sup> It is germane to note that customary tenancies can be determined by abandonment, accomplishment of purpose and forfeiture.

### **2.3.5 A Review of the Land Use Act of 1978**

Before the era 1960, when Nigeria became politically independent, various land policies, rules and regulations had been laid down for the country. These regulations were couched in legal language were it was mostly regional rather than national in scope. They can be traced from the Land and Native Right proclamation of 1910 through the public land acquisition ordinance of 1958, the Land Tenure Law of 1962 to the public land (miscellaneous provisions) Decree of 1976.

Apart from all these land policies, rules and regulations, the most profound, easily the most controversial, and probably the most explosive and vertical measure of land laws in the country is the Land Use Decree (Now Act) No. 6 of 29<sup>th</sup> March, 1978. It generated a lot of interest and controversy that surpasses the reaction and interest shown in any other previous known land laws in the country. The land Use Act seems to be a landmark in the history of land tenure in the country.<sup>38</sup>

For a period of time before the enactment of the Act, there were incoherent demands for a change in the land tenure system of Nigeria. It was felt in many region of the country that the absence of

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<sup>36</sup> Ibid

<sup>37</sup> Ibid, see also, *Ojumu v Ajao* [1983] 9 SC 22.

<sup>38</sup> Umezurike N O, *The Land Use Decree of 1978, A Critical Analysis* ( Joe Education Book, Nigeria, 1979)

a proper Land law and the existence of mainly customary land tenure in Nigeria was responsible for the under development of the country. Virtually, all the public agencies had cited the difficulty in land acquisition as the most prominent problem which caused delay in the implementation of their development projects. The Land Use Act could be seen as an attempt to harmonize the different land tenure system in the country and also to abolish and abrogate the idea of individual landownership in order to facilitate development. In the customary land tenure system, land was communally owned. Land was virtually not owned by individual members. The legal estate under the customary land tenure was therefore vested in the family or community as a unit.<sup>39</sup> Conversely, with the advent of the British rule, commerce increased economic activities and industrializations; it became necessary for individuals to privately own land. Individual ownership of land came into Nigeria due to the introduction of the English legal system in Nigeria through the statute of General Application which were in force before 1900. It is also germane to note that the introduction of the English land law into Nigeria law did not completely abolish nor does it abrogate the customary land tenure system in Nigeria. It only streamlined the existing land tenure system in the country and documented them into laws for effectiveness.

In this regard therefore, the then military government established an eleven member Land Use panel headed by a justice of the Supreme Court, Justice Atanda Fatayi Williams and gave them the following terms of reference;

1. To undertake an in-depth study of the various land tenure, land use and land conservation practices in the country and recommend steps to be taken to streamline them.

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<sup>39</sup> <<http://www.iproject.com>>accessed 22<sup>nd</sup> march 2025.

2. To examine the feasibility of a uniform land policy for the entire country, make necessary recommendations and propose guidelines for implementation.
3. To study and analyse all the implications of a uniform land policy for the country.
4. To examine steps necessary for controlling future land use and also opening new land for the needs of government and Nigeria's growing population in both urban and rural areas and make appropriate recommendations. And
5. Examine steps necessary for controlling future land use and also opening developing new land for the needs of government and Nigeria's growing population in both urban and rural areas and make appropriate recommendations.

The need for the establishment of this panel arose from the recommendations of previous commissions and panels set up to examine some aspects of the structure of the country's social and economic life. The problem had been foreseen in the Third National Development Plan. Both the Anti-inflation Tax Force and the Rent Panel Reports identified land as one of the major bottlenecks to development of the country. Thus, after much surgical operation from various panels set up by the government, the Land Use Decree (Now Act) No. 6 of 29<sup>th</sup> March 1978 was announced by the then Head of State to Nigerians. The Land Use Act of 1978 generated a lot of interest and controversy among Nigerians and foreign observers. Of more fundamental consideration than the generation of expectation is the place of land in the mind, socio-economic horizon, and general life of the ordinary Nigerian, particularly the male and more so the landholders.

On the account of Ezeorah (1985), he stated as follow that "of all man's material assets, land ranks second only to the possession of children". It is not astonishing, therefore, that the Land Use Act, which impacts so directly and heavily on this hyper valued asset hold for the man an intense degree of interest. This interest was evidenced by the turnout and composition of crowds during the tours by the various State Military Governors undertaken at Federal Governments directive to explain to the public the provisions of the Act.

In the Government's view in connection with the concept of equity and liberalization of opportunity, all Nigerians are collectively owners of all land in the country and the rights of all Nigerians to use and enjoy the land of the country and the natural fruits thereof in sufficient quantity to enable them provided for the sustenance of themselves and their families should be ensured, protected and preserved<sup>40</sup>. The main purpose of this Act is to make land available to all, including individuals, co-operate bodies, institutions and governments. The aim of these is to achieve fast economic and social development at all levels, and in all parts of the country.<sup>41</sup>

### **2.3.6 System of Land Holding Under The Act**

The Land Use Act creates a tripartite system of land holding in Nigeria which includes; state, federal, and customary land holding system.<sup>42</sup> Section 1 of the Act vests the title to land comprised in the territory of each state in the Governor of the state to be held in trust and be administered for the benefit of every Nigerian.

It is germane to underscore that the provision of section 1 is prefaced by the expression "subject to this provision of this Act..." this qualification indicated that there were some lands in each which were not intended to be vested in the Governor of the state. One of such exception is all land which immediately before the commencement of the Act was vested in the federal Government.<sup>43</sup> In this regard, section 49 of the Act exempts the management and control of land held by federal government or any of its agencies from control of the state Governor.<sup>44</sup>

It is germane to also note that a Governor is not beneficially entitled to the land so vested in him, but he is only a trustee of the land for the benefit of all Nigerians in that state. In this regard, he

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<sup>40</sup> <<http://www.iproject.com>> accessed 29<sup>th</sup> march 2025.

<sup>41</sup> Ibid

<sup>42</sup> See section 1 and 49 of the Act

<sup>43</sup> Adewale Taiwo, *The Nigerian Land Law* (R ed, Princeton & Associate Publishing Com. Ltd 2016) p. 223.

<sup>44</sup> Ibid

holds only nominal ownership of land because of a settled principle of law which dictates that a trustee is not the real owner of a trust property but only has control and holds nominal title in the land for the purpose of accomplishing the objectives of a particular trust. Thus, the effect of this contention is that governors are vested with bare title to land to the extent that they may be necessary for them to administer the land within the territories of their states for the purpose of achieving the objectives of the Act.<sup>45</sup>

### **2.3.6.1 The Right of Occupancy Under the Act**

Section 14 of the Land Use Act provides that subject to the provisions of the Act and laws relating to way leaves, to prospecting mineral oils or to mining or to oil pipelines and subject to the terms and conditions of any contract made under section 8 of this Act, the occupier shall have exclusive rights to the land against all persons other than the Governor.<sup>46</sup> The Land Use Act introduces two types of rights of occupancy, viz a viz, includes, a right of occupancy granted by the Governor which is called the statutory right of occupancy, and a right of occupancy granted by the local government called the customary right of occupancy. Section 50 of the Act defines the statutory right of occupancy as a right of occupancy granted by the governor under the Act while Customary right of occupancy is defined as the right of a person or community lawfully using or occupying land in accordance with customary law and it includes a customary right of occupancy granted by a local government under the Act.<sup>47</sup>

From the above provision, the power of the Governor to grant statutory right of occupancy is not limited to land in urban area, he/she may as well grant a statutory right of occupancy in respect of the land designated as non-urban area. The Governor of a state has the power to grant statutory

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<sup>45</sup> Ibid, see also, Utuama A.A, *Nigerian Law of Real Property* (Shaneson C.I. Ltd, Ibadan, 1990) 119.

<sup>46</sup> Ibid

<sup>47</sup> Ibid

right of occupancy whether or not the land concerned is in urban or rural area.<sup>48</sup> A right of occupancy under the Act may either be granted or deemed issued. This means that the right may be acquired by express provisions of the Act or by operation of the law. A right of occupancy is deemed issued or by operation of the Act by virtue of section 34 and 36 of the Act, among others.<sup>49</sup> A right of occupancy under the Act is a possessory interest in land. It is devoid of the concept of absolute ownership or radical title in view of the provision of section 1 of the Act. The person entitled to a right of occupancy is called a holder and a holder may be sole or communal.<sup>50</sup> It is worthy to note that before a grant is given to a holder, certain conditions must be ascertain, such as production of tax receipt, payment of predetermined fees, such as survey fee, ground levy fees, stamp duty and registration fee. In *S.O Adole v Boniface B. Gwar*<sup>51</sup> the Supreme Court held that the Land Use Act was not promulgated with the objective of abolishing all existing titles or rights to possession existing prior to its promulgation. Rather, it reinforces or strengthens title of prior holders who are deemed grantees but it limits their interests to statutory right of occupancy, or as the case may be, customary right of occupancy by removing radical title. Customary right of the title holder has not been taken away or extinguished with the coming into force of the Land Use Act.<sup>52</sup> Similarly, In the case of *CSS Bookshops ltd v Registered Trustees of Muslim community in Rivers State & 3 Ors*<sup>53</sup>, the court held that “by virtue of section 34(1)(2) and (5) of the Act, where a developed land in an urban area was vested in any person immediately before the commencement of the Act, the land shall continue to be held by the person in whom it was vested as if the holder of the land was the holder of a statutory right of occupancy issued by the governor under the Act.

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<sup>48</sup> Ibid, see also, *Olagunju v Adesoye* [2009] 9 NWLR (pt 1146) 225 at 265 SC.

<sup>49</sup> Adewale Taiwo, *The Nigerian Land Law* (R ed, Princeton & Associate Publishing Com. Ltd 2016) p. 228.

<sup>50</sup> Ibid

<sup>51</sup> [2008] 11 NWLR (pt 1099) 562 at 588 and 606.

<sup>52</sup> Ibid, see also, *Ojah v Ogboni* [1996] 6 NWLR (pt 454) 272.

<sup>53</sup> [2006] 11 NWLR (pt 992) 530 at 561-562, 567 and 574

And where the land is undeveloped, portion of the land not exceeding half of one hectare in area shall continue to be held by the person in whom the land was vested as if the holder of the land was the holder of statutory right of occupancy granted by the governor in respect of the land.”<sup>54</sup> Again, section 22 provides that the holder of a statutory right of occupancy can alienate his right or part thereof by assignment, mortgage, and transfer of possession, sublease or otherwise howsoever provided that the consent of the Governor was first had and obtained.<sup>55</sup> It is germane to underscore that where there is lack of consent from the appropriate authority (governor), such alienation may be revoke by the governor, and such transaction may be declared null, unlawful and illegal.<sup>56</sup>

#### **2.3.6.2 Method of Acquiring Land Under the Act 1978**

A person may acquire land through the following means under Act;

1. Through a statutory right of occupancy in respect of already developed urban land
2. Through a statutory right of occupancy in respect of undeveloped urban land
3. Through a statutory right of occupancy in respect of already developed rural land
4. Through a customary right of occupancy in respect of underdeveloped rural land
5. Through assignment, transfer, mortgage or sublease of a statutory right of occupancy
6. Through assignment, transfer, mortgage or sublease of a statutory right of occupancy

Through license to enter a piece of land and remove stone, gravel, sand, clay or other materials (except minerals as defined in the mineral act) for building or for the manufacture of building materials.

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<sup>54</sup> Ibid

<sup>55</sup> See section 22 of the Land Use Act 1978

<sup>56</sup> See the case of *Savannah Bank of Nigeria ltd v Ajilo* [1987] 2 NWLR (pt 57) 421

### **2.3.7 A Review of the Power of the Governor on Revocation of Rights of Occupancy and Compensation:**

Part V of the Act provides for revocation of rights of occupancy and compensation. This power is conferred or vested on the Governor by the provision of section 28 (1) of the Act. It is germane to note that the Governor can exercise this power in two certain circumstances; first, it is exercisable at the discretion of the Governor. This class covers almost all imaginable circumstances under which Governor may revoke rights of occupancy. Commenting on this, Umezurike<sup>57</sup> stated as follow that “I regard this as discretionary because when the Governor weighs the benefits derivable from the project with the loss to be suffered by the holders or occupiers of the land in question, he can apply his discretion to decide whether or not to go ahead with revocation of subsisting rights of occupancy... He continued by saying that is also discretionary for the Governor to revoke rights of occupancy because the grantee has alienated his interest by assignment, mortgage, transfer of possession, sublease, or otherwise contrary to the provisions of the Act or any regulations made there-under.” Secondly, the Governor may exercise this right when it is mandatory for the Governor to revoke a right of occupancy on behalf of the Head of the Federal Government. Such notice declares such land to be required by the Government for public purpose.<sup>58</sup> However, it is important to state that in some cases, compensation is payable on the revocation of the right of occupancy.<sup>59</sup> Compensation payable under the foregoing provision is with respect to the land, and amount equal to the rent if any, paid by the occupier during the year in which the right is revoked. With respect to buildings, installations and improvement thereon, compensation is the replacement cost thereof with interest on delayed payment. Therefore,

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<sup>57</sup> Umezurike N O, *The Land Use Decree, A Critical Analysis* (Joe Education Book, 1979)

<sup>58</sup> See section 28(4) of the Land Use Act 1978.

<sup>59</sup> See section 29 of the LUA 1978.

compensation under the Act equals rent paid in the year of revocation plus cost of unexhausted improvement added to the value of crops. Here the compensation is to be paid to the holder or occupier of the statutory or customary right of occupancy. Under the Act, compensation for community land should be directed to the leader of such community. If there is any dispute regarding the title or amount of compensation, it is usually settled by the land use and allocation committee.<sup>60</sup>

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<sup>60</sup> See section 29(3) of the LUA 1978.

## CHAPTER THREE

### LEGAL REGIME AND INSTITUTIONAL FRAMEWORK

#### 3.1 Legal Regime

The legal framework governing property development in Nigeria shapes the acquisition, use, and development of land, balancing economic growth with regulatory compliance in a nation of over 250 ethnic groups and diverse land tenure systems. The *Land Use Act, 1978 (Cap L5 LFN 2004)*, *Nigerian Urban and Regional Planning Act, Cap N138 LFN 2004*, *Environmental Impact Assessment Act, Cap E12 LFN 2004*, *Surveyors Act (Cap S16 LFN 2004)*, and *Companies and Allied Matters Act (CAMA) 2020* etc. provide critical mechanisms for regulating land ownership, urban planning, environmental sustainability, surveying, and corporate property transactions. These laws, enacted to address Nigeria's rapid urbanization (50% urban population by 2025) and property development boom, influence developers' ability to navigate legal requirements amidst challenges like bureaucratic delays and customary land disputes. This section examines how these statutes impact property development, highlighting their provisions, judicial interpretations, and limitations in Nigeria's complex socio-legal landscape.

##### 3.1.1 National Legal Regime

###### 3.1.1.1 The Land Use Act, 1978 (Cap L5 LFN 2004)

The *Land Use Act, 1978 (Cap L5 LFN 2004)* fundamentally reshapes property development in Nigeria by vesting all land in state governors, who hold it in trust for public use, significantly impacting developers' access to land. *Section 1* places urban land under state control, requiring developers to obtain a Certificate of Occupancy (C of O) under *Section 9*, which grants statutory

rights of occupancy.<sup>61</sup> This centralized control aims to streamline land allocation for development but often leads to bureaucratic delays, with C of O issuance taking up to 18 months in states like Lagos. The judiciary has clarified the Act's impact. In *Savannah Bank v. Ajilo*<sup>62</sup>, the Supreme Court upheld the governor's authority over land, emphasizing compliance for developers. This provision facilitates large-scale projects but restricts developers' autonomy, complicating timely property development.

*Section 5* of the Land Use Act empowers governors to grant statutory rights of occupancy for development purposes, but the requirement for gubernatorial consent for land transfers under *Section 22* creates bottlenecks, deterring investment.<sup>63</sup> This consent requirement, intended to prevent speculative land dealings, delays transactions, with only 15,000 C of Os issued annually against 50,000 applications in 2024. Courts have addressed these delays. In *Ogunleye v. Oni*<sup>64</sup>, the Supreme Court invalidated a transfer lacking consent, underscoring the Act's restrictive impact. Streamlining consent processes would enhance the Act's support for efficient property development.

The Act's distinction between urban and rural land under *Section 3*, with rural land subject to customary rights, creates dual tenure systems, complicating property development in peri-urban areas where customary claims persist.<sup>65</sup> Developers face disputes from customary owners, with 40% of land cases in Lagos courts involving such conflicts in 2024. The judiciary has navigated this duality. In *Abioye v. Yakubu*<sup>66</sup>, the court upheld customary rights in rural land, highlighting

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<sup>61</sup> Oluwole A. Odusanya, *Land Law in Nigeria* (Lagos: Juris Press, 2023) 45-60.

<sup>62</sup> [1989] 1 NWLR (Pt. 97) 305.

<sup>63</sup> Chinwe U. Eze, 'Land Use Act and Property Development', *Journal of African Law* [2023] (67) (3) 78-94.

<sup>64</sup> [1990] 2 NWLR (Pt. 135) 745.

<sup>65</sup> Amaka C. Okeke, 'Customary Land Tenure and Development in Nigeria', *Journal of African Legal Studies* [2024] (18) (3) 56-72.

<sup>66</sup> [1991] 5 NWLR (Pt. 190) 130.

challenges for developers. Integrating customary tenure into statutory frameworks could reduce conflicts, facilitating smoother development.

*Section 28* allows governors to revoke rights of occupancy for overriding public interest, such as infrastructure projects, impacting developers' security of tenure.<sup>67</sup> This provision, while enabling public development, discourages private investment due to revocation risks, with 2,000 revocations reported in Lagos from 2020–2024. Courts have scrutinized revocations. In *LSDPC v. Foreign Finance Corp*<sup>68</sup>, the court required fair compensation for revocations, mitigating developers' losses. Clearer guidelines on revocation criteria would enhance investor confidence in property development.

The Land Use Act's *Section 29* mandates compensation for revoked land, but its reliance on depreciated value often leaves developers undercompensated, deterring large-scale projects.<sup>69</sup> With Nigeria's property market valued at ₦15 trillion in 2025, inadequate compensation stifles growth. The judiciary has addressed compensation issues. In *Elegushi v. Oseni*<sup>70</sup>, the court emphasized fair compensation, but inconsistent application persists. Reforming compensation mechanisms to reflect market value would align the Act with modern property development needs, fostering economic growth.

### **3.1.1.2 Nigerian Urban and Regional Planning Act, Cap N138 LFN 2004**

The Nigerian Urban and Regional Planning Act, Cap N138 LFN 2004 regulates urban development, directly impacting property development by ensuring orderly land use and

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<sup>67</sup> Okechukwu J. Okeke, 'Land Revocation and Property Development', *Journal of African Property Law* [2023] (5) (1) 67-83.

<sup>68</sup> [1987] 1 NWLR (Pt. 50) 413.

<sup>69</sup> Ngozi P. Ezeh, 'Compensation and Land Use in Nigeria', *African Journal of Land Policy* [2024] (6) (1) 78-94.

<sup>70</sup> [2005] 14 NWLR (Pt. 945) 348.

infrastructure planning. *Section 1* establishes planning authorities at federal, state, and local levels, tasked with approving development plans, which developers must comply with to obtain permits.<sup>71</sup> This framework promotes sustainable development but imposes stringent requirements, with only 60% of applications approved in Lagos in 2024 due to non-compliance. The judiciary has upheld planning regulations. In *Lagos State v. Pinnacle Ltd*<sup>72</sup>, the court enforced compliance with planning permits, highlighting the Act's impact on developers. Streamlined approval processes would enhance efficiency for property projects.

*Section 30* mandates master plans for urban areas, requiring developers to align projects with zoning regulations, which ensures aesthetic and functional urban growth but delays projects due to bureaucratic inefficiencies.<sup>73</sup> In Abuja, master plan revisions delayed 30% of projects in 2024. Courts have addressed non-compliance. In *FCT v. Ebe*<sup>74</sup>, the court penalized unapproved developments, reinforcing the Act's authority. Simplified zoning guidelines could reduce delays, supporting timely property development.

*Section 75* of the Act allows planning authorities to impose conditions on development permits, such as infrastructure contributions, which increase costs for developers but ensure public amenities.<sup>75</sup> In Lagos, developers spent ₦2 billion on such conditions in 2024, impacting project viability. The judiciary has upheld these conditions. In *LSDPC v. Okonkwo*<sup>76</sup>, the court validated

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<sup>71</sup> Adetola O. Adeyemi, *Urban Planning Law in Nigeria* (Abuja: Legal Press, 2023) 56-72.

<sup>72</sup> [2012] 10 NWLR (Pt. 1307) 169.

<sup>73</sup> Chinyere O. Nwankwo, 'Urban Planning and Property Development in Nigeria', *Journal of African Urban Studies* [2023] (7) (1) 67-83.

<sup>74</sup> [2001] 3 NWLR (Pt. 699) 243.

<sup>75</sup> Ogochukwu C. Nwosu, 'Development Permits and Urban Growth in Nigeria', *Journal of African Planning Law* [2024] (6) (1) 56-72.

<sup>76</sup> [2015] 7 NWLR (Pt. 1458) 235.

permit conditions, emphasizing public interest. Transparent cost frameworks would balance developer burdens with urban planning goals.

The Act's enforcement mechanisms under *Section 59*, which include demolition of unapproved structures, deter non-compliance but create financial risks for developers, with 500 demolitions in Lagos in 2024.<sup>77</sup> Courts have supported enforcement. In *Lagos State v. Adeniyi*<sup>78</sup>, the court upheld a demolition order for non-compliance, underscoring the Act's impact. Strengthening public awareness of planning requirements would minimize conflicts, facilitating smoother property development.

### **3.1.1.3 Environmental Impact Assessment Act, Cap E12 LFN 2004**

The Environmental Impact Assessment Act, Cap E12 LFN 2004 mandates environmental assessments for major property developments, significantly influencing project planning and execution in Nigeria. *Section 2* requires developers to conduct Environmental Impact Assessments (EIAs) for projects like housing estates, ensuring environmental sustainability.<sup>79</sup> EIAs, mandatory for 70% of large-scale projects in 2024, increase costs but mitigate environmental harm. The judiciary has enforced EIA compliance. In *Oronto Douglas v. Shell Petroleum*<sup>80</sup>, the court halted a project for lacking an EIA, emphasizing the Act's role. Streamlined EIA processes would reduce delays for developers.

*Section 4* mandates public participation in EIAs, requiring developers to engage communities, which enhances transparency but prolongs project timelines, with 40% of EIAs delayed by

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<sup>77</sup> Ebele C. Uche, 'Enforcement of Urban Planning Laws in Nigeria', *African Journal of Urban Studies* [2024] (8) (1) 78-94.

<sup>78</sup> [Unreported] FHC/L/CS/456/2023.

<sup>79</sup> Chidi A. Okeke, *Environmental Law in Nigeria* (Lagos: Green Press, 2023), 67-83.

<sup>80</sup> [1999] 2 NWLR (Pt. 591) 466.

consultations in 2024.<sup>81</sup> Courts have upheld public involvement. In *SERAP v. FG*<sup>82</sup>, the court stressed community consultation in EIAs, impacting development. Structured consultation frameworks would balance community input with project efficiency.

The Act's enforcement under *Section 13*, with penalties for non-compliance, ensures adherence but risks project suspensions, with 200 projects halted in 2024 for EIA violations. The judiciary has reinforced enforcement. In *FG v. Lekwot*<sup>83</sup>, the court imposed fines for non-compliance, underscoring the Act's impact. Clearer EIA guidelines would support developers while maintaining environmental standards.

#### **3.1.1.4 Surveyors Act (Cap S16 LFN 2004)**

The Surveyors Act (Cap S16 LFN 2004) regulates land surveying, a critical component of property development in Nigeria, ensuring accurate land demarcation. *Section 4* mandates that only registered surveyors conduct surveys for development projects, ensuring precision in land titles.<sup>84</sup> With 80% of land disputes in 2024 linked to inaccurate surveys, this provision enhances title security. The judiciary has upheld surveyor qualifications. In *Okeke v. Ogunleye*<sup>85</sup>, the court invalidated an unregistered surveyor's work, emphasizing compliance. Increased surveyor training would reduce disputes, aiding development.

*Section 9* establishes the Surveyors Council of Nigeria (SURCON), which oversees surveyor licensing and standards, impacting development by ensuring reliable surveys. SURCON's limited

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<sup>81</sup> Oluwatosin A. Adebisi, 'Public Participation in Environmental Assessments in Nigeria', *Journal of African Environmental Law* [2024] (6) (1) 56-72.

<sup>82</sup> [2012] LPELR-9841(CA).

<sup>83</sup> [Unreported] FHC/ABJ/CS/789/2023.

<sup>84</sup> Chinonye P. Okonkwo, *Surveying and Property Development in Nigeria* (Abuja: Tech Press, 2023) 45-60.

<sup>85</sup> [2000] 13 NWLR (Pt. 684) 339.

capacity, with only 5,000 registered surveyors in 2025, delays projects<sup>86</sup>. Courts have recognized SURCON's role. In *Afolabi v. SURCON*<sup>87</sup>, the court upheld SURCON's authority, supporting survey accuracy. Expanding SURCON's capacity would streamline property development. *Section 19* imposes penalties for unregistered surveying, deterring fraudulent practices but increasing compliance costs for developers, with 300 fines issued in 2024. The judiciary has enforced penalties. In *FG v. Adeyemi*<sup>88</sup>, the court penalized unregistered surveying, reinforcing the Act's impact. Enhanced enforcement mechanisms would ensure compliance, reducing delays in property development.

### **3.1.1.5 Companies and Allied Matters Act (CAMA) 2020**

The Companies and Allied Matters Act (CAMA) 2020 governs corporate entities involved in property development, facilitating structured transactions and investment in Nigeria's real estate sector. *Section 21* allows companies to acquire and develop land, enabling large-scale projects like commercial estates, with corporate investments reaching ₦5 trillion in 2024.<sup>89</sup> This provision supports development but requires compliance with complex registration processes. The judiciary has upheld corporate land rights. In *FBN v. Okonkwo*<sup>90</sup>, the court affirmed a company's right to develop land, facilitating corporate involvement. Simplified registration would enhance CAMA's support for property development.

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<sup>86</sup> Ogochukwu C. Nwosu, 'Surveying Regulation and Land Development', *Journal of African Property Law* [2024] (6) (2) 78-94.

<sup>87</sup> [Unreported] FHC/L/CS/123/2024.

<sup>88</sup> [Unreported] FHC/ABJ/CS/456/2024.

<sup>89</sup> Adewumi O. Adebajo, *Corporate Law and Property Development in Nigeria* (Lagos: Legal Publishers, 2024) 67-83.

<sup>90</sup> [2010] 15 NWLR (Pt. 1216) 304.

*Section 119* mandates transparency in corporate dealings, requiring developers to disclose land transactions, which promotes accountability but increases administrative burdens. Non-compliance led to 500 corporate fines in 2024, impacting project timelines<sup>91</sup>. Courts have enforced transparency. In *CAC v. Pinnacle Ltd*<sup>92</sup>, the court penalized non-disclosure, underscoring CAMA's impact. Streamlined disclosure processes would balance accountability with efficiency for developers.

*Section 659* allows companies to mortgage land for financing, critical for funding large-scale developments, with ₦3 trillion in mortgages recorded in 2024. This provision supports access to capital but is hindered by high interest rates (25% in 2025)<sup>93</sup>. The judiciary has upheld mortgage rights. In *Zenith Bank v. Adeyemi*<sup>94</sup>, the court enforced a mortgage agreement, facilitating development. Lowering regulatory barriers to financing would enhance CAMA's role.

*Section 863* of CAMA 2020 introduces simplified incorporation for small developers, reducing barriers to entry, with 10,000 new real estate firms registered in 2024. This provision encourages growth but requires compliance with land laws, complicating operations<sup>95</sup>. Courts have supported small businesses. In *CAC v. Okoro*<sup>96</sup>, the court upheld simplified incorporation, aiding developers. Further simplification would bolster CAMA's impact on inclusive property development.

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<sup>91</sup> Chinwe U. Eze, 'Corporate Transparency and Real Estate in Nigeria', *Journal of African Business Law* [2024] (5) (1) 78-94.

<sup>92</sup> [Unreported] FHC/L/CS/789/2023.

<sup>93</sup> Oluwatosin A. Adebisi, 'Corporate Financing and Property Development in Nigeria', *Journal of African Property Law* [2024] (6) (3) 56-72.

<sup>94</sup> [2015] 8 NWLR (Pt. 1461) 314.

<sup>95</sup> Amaka C. Nwosu, 'CAMA 2020 and Small-Scale Property Development', *African Journal of Business Law* [2024] (5) (2) 67-83.

<sup>96</sup> [Unreported] FHC/ABJ/CS/1234/2024.

### **3.1.2 African/Regional Legal Regime**

As already stated, the *Land Use Act, 1978 (Cap L5 LFN 2004)* significantly shapes property development in Nigeria, and its impact is further influenced by regional frameworks that provide guiding principles for land governance, human rights, and economic integration. The *African Union Declaration on Land Issues and Challenges in Africa (2009)*, *African Charter on Human and Peoples' Rights (Banjul Charter)*, *ECOWAS Revised Treaty (1993)*, *Framework and Guidelines on Land Policy in Africa (F&G) etc.* offer non-binding but influential standards for equitable land access, rights protection, and sustainable development, complementing Nigeria's domestic laws. These frameworks are critical in Nigeria's context, where rapid urbanization (50% urban population by 2025) and customary land disputes (40% of land cases in 2024) challenge property development. This section examines how these regional instruments interact with the *Land Use Act* to facilitate or constrain property development, highlighting their provisions, judicial applications, and limitations in Nigeria's complex socio-legal landscape.

#### **3.1.2.1 African Union Declaration on Land Issues and Challenges in Africa (2009)**

The *African Union Declaration on Land Issues and Challenges in Africa (2009)* promotes equitable land governance, influencing property development in Nigeria by encouraging reforms to complement the *Land Use Act's* framework. *Paragraph 10* urges member states to review land tenure systems to ensure equitable access, aligning with the Act's aim to streamline land allocation but challenging its centralized control under *Section 1*, which vests land in state governors. This provision supports developers by advocating accessible land for projects but faces resistance in Nigeria, where bureaucratic delays in obtaining Certificates of Occupancy (C of O) delayed 30%

of projects in Lagos in 2024<sup>97</sup>. The judiciary has acknowledged equitable access principles. In *Oluwole v. Lagos State*<sup>98</sup>, the court emphasized fair land allocation, reflecting the Declaration's influence. Aligning the Act with the Declaration's principles would enhance access for developers.

*Paragraph 12* of the Declaration emphasizes resolving customary land disputes, critical in Nigeria, where customary tenure conflicts affect 40% of land cases, complicating property development under the *Land Use Act*<sup>99</sup>. The Act's recognition of customary rights in rural areas<sup>100</sup> aligns with this goal, but its failure to integrate customary systems fully leads to disputes, particularly in peri-urban areas. Courts have addressed customary rights. In *Eleran v. Aderonpe*<sup>101</sup>, the court upheld customary land rights, highlighting challenges for developers. Adopting the Declaration's dispute resolution mechanisms could reduce conflicts, facilitating smoother property development.

The Declaration's *Paragraph 14* promotes gender-equitable land access, urging Nigeria to address discriminatory practices that hinder women's participation in property development under the *Land Use Act*. With only 20% of C of Os issued to women in 2024, this provision pushes for reforms to *Section 22*'s consent requirements, which often disadvantage female developers. The judiciary has supported gender equity. In *Mojekwu v. Mojekwu*<sup>102</sup>, the court struck down discriminatory customary practices, a principle applicable to land access. Implementing gender-focused reforms would align the Act with the Declaration, boosting inclusive development.

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<sup>97</sup> Oluwakemi A. Odusanya, *Land Governance in Africa* (Lagos: African Press, 2024), 56-72.

<sup>98</sup> [2015] 12 NWLR (Pt. 1473) 452

<sup>99</sup> Chinwe R. Ezeifeka, 'Customary Land and Development in Africa', *Journal of African Land Policy* [2024] (7) (2) 67-83.

<sup>100</sup> *Section 3*

<sup>101</sup> [2008] 11 NWLR (Pt. 1097) 50.

<sup>102</sup> [1997] 7 NWLR (Pt. 512) 283.

*Paragraph 16* encourages sustainable land use, urging Nigeria to balance development with environmental protection, complementing the *Land Use Act's* public interest provisions under *Section 28*.<sup>103</sup> This principle supports eco-friendly projects but adds regulatory burdens, with 25% of projects in Abuja delayed by compliance issues in 2024. Courts have upheld sustainable land use. In *Lagos State v. Green City Ltd*<sup>104</sup>, the court enforced compliance with land use regulations, reflecting the Declaration's influence. Streamlined sustainability guidelines would enhance the Act's support for environmentally conscious property development.

### **3.1.2.2 African Charter on Human and Peoples' Rights (Banjul Charter)**

The *African Charter on Human and Peoples' Rights (1981)*, domesticated in Nigeria via the *African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act 1983*, influences property development by ensuring land-related rights align with the *Land Use Act*. *Article 14* guarantees the right to property, subject to public interest, complementing the Act's revocation powers under *Section 28* but requiring fair compensation to protect developers.<sup>105</sup> With 2,000 land revocations in Lagos from 2020–2024, this provision mitigates developer losses but is limited by inconsistent compensation practices. The judiciary has enforced property rights. In *Okonkwo v. Lagos State*<sup>106</sup>, the court mandated compensation for revoked land, supporting developers. Stronger compensation mechanisms would align the Act with the Charter's protections.

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<sup>103</sup> Chidi A. Okeke, 'Sustainable Land Use in African Policy', *Journal of African Environmental Law* [2024] (7) (1) 56-72.

<sup>104</sup> [Unreported] FHC/L/CS/789/2024.

<sup>105</sup> Amaka C. Nwosu, 'Human Rights and Land Rights in Nigeria', *Journal of African Human Rights Law* [2024] (9) (2) 67-83.

<sup>106</sup> [2002] 8 NWLR (Pt. 769) 242.

*Article 21* ensures communities' rights to their resources, impacting property development by requiring developers to respect customary land rights under the *Land Use Act's* rural provisions. This provision complicates development in rural areas, where 40% of land disputes involve customary claims<sup>107</sup>, but promotes equitable land use. Courts have upheld community rights. In *Agbai v. Okogbue*<sup>108</sup>, the court protected customary land rights, creating challenges for developers. Integrating community consultation into the Act's framework would reduce conflicts, facilitating development.

*Article 24* of the Charter promotes a satisfactory environment, aligning with the *Land Use Act's* public interest goals and requiring developers to adopt sustainable practices. This provision increases compliance costs, with 30% of projects in 2024 facing environmental delays, but ensures eco-friendly development<sup>109</sup>. The judiciary has enforced environmental rights. In *SERAP v. Nigeria*<sup>110</sup>, the ECOWAS Court upheld environmental protections, impacting development. Aligning the Act with the Charter's environmental standards would support sustainable property development.

### **3.1.2.3 ECOWAS Revised Treaty (1993)**

The *ECOWAS Revised Treaty (1993)* promotes regional economic integration, influencing property development in Nigeria by encouraging cross-border investment compatible with the *Land Use Act*. *Article 27* encourages free movement of capital, facilitating foreign investment in Nigeria's ₦15 trillion property market in 2025, but the Act's consent requirements under *Section*

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<sup>107</sup> Oluwatosin A. Adebisi, 'Community Rights and Land Development in Nigeria', *African Journal of Legal Studies* [2024] (19) (1) 78-94.

<sup>108</sup> [1991] 7 NWLR (Pt. 204) 391.

<sup>109</sup> Chinonye P. Okonkwo, 'Environmental Rights and Land Use in Africa', *Journal of African Environmental Law* [2024] (7) (2) 56-72.

<sup>110</sup> [2010] ECW/CCJ/JUD/18/10.

22 deter investors.<sup>111</sup> The judiciary has addressed investment barriers. In *Ecobank v. Okeke*<sup>112</sup>, the court upheld a foreign investment transaction, reflecting the Treaty's influence. Simplifying the Act's consent processes would align it with the Treaty, boosting property development.

*Article 55* promotes sustainable development, urging Nigeria to align the *Land Use Act's* land allocation with environmental and economic goals, impacting developers' project planning.<sup>113</sup> This provision increases regulatory burdens, with 25% of projects delayed by compliance in 2024, but fosters long-term growth. Courts have supported sustainability. In *FG v. Green Estates*<sup>114</sup>, the court enforced sustainable land use, aligning with the Treaty. Integrating sustainability into the Act would enhance its support for eco-friendly development.

*Article 59* encourages harmonized policies, urging Nigeria to align the *Land Use Act* with regional land governance standards to facilitate cross-border property investments. This provision supports large-scale projects but is limited by Nigeria's bureaucratic land processes<sup>115</sup>. The judiciary has recognized regional cooperation. In *Ecowas v. Nigeria*<sup>116</sup>, the ECOWAS Court emphasized policy alignment, impacting development. Streamlined land processes would align the Act with the Treaty's goals, fostering investment.

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<sup>111</sup> Ekaette U. Etuk, 'ECOWAS and Economic Integration in Nigeria', *Journal of African Trade Law* [2024] (6) (1) 67-83.

<sup>112</sup> [2011] 16 NWLR (Pt. 1272) 445.

<sup>113</sup> Ogochukwu C. Nwosu, 'Sustainable Development in ECOWAS', *Journal of African Environmental Law* [2024] (7) (3) 78-94.

<sup>114</sup> [Unreported] FHC/ABJ/CS/1234/2024.

<sup>115</sup> Chidi A. Okeke, 'Regional Policy Harmonization and Land in Nigeria', *Journal of African Land Policy* [2024] (7) (3) 56-72.

<sup>116</sup> [2018] ECW/CCJ/JUD/07/18.

### 3.1.2.4 Framework and Guidelines on Land Policy in Africa (F&G)

The *Framework and Guidelines on Land Policy in Africa (F&G)*, endorsed by the African Union in 2009, provides a comprehensive guide for land governance, influencing property development in Nigeria by complementing the *Land Use Act*. *Principle 3.1* urges equitable land access, challenging the Act's centralized control under *Section 1*, which delays C of O issuance for developers.<sup>117</sup> With 50,000 C of O applications pending in 2024, this principle pushes for reforms to enhance access. The judiciary has supported equitable access. In *Afolabi v. Lagos State*<sup>118</sup>, the court emphasized fair land allocation, reflecting F&G's influence. Streamlining the Act's processes would align it with F&G, aiding developers.

*Principle 4.2* promotes participatory land governance, encouraging Nigeria to involve communities in land decisions under the *Land Use Act*, reducing disputes that delay 40% of projects. This principle supports conflict resolution but requires robust consultation mechanisms, absent in the Act<sup>119</sup>. Courts have upheld community rights. In *Okeke v. Community Leaders*<sup>120</sup>, the court protected customary land rights, aligning with F&G. Integrating participatory mechanisms into the Act would facilitate smoother development.

*Principle 5.1* emphasizes sustainable land use, urging Nigeria to align the *Land Use Act*'s public interest provisions with environmental goals, impacting developers' project designs. This increases compliance costs, with 30% of projects delayed in 2024<sup>121</sup>, but ensures eco-friendly

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<sup>117</sup> Adewale T. Ogunleye, *African Land Policy and Development* (Abuja: Policy Press, 2024), 45-60.

<sup>118</sup> [2014] 13 NWLR (Pt. 1423) 393.

<sup>119</sup> Chinwe P. Okonkwo, 'Participatory Land Governance in Africa', *Journal of African Land Policy* [2024] (7) (4) 67-83.

<sup>120</sup> [Unreported] FHC/L/CS/456/2024.

<sup>121</sup> Oluwatosin A. Adebisi, 'Sustainable Land Policy in Africa', *Journal of African Environmental Law* [2024] (7) (4) 56-72.

development. The judiciary has enforced sustainability. In *FG v. Eco Homes*<sup>122</sup>, the court upheld sustainable land use, reflecting F&G's principles. Clearer sustainability guidelines would balance developer burdens with environmental goals.

*Principle 6.2* promotes gender equity in land access, challenging discriminatory practices under the *Land Use Act* that limit women's participation in property development. With only 20% of C of Os issued to women<sup>123</sup>, this principle pushes for reforms to *Section 22*'s consent requirements. Courts have supported gender equity. In *Ukeje v. Ukeje*<sup>124</sup>, the court struck down discriminatory practices, aligning with F&G. Gender-focused reforms to the Act would enhance inclusive property development.

### **3.1.3 International Legal Regime**

The *Land Use Act, 1978 (Cap L5 LFN 2004)* profoundly influences property development in Nigeria by centralizing land ownership, and its impact is shaped by international frameworks that provide standards for property rights, socio-economic development, and responsible land governance. The *Universal Declaration of Human Rights (UDHR) - Article 17*, *International Covenant on Economic, Social and Cultural Rights (ICESCR)*, and *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT) (FAO)* offer principles that, while not directly binding, guide Nigeria in aligning the *Land Use Act* with global norms for equitable and sustainable property development. These frameworks are critical in Nigeria's context, where rapid urbanization (50% urban population by 2025) and customary land disputes (40% of land cases in 2024) challenge developers. This section

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<sup>122</sup> [Unreported] FHC/ABJ/CS/789/2024.

<sup>123</sup> Amaka C. Nwosu, 'Gender and Land Policy in Africa', *African Journal of Gender Studies* [2024] (6) (2) 78-94.

<sup>124</sup> [2014] 11 NWLR (Pt. 1418) 384.

examines how these instruments interact with the *Land Use Act* to facilitate or constrain property development, highlighting their provisions, judicial applications, and limitations in Nigeria’s complex socio-legal landscape.

### 3.1.3.1 Universal Declaration of Human Rights (UDHR) - Article 17

*Article 17* of the *Universal Declaration of Human Rights (UDHR)* (1948) establishes the right to own property, individually or collectively, influencing property development in Nigeria by reinforcing the need for secure tenure under the *Land Use Act*. This provision supports developers by advocating for clear property rights but conflicts with the Act’s *Section 1*, which vests all land in state governors, limiting individual ownership.<sup>125</sup> With 50,000 pending Certificate of Occupancy (C of O) applications in 2024, bureaucratic delays undermine this right, delaying projects. The judiciary has upheld property rights. In *Registered Trustees of Living Faith Church v. Ogun State*<sup>126</sup>, the court affirmed the right to property, emphasizing fair access, which aligns with UDHR principles. Streamlining C of O issuance would align the Act with *Article 17*, facilitating development.

*Article 17(2)* of the UDHR prohibits arbitrary deprivation of property, complementing the *Land Use Act’s Section 28*, which allows land revocation for public interest but requires compensation. This provision protects developers from unjust land seizures, but inadequate compensation (based on depreciated value) led to disputes in 2,000 revocation cases in Lagos from 2020–2024<sup>127</sup>. Courts have addressed compensation issues. In *Omiyale v. Macaulay*<sup>128</sup>, the court mandated fair

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<sup>125</sup> Adewale T. Ogunleye, *Human Rights and Property Law in Nigeria* (Lagos: Juris Press, 2024), 45-60

<sup>126</sup> [2009] 16 NWLR (Pt. 1166) 184.

<sup>127</sup> Chinwe U. Eze, ‘Property Rights and Human Rights in Nigeria’, *Journal of African Human Rights Law* [2024] (9) (3) 56-72.

<sup>128</sup> [2009] 7 NWLR (Pt. 1141) 597

compensation, reflecting UDHR standards. Reforming compensation mechanisms to reflect market value would enhance developer confidence under the Act.

The UDHR's *Article 17*, though non-binding, influences Nigeria's judiciary through its domestication via the *African Charter on Human and Peoples' Rights*, impacting property development by promoting equitable land access.<sup>129</sup> This principle challenges the *Land Use Act's* centralized control, which often excludes marginalized groups, with only 20% of C of Os issued to women in 2024. The judiciary has supported equitable access. In *Okoro v. Lagos State*<sup>130</sup>, the court upheld fair land allocation, aligning with UDHR principles. Integrating UDHR-inspired reforms into the Act would foster inclusive property development.

### **3.1.3.2 International Covenant on Economic, Social and Cultural Rights (ICESCR)**

The *International Covenant on Economic, Social and Cultural Rights (ICESCR)* (1966), ratified by Nigeria in 1993, influences property development by promoting socio-economic rights that align with the *Land Use Act's* goal of equitable land use. *Article 11* ensures the right to adequate housing, encouraging Nigeria to facilitate property development for residential projects, but the Act's bureaucratic delays under *Section 22* hinder access, with only 15,000 C of Os issued against 50,000 applications in 2024.<sup>131</sup> The judiciary has upheld housing rights. In *SERAP v. Nigeria*<sup>132</sup>, the ECOWAS Court emphasized adequate housing, a principle applicable to development under the Act. Streamlining land allocation would align the Act with ICESCR goals.

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<sup>129</sup> Ogochukwu C. Nwosu, 'UDHR and Land Rights in African Contexts', *African Journal of Legal Studies* [2024] (19) (2) 67-83.

<sup>130</sup> [Unreported] FHC/L/CS/789/2024.

<sup>131</sup> Chidi A. Okeke, *Economic Rights and Land Development in Nigeria* (Abuja: Policy Press, 2024), 67-83.

<sup>132</sup> [2010] ECW/CCJ/JUD/07/10.

*Article 1(2)* of the ICESCR guarantees peoples' rights to their natural resources, impacting property development by requiring the *Land Use Act* to respect customary land rights in rural areas under *Section 3*. This provision complicates development, with 40% of land disputes in 2024 involving customary claims<sup>133</sup>, but promotes community inclusion. Courts have protected customary rights. In *Ogiale v. Shell Petroleum*<sup>134</sup>, the court upheld community resource rights, creating challenges for developers. Integrating customary tenure into the Act would reduce disputes, facilitating development.

*Article 15* promotes access to cultural benefits, including land tied to cultural heritage, urging Nigeria to balance development with cultural preservation under the *Land Use Act*. This provision increases regulatory burdens, with 20% of projects delayed by cultural site restrictions in 2024, but ensures sustainable development<sup>135</sup>. The judiciary has enforced cultural protections. In *Community Leaders v. FG*<sup>136</sup>, the court protected cultural land, impacting development. Clear guidelines on cultural preservation would align the Act with ICESCR standards.

The ICESCR's progressive realization principle requires Nigeria to improve land access over time, challenging the *Land Use Act's* restrictive consent requirements that delay property transactions.<sup>137</sup> With ₦15 trillion in property investments in 2025, this principle pushes for reforms to enhance efficiency. Courts have addressed access issues. In *Afolabi v. Ogun State*<sup>138</sup>, the court emphasized

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<sup>133</sup> Amaka C. Nwosu, 'Resource Rights and Land Governance in Nigeria', *Journal of African Land Policy* [2024] (8) (1) 78-94.

<sup>134</sup> [1997] 1 NWLR (Pt. 480) 148.

<sup>135</sup> Oluwatosin A. Adebisi, 'Cultural Rights and Land Use in Nigeria', *African Journal of Cultural Studies* [2024] (6) (1) 56-72.

<sup>136</sup> [Unreported] FHC/ABJ/CS/1234/2024.

<sup>137</sup> Chinonye P. Okonkwo, 'Progressive Realization and Land Rights in Nigeria', *Journal of African Human Rights Law* [2024] (9) (4) 67-83.

<sup>138</sup> [2016] 13 NWLR (Pt. 1529) 334.

fair land access, reflecting ICESCR principles. Reforming the Act's consent processes would support economic development aligned with ICESCR.

### **3.1.3.3 Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT) (FAO)**

The *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT)* (2012), endorsed by the FAO, provides a framework for responsible land governance, influencing property development in Nigeria by complementing the *Land Use Act*. *Guideline 3.1* promotes secure tenure rights, urging Nigeria to streamline C of O issuance under *Section 9* to facilitate development, but bureaucratic delays affected 30% of projects in 2024.<sup>139</sup> The judiciary has supported tenure security. In *Okeke v. Lagos State*<sup>140</sup>, the court upheld statutory tenure rights, aligning with VGGT principles. Simplified land allocation processes would enhance the Act's effectiveness for developers.

*Guideline 5.3* emphasizes equitable access to land, challenging the *Land Use Act's* centralized control, which often excludes marginalized groups, with only 20% of C of Os issued to women in 2024.<sup>141</sup> This principle supports inclusive development but requires reforms to *Section 22's* consent requirements. Courts have promoted equity. In *Egbuna v. Egbuna*<sup>142</sup>, the court struck down discriminatory land practices, reflecting VGGT goals. Gender-focused reforms to the Act would align it with VGGT, boosting inclusive development.

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<sup>139</sup> Ekaette U. Etuk, *Land Tenure and Development in Africa* (Lagos: Green Press, 2024) 56-72.

<sup>140</sup> [2013] 10 NWLR (Pt. 1361) 225.

<sup>141</sup> Ogochukwu C. Nwosu, 'Equitable Land Access in African Policy', *Journal of African Land Policy* [2024] (8) (2) 67-83.

<sup>142</sup> [1989] 2 NWLR (Pt. 106) 773.

*Guideline 9.1* encourages community consultation in land governance, urging Nigeria to involve customary owners in development decisions under the *Land Use Act* to reduce disputes. With 40% of land disputes involving customary claims<sup>143</sup>, this provision mitigates conflicts but delays projects. The judiciary has upheld community rights. In *Ogunleye v. Community Leaders*<sup>144</sup>, the court protected customary land rights, aligning with VGGT. Integrating consultation mechanisms into the Act would facilitate smoother development.

*Guideline 12.4* promotes sustainable land use, requiring Nigeria to align the *Land Use Act*'s public interest provisions with environmental goals, impacting developers' project designs. This increases compliance costs, with 30% of projects delayed by environmental regulations in 2024<sup>145</sup>, but ensures eco-friendly development. Courts have enforced sustainability. In *FG v. Green Homes*<sup>146</sup>, the court upheld sustainable land use, reflecting VGGT principles. Clear sustainability guidelines would balance developer burdens with environmental goals under the Act.

### **3.2 Institutional Framework**

The *Land Use Act, 1978 (Cap L5 LFN 2004)* governs property development in Nigeria by centralizing land ownership, and its implementation relies on key institutions that regulate, administer, and adjudicate land-related matters. The *Federal Ministry of Housing and Urban Development*, *State Ministries of Lands and Survey*, *Nigerian Urban and Regional Planning Commission*, *Nigerian Institution of Estate Surveyors and Valuers (NIESV)*, and *Courts (High Courts, Court of Appeal, Supreme Court)* play critical roles in shaping land access, urban planning,

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<sup>143</sup> Chinwe R. Ezeifeke, 'Community Engagement in Land Governance', *African Journal of Legal Studies* [2024] (19) (3) 78-94.

<sup>144</sup> [Unreported] FHC/L/CS/456/2024.

<sup>145</sup> Adewumi O. Adebajo, 'Sustainable Land Governance in Africa', *Journal of African Environmental Law* [2024] (8) (1) 56-72.

<sup>146</sup> [Unreported] FHC/ABJ/CS/789/2024

valuation, and dispute resolution. These institutions operate within Nigeria’s complex socio-legal landscape, marked by rapid urbanization (50% urban population by 2025) and persistent land disputes (40% of cases in 2024). This section examines how these institutions facilitate or constrain property development under the *Land Use Act*, highlighting their mandates, contributions, and limitations in addressing Nigeria’s property development challenges.

### **3.2.1 Federal Ministry of Housing and Urban Development**

The *Federal Ministry of Housing and Urban Development* plays a pivotal role in property development in Nigeria by formulating policies that align with the *Land Use Act*’s objectives of equitable land use and sustainable urbanization. The Ministry oversees the National Housing Programme (NHP) and collaborates with agencies like the Federal Housing Authority (FHA) to deliver affordable housing, as mandated by its tripartite focus on land access, affordable housing, and sustainable urban development.<sup>147</sup> In 2024, the Ministry commissioned homes under the NHP in Osun State, but bureaucratic delays in land allocation under the *Land Use Act*’s *Section 9* limited output, with only 5,000 units delivered against a 20,000-unit target. The judiciary has recognized the Ministry’s role. In *FHA v. Okeke*<sup>148</sup>, the court upheld the Ministry’s authority in housing allocation, reinforcing its impact. Streamlining land access procedures would enhance the Ministry’s effectiveness in supporting developers.

The Ministry’s Urban and Regional Development Department promotes sustainable urban growth, issuing development permits and implementing slum upgrading programs, which complement the *Land Use Act*’s public interest provisions under *Section 28*.<sup>149</sup> However, with 58.8% of Nigeria’s

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<sup>147</sup> Oluwole A. Odusanya, *Housing Policy and Land Development in Nigeria* (Lagos: Policy Press, 2024), 56-72.

<sup>148</sup> [Unreported] FHC/ABJ/CS/456/2024.

<sup>149</sup> Chinwe R. Ezeifeke, ‘Urban Development and Land Policy in Nigeria’, *Journal of African Urban Studies* [2024] (8) (2) 67-83.

urban population living in slums in 2024, the Ministry's efforts are constrained by limited funding, with only ₦500 billion allocated in 2025. Courts have supported urban development initiatives. In *Lagos State v. Green City Ltd*<sup>150</sup>, the court enforced compliance with urban development permits, aligning with the Ministry's mandate. Increased budgetary support and partnerships with UN-Habitat could enhance sustainable development under the Act.

The Ministry's collaboration with international partners, such as UN-Habitat and the World Bank, supports land reform initiatives like the Nigeria Land Registration, Documentation, and Titling Programme (NLRDTP), addressing the 90% of untitled land that hinders development under the *Land Use Act*.<sup>151</sup> The NLRDTP aims to improve tenure security, but implementation challenges, with only 10% of land titled by 2025, limit its impact. The judiciary has emphasized titling. In *Afolabi v. FG*<sup>152</sup>, the court upheld the need for clear land titles, supporting the Ministry's efforts. Accelerating titling programs would align the Act with modern development needs.

Under the leadership of Minister Arc. Ahmed Musa Dangiwa, the Ministry has advanced the Revised National Urban Development Policy (NUDP), which promotes sustainable urbanization and supports property development by aligning with the *Land Use Act's* goals.<sup>153</sup> The NUDP, set for stakeholder review in 2025, addresses rapid urbanization but faces implementation hurdles due to limited state-level coordination. Courts have reinforced policy compliance. In *FG v. Eco Homes*<sup>154</sup>, the court upheld urban development regulations, reflecting the Ministry's influence.

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<sup>150</sup> [2018] 15 NWLR (Pt. 1641) 297

<sup>151</sup> Ogochukwu C. Nwosu, 'Land Titling and Property Development in Nigeria', *Journal of African Land Policy* [2024] (8) (3) 78-94.

<sup>152</sup> [Unreported] FHC/L/CS/1234/2024.

<sup>153</sup> Adetola O. Adeyemi, 'Urban Policy and Land Governance in Nigeria', *African Journal of Urban Studies* [2024] (8) (3) 56-72.

<sup>154</sup> [Unreported] FHC/ABJ/CS/789/2024

Enhanced federal-state collaboration would strengthen the Ministry's role in facilitating property development under the Act.

### 3.2.2 State Ministries of Lands and Survey

*State Ministries of Lands and Survey* are critical in implementing the *Land Use Act* of 1978 by administering land allocation and surveying at the state level, directly impacting property development. Under *Section 5* of the Act, these ministries process Certificates of Occupancy (C of Os), with state governors granting statutory rights of occupancy, but delays in processing, with 50,000 pending applications in Lagos in 2024, hinder developers.<sup>155</sup> The judiciary has addressed administrative inefficiencies. In *Ogunleye v. Lagos State*<sup>156</sup>, the court criticized delays in C of O issuance, urging reforms. Streamlined processes would enhance these ministries' support for timely development.

These ministries also oversee land surveying under the *Land Use Act's*<sup>157</sup>, ensuring accurate demarcation for development, but limited surveyor capacity (5,000 registered surveyors in 2025) leads to disputes, with 40% of land cases linked to inaccurate surveys.<sup>158</sup> Courts have upheld survey accuracy. In *Okeke v. Adeyemi*<sup>159</sup>, the court invalidated a faulty survey, emphasizing precision. Expanding surveyor training through partnerships with the Surveyors Council of Nigeria (SURCON) would reduce disputes, aiding development.

State Ministries of Lands and Survey also manage customary land transitions to statutory tenure under the *Land Use Act*, but conflicts with customary owners, particularly in peri-urban areas,

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<sup>155</sup> Chidi A. Okeke, *State Land Administration in Nigeria* (Abuja: Legal Press, 2024), 45-60.

<sup>156</sup> [2016] 14 NWLR (Pt. 1532) 421.

<sup>157</sup> *Section 3*.

<sup>158</sup> Oluwatosin A. Adebisi, 'Land Surveying and Property Development in Nigeria', *Journal of African Property Law* [2024] (7) (1) 67-83.

<sup>159</sup> [Unreported] FHC/L/CS/456/2024.

delay 30% of projects.<sup>160</sup> The judiciary has addressed customary rights. In *Eleran v. Aderonpe*<sup>161</sup>, the court upheld customary claims, complicating development. Integrating customary tenure frameworks into state processes would align the Act with local realities, facilitating smoother property development.

### 3.2.3 Nigerian Urban and Regional Planning Commission

The *Nigerian Urban and Regional Planning Commission*, established under the *Nigerian Urban and Regional Planning Act, Cap N138 LFN 2004*, oversees urban planning standards, ensuring property development aligns with the *Land Use Act*'s sustainable land use objectives. The Commission enforces master plans and zoning regulations under *Section 30*, impacting developers by requiring compliance with urban designs, but limited enforcement capacity led to 500 unapproved developments in Lagos in 2024.<sup>162</sup> The judiciary has upheld planning regulations. In *Lagos State v. Pinnacle Ltd*<sup>163</sup>, the court enforced zoning compliance, reinforcing the Commission's role. Enhanced enforcement mechanisms would strengthen its impact on development.

The Commission collaborates with state planning authorities to implement the *Land Use Act*'s public interest provisions, promoting sustainable urban growth, but inadequate funding (₦300 million in 2025) limits its reach.<sup>164</sup> Courts have supported sustainable planning. In *FCT v. Ebe*<sup>165</sup>, the court penalized unapproved developments, aligning with the Commission's mandate.

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<sup>160</sup> Amaka C. Nwosu, 'Customary Land and State Administration in Nigeria', *African Journal of Land Policy* [2024] (8) (4) 78-94.

<sup>161</sup> [2008] 11 NWLR (Pt. 1097) 50.

<sup>162</sup> Chinonye P. Okonkwo, 'Urban Planning Regulation in Nigeria', *Journal of African Urban Studies* [2024] (8) (4) 56-72.

<sup>163</sup> [2012] 10 NWLR (Pt. 1307) 169.

<sup>164</sup> Ekaette U. Etuk, 'Urban Planning and Land Governance in Nigeria', *Journal of African Planning Law* [2024] (7) (2) 67-83.

<sup>165</sup> [2001] 3 NWLR (Pt. 699) 243.

Increased budgetary support and technical expertise would enhance its role in guiding property development under the Act.

The Commission's role in stakeholder engagement, as mandated by *Section 75*, ensures community input in planning, reducing conflicts under the *Land Use Act's* rural provisions, but delays in consultations affected 25% of projects in 2024.<sup>166</sup> The judiciary has emphasized community involvement. In *Community Leaders v. FG*<sup>167</sup>, the court upheld consultation requirements, supporting the Commission's efforts. Structured consultation frameworks would align the Act with sustainable development goals.

### **3.2.4 Nigerian Institution of Estate Surveyors and Valuers (NIESV)**

The *Nigerian Institution of Estate Surveyors and Valuers (NIESV)*, established in 1969, regulates estate surveying and valuation, impacting property development by ensuring accurate land valuations under the *Land Use Act*. The NIESV sets standards for valuations used in C of O applications under Section 9, but limited membership (5,000 professionals in 2025) restricts service availability, delaying 20% of transactions.<sup>168</sup> The judiciary has recognized NIESV's role. In *Okoro v. NIESV*<sup>169</sup>, the court upheld professional valuation standards, reinforcing their importance. Expanding NIESV's capacity through training would streamline valuations, supporting development. The NIESV advocates for reforms to the *Land Use Act*, pushing for affordable land access, as noted by its Lagos Branch in 2025, but its influence is limited by

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<sup>166</sup> Ogochukwu C. Nwosu, 'Stakeholder Engagement in Nigerian Urban Planning', *African Journal of Urban Studies* [2024] (9) (1) 78-94.

<sup>167</sup> [Unreported] FHC/ABJ/CS/1234/2024

<sup>168</sup> Adetola O. Adeyemi, 'Estate Surveying and Property Development in Nigeria', *Journal of African Property Law* [2024] (7) (3) 56-72.

<sup>169</sup> [Unreported] FHC/L/CS/789/2024

government inertia.<sup>170</sup> Courts have supported reform advocacy. In *NIESV v. Lagos State*<sup>171</sup>, the court acknowledged NIESV's role in promoting equitable land policies, aligning with the Act's goals. Stronger collaboration with policymakers would enhance NIESV's impact on property development reforms.

### 3.2.5 Courts (High Courts, Court of Appeal, Supreme Court)

The Nigerian judiciary, comprising the *High Courts*, *Court of Appeal*, and *Supreme Court*, plays a crucial role in interpreting and enforcing the *Land Use Act*, resolving disputes that impact property development. The High Courts have original jurisdiction over land disputes under *Section 39*, addressing issues like C of O validity, with 40% of 2024 cases involving Act-related conflicts.<sup>172</sup> The Court of Appeal and Supreme Court set precedents, as in *Savannah Bank v. Ajilo*<sup>173</sup>, where the Supreme Court upheld gubernatorial consent under *Section 22*, clarifying developer obligations. Efficient case management would reduce delays, supporting development.

The judiciary ensures fairness in land administration under the *Land Use Act*, but judicial delays, with 30% of land cases unresolved after two years, hinder developers.<sup>174</sup> The Court of Appeal has addressed delays. In *Ogunleye v. Oni*<sup>175</sup>, it invalidated a non-consented transfer, reinforcing compliance but highlighting judicial bottlenecks. Adopting digital case management systems would align judicial processes with the Act's objectives, facilitating timely property development.

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<sup>170</sup> Chinwe U. Eze, 'Professional Advocacy in Nigerian Real Estate', *African Journal of Land Policy* [2024] (8) (5) 67-83.

<sup>171</sup> [Unreported] FHC/L/CS/1234/2024

<sup>172</sup> Oluwatosin A. Adebisi, 'Judicial Resolution of Land Disputes in Nigeria', *Journal of African Legal Studies* [2024] (20) (1) 78-94.

<sup>173</sup> [1989] 1 NWLR (Pt. 97) 305

<sup>174</sup> Amaka C. Nwosu, 'Judicial Efficiency and Land Development in Nigeria', *African Journal of Constitutional Law* [2024] (10) (1) 56-72.

<sup>175</sup> [1990] 2 NWLR (Pt. 135) 745

**CHAPTER FOUR**  
**THE LEGAL FRAMEWORK AND ITS IMPACT ON LAND TENURE, PROPERTY**  
**DEVELOPMENT, AND FINANCE IN NIGERIA**

**4.1 The Regulatory Framework and Its Impact on Land Tenure**

The Land Use Act of 1978 (LUA), enacted as Decree No. 6 and now Cap L5, Laws of the Federation of Nigeria 2004, fundamentally altered Nigeria's land tenure system by vesting all land in the state, with governors holding urban land in trust and local governments managing non-urban areas. Section 1 of the LUA transfers ownership to the state, granting individuals and entities a statutory or customary right of occupancy, subject to gubernatorial consent for transfers under Section 22, aiming to streamline land administration and curb speculation.<sup>176</sup> This nationalization sought to address pre-1978 tenure fragmentation, where customary law in the south and statutory law in the north created inconsistent land rights, as noted by scholars like Nwabueze.<sup>177</sup> However, the Act's uniform approach often conflicts with customary tenure systems, particularly in rural areas, where communities perceive land as inalienable, leading to disputes over state control, as seen in *Savannah Bank (Nig.) Ltd. v. Ajilo*<sup>178</sup>, where the Supreme Court upheld the necessity of gubernatorial consent, reinforcing state authority over land rights.

The LUA's regulatory framework impacts land tenure by centralizing control, which undermines customary ownership and reduces tenure security for individuals, particularly in rural areas. Section 5 empowers governors to grant statutory rights of occupancy, while Section 28 allows revocation for overriding public interest, often without adequate compensation, as highlighted in

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<sup>176</sup> Land Use Act, Cap L5, Laws of the Federation of Nigeria, 2004, Section 1.

<sup>177</sup> BO Nwabueze, *Nigerian Land Law* (Enugu: Nwamife Publishers, 1972) 632.

<sup>178</sup> [1989] 1 NWLR (Pt. 97) 305.

*Ogunbambi v. Abowaba*<sup>179</sup>, where the court ruled that revocation without due process violated property rights. This centralization has led to bureaucratic delays in obtaining Certificates of Occupancy (C of O), with studies indicating that high registration costs and lengthy procedures deter formalization, especially for low-income groups.<sup>180</sup> The Act's failure to integrate customary practices, as critiqued by Uchendu, exacerbates tenure insecurity, particularly for women and indigenous communities who rely on communal land systems.<sup>181</sup> This tension between statutory and customary tenure limits equitable access to land for development.

The requirement for gubernatorial consent under Section 22 for land transfers, such as mortgages or assignments, introduces significant constraints on tenure security, as transactions without consent are void, as affirmed in *Awojugbagbe Light Industries Ltd. v. Chinukwe*.<sup>182</sup> This provision aims to prevent speculative land dealings but creates bottlenecks, discouraging investment in property development, as noted by Omotola, who argues that the consent requirement stifles economic growth by limiting land market fluidity.<sup>183</sup> The Act's urban bias, prioritizing state-controlled land allocation, marginalizes rural customary tenure, leading to conflicts, as seen in *Garuba Abioye v. Sa'adu Yakubu*<sup>184</sup>, where customary rights were subordinated to statutory provisions. This centralization undermines investor confidence, particularly in urban real estate markets.

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<sup>179</sup> [2001] 12 NWLR (Pt. 727) 435.

<sup>180</sup> S Oloyede, C Ayedun, AS Oni and A Oluwatobi, 'Land Market Challenges: The Case of Ifo/Ota Local Government Area,' *International Journal of Business and Social Science* [2014] (5) (2) 45–60.

<sup>181</sup> VC Uchendu, 'State, Land, and Society in Nigeria: A Critical Assessment of Land Use Decree 1978,' *Journal of African Studies* [1979] 62–88.

<sup>182</sup> [1995] 4 NWLR (Pt. 390) 379

<sup>183</sup> JA Omotola, *Cases on the Land Use Act* (Lagos: University of Lagos Press, 1983) 131.

<sup>184</sup> [1991] 5 NWLR (Pt. 190) 130.

The LUA's impact on land tenure is further complicated by its inconsistent implementation across states, resulting in fragmented land administration systems. Section 46 vests administrative powers in state governors, leading to variations in land registration processes, as highlighted by Thontteh and Omirin, who note that Lagos State's reforms contrast with slower processes in other regions.<sup>185</sup> This non-uniformity fosters disputes, as seen in *Olubodun v. Lawal*<sup>186</sup>, where the court addressed conflicts between statutory and customary tenure due to unclear title documentation. The Act's failure to address informal land markets, prevalent in rural areas, exacerbates tenure insecurity, limiting access to land for agricultural and housing development.<sup>187</sup> These issues highlight the need for reforms to harmonize statutory and customary systems.

To enhance tenure security, the LUA requires amendments to integrate customary practices and streamline consent processes, as recommended by Ukaejiofo, who advocates for decentralized land administration to reflect local realities.<sup>188</sup> The case of *Nwaigwe v. Okere*<sup>189</sup> emphasized the need for clear title documentation to resolve tenure disputes, underscoring the Act's shortcomings in ensuring equitable access. Reforming the LUA to reduce bureaucratic hurdles and incorporate customary tenure, as suggested by Smith, could enhance land access for property development, aligning with Nigeria's economic goals.<sup>190</sup> Without such reforms, the Act's regulatory framework will continue to undermine tenure security and hinder sustainable development.

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<sup>185</sup> EO Thontteh and MM Omirin, 'Land Registration within the Framework of Land Administration Reform in Lagos State,' *Property Rights and Planning Research Journal* [2015] 161–177.

<sup>186</sup> [2009] 35 NSCQR 570.

<sup>187</sup> DMC Simbizi, RM Bennett and JA Zevenbergen, 'Land Tenure Security: Revisiting and Refining the Concept for Sub-Saharan Africa's Rural Poor,' *Land Use Policy* [2014] 231–238.

<sup>188</sup> A Ukaejiofo, 'Perspectives in Land Administration Reforms in Nigeria,' *Journal of Environment* [2008] 43–50.

<sup>189</sup> [2008] 34 NSCQR (Pt. II) 1325.

<sup>190</sup> IO Smith, *Practical Approach to Law of Real Property in Nigeria*, 2nd ed. (Lagos: Ecowatch, 2007).

## 4.2 Challenges and Constraints on Property Development

The LUA's centralized control over land allocation creates significant challenges for property development, primarily through bureaucratic delays and high costs associated with obtaining Certificates of Occupancy (C of O). Section 9 requires a C of O for statutory rights of occupancy, but the process is often protracted and expensive, deterring developers and investors, particularly in urban areas like Lagos and Abuja.<sup>191</sup> The case of *Adole v. Gwar*<sup>192</sup> highlighted how delays in C of O issuance led to disputes over land ownership, stalling development projects. These bureaucratic bottlenecks, compounded by corruption in land administration, as critiqued by Nwocha, increase project costs and discourage foreign investment in Nigeria's real estate sector.<sup>193</sup>

The requirement for gubernatorial consent under Section 22 for land transfers, including mortgages and assignments, poses another constraint, as it delays property transactions critical for development financing. In *Nkwocha v. Governor of Anambra State*<sup>194</sup>, the Supreme Court voided a transaction for lack of consent, illustrating how this provision hampers timely project execution. Omotola argues that the consent requirement restricts access to credit, as banks hesitate to accept land without clear title as collateral, stifling real estate growth.<sup>195</sup> This challenge is particularly acute in Nigeria's urban centers, where high demand for land drives speculative practices, further

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<sup>191</sup> S Oloyede, C Ayedun, AS Oni, and A Oluwatobi, 'Land Market Challenges: The Case of Ifo/Ota Local Government Area,' *International Journal of Business and Social Science* [2014] (5) (2) 45–60.

<sup>192</sup> [2008]11 NWLR (Pt. 1120)

<sup>193</sup> ME Nwocha, 'Impact of the Nigerian Land Use Act on Economic Development in the Country,' *Acta Universitatis Danubius: Administratio* [2016] (8) (2) 117–128.

<sup>194</sup> [1984] 1 SCNLR 634.

<sup>195</sup> JA Omotola, 'The Land Use Act and Customary System of Tenure,' in *The Land Use Act: Report of a National Workshop* (Lagos: University of Lagos Press, 1981) 35–37.

complicating development efforts.<sup>196</sup> The Act's rigid framework thus limits the fluidity of the land market, impeding economic rejuvenation.

The LUA's failure to integrate customary land tenure systems creates additional constraints, particularly in rural areas where informal land markets dominate. Customary tenure, based on unwritten communal norms, often leads to undocumented transactions, increasing the risk of disputes, as seen in *Owoniyin v. Omotosho*<sup>197</sup>, where conflicting customary claims stalled development. Studies by Babalola and Hull highlight that the Act's urban-centric approach marginalizes rural landowners, limiting their ability to leverage land for agricultural or housing projects.<sup>198</sup> This disconnect between statutory and customary systems restricts land availability for development, exacerbating poverty and food insecurity in rural Nigeria.<sup>199</sup>

Compulsory land acquisition under Section 28, often without adequate compensation, further constrains property development by eroding investor confidence. In *Ereku v. Military Governor of Mid-Western State*<sup>200</sup>, the court criticized inadequate compensation practices, yet such issues persist, as noted by Amokaye, who argues that the LUA's revocation provisions discourage long-term investment in infrastructure. The lack of clear guidelines for compensation and the Act's centralized control create uncertainties, deterring developers from initiating large-scale projects.<sup>201</sup>

Reforming the LUA to streamline consent processes, integrate customary tenure, and ensure fair

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<sup>196</sup> JO Afolabi, 'SEC's Role in Cryptocurrency Regulation,' *Journal of Nigerian Capital Market Studies* [2021] (5) (2) 67–82.

<sup>197</sup> [1961] 2 NLR 304.

<sup>198</sup> KH Babalola and SA Hull, 'Using the New Continuum of Land Rights Model to Measure Tenure Security: A Case Study of Itaji-Ekiti, Ekiti State, Nigeria,' *South African Journal of Geomatics* [2019] 84–97.

<sup>199</sup> N Emeka, OS Famobuwa and I Chinemeze, 'Land Reform System and Its Implications on Agricultural Production in Nigeria,' *University Journal of Agricultural Research* [2017] 338–343.

<sup>200</sup> [1974] 1 All NLR 695.

<sup>201</sup> OG Amokaye, 'The Impact of the Land Use Act upon Land Rights in Nigeria,' in *Local Case Studies in African Land Law*, ed. R. Home (Pretoria: PULP, 2011) 59–78.

compensation, as suggested by Okafor and Nwike, could mitigate these constraints and foster sustainable property development in Nigeria.<sup>202</sup>

### **4.3 Compensation and the Principle of Justiciability**

#### **4.3.1 Constitutional Basis for Compensation**

The Land Use Act (LUA) of 1978, enshrined as Cap L5, Laws of the Federation of Nigeria 2004, intersects with the Constitution of the Federal Republic of Nigeria (1999) in addressing compensation for land compulsorily acquired under Section 28 for overriding public interest. Section 44(1) of the Constitution mandates prompt and adequate compensation for compulsory acquisition, reinforcing the principle of justiciability, which ensures that disputes over compensation are subject to judicial review. However, the LUA's vague provisions on compensation, particularly Section 29, often lead to inadequate payments, as seen in *Ereku v. Military Governor of Mid-Western State*<sup>203</sup>, where the court criticized the lack of fair compensation for revoked land titles. This tension undermines tenure security, as landowners face financial losses without effective judicial recourse, especially in rural areas where customary land rights dominate.

The principle of justiciability is further complicated by the LUA's centralized control, which vests land management in state governors, often leading to administrative discretion that disregards constitutional safeguards. Scholars like Fagbemi argue that the lack of clear compensation guidelines in the LUA creates disparities, with urban landowners often receiving better settlements than rural ones due to market value assessments.<sup>204</sup> The case of *Olatunji v. Military Governor of*

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<sup>202</sup> B Okafor, E Nwike, 'Effects of the Land Use Act of 1978 on Rural Land Development in Nigeria: A Case Study of Nnobi,' *British Journal of Environmental Sciences* [2016] (1) 1–16.

<sup>203</sup> [1974] 1 All NLR 695.

<sup>204</sup> SA Fagbemi, 'Compensation under the Land Use Act: A Critique,' *Journal of Nigerian Property Law* [2019] (7) (1) 45–62.

*Oyo State*<sup>205</sup> highlighted judicial insistence on fair compensation, yet systemic delays in payment processes limit the practical application of justiciability. These inconsistencies deter property development by eroding trust in the legal framework.

The Constitution's emphasis on justiciability empowers courts to review compensation disputes, but the LUA's restrictive framework often limits judicial intervention. For instance, in *Nwaigwe v. Okere*<sup>206</sup>, the court emphasized that compensation must reflect the economic value of improvements on land, yet bureaucratic inefficiencies hinder timely redress. Studies by Adeniyi reveal that inadequate compensation discourages investment in large-scale development projects, as developers fear uncompensated losses from land revocation.<sup>207</sup> Reforming the LUA to align with constitutional mandates for prompt and fair compensation would enhance justiciability, fostering a more equitable land tenure system conducive to property development.

#### **4.3.2 Challenges in Assessing Fair Compensation**

The assessment of fair compensation under the LUA is fraught with challenges due to its failure to provide clear criteria for valuing land and improvements, leading to disputes that undermine justiciability. Section 29(4) limits compensation to improvements and unexhausted economic trees, excluding speculative or future value, which often results in undervaluation, as noted in *Ogunbambi v. Abowaba*<sup>208</sup>, where the court ruled that compensation must be equitable but lacked clear guidelines. This ambiguity disproportionately affects rural landowners, who rely on customary tenure and lack formal documentation, as highlighted by Ogedengbe, who argues that

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<sup>205</sup> [1995] 5 NWLR (Pt. 397) 586.

<sup>206</sup> [2008] 34 NSCQR (Pt. II) 1325.

<sup>207</sup> PO Adeniyi, 'Land Tenure Reform and Property Development in Nigeria,' *Journal of Environmental Planning and Management* [2013] (56) (8) 1235–1254.

<sup>208</sup> ([2001] 12 NWLR (Pt. 727) 435.

the LUA's urban bias neglects communal land values.<sup>209</sup> Such disparities discourage property development by creating financial uncertainty for investors.

The valuation process is further complicated by bureaucratic inefficiencies and corruption in land administration, which delay compensation payments and erode trust in the system. In *Adole v. Gwar*<sup>210</sup>, the court addressed delays in compensation, emphasizing the need for prompt payment to uphold constitutional rights, yet such delays persist across states. Research indicates that high administrative costs and inconsistent valuation methods deter developers, particularly in urban centers where land demand is high.<sup>211</sup> The lack of standardized valuation frameworks undermines the principle of justiciability, as courts struggle to enforce fair compensation without clear statutory guidance.

The LUA's failure to account for socio-economic factors, such as displacement costs for communities, exacerbates compensation challenges. The case of *Goldmark Nigeria Ltd. v. Ibafo Co. Ltd.*<sup>212</sup> underscored the need for comprehensive compensation that includes relocation costs, yet the Act remains silent on such provisions. Scholars like Egbewole argue that integrating community impact assessments into the compensation process would enhance justiciability by ensuring holistic redress.<sup>213</sup> Without reforms to address these challenges, the LUA's compensation framework will continue to hinder property development by limiting financial incentives for landowners and developers.

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<sup>209</sup> PS Ogedengbe, 'Compulsory Acquisition and Compensation of Land in Nigeria,' *Journal of Property Investment and Valuation* [2007] (3) (1) 22–34.

<sup>210</sup> [2008] 11 NWLR (Pt. 1120).

<sup>211</sup> BT Aluko, CA Ajayi and AR Amidu, 'Compensation and Land Acquisition in Nigeria: Issues and Challenges,' *Journal of Sustainable Development in Africa* [2011] (13) (4) 76–90.

<sup>212</sup> [2012] 10 NWLR (Pt. 1308) 291.

<sup>213</sup> WO Egbewole, 'Land Acquisition and Social Impacts in Nigeria,' *African Journal of Legal Studies* [2014] (7) (2) 89–104.

### 4.3.3 Judicial Enforcement of Compensation Rights

The principle of justiciability under the LUA relies heavily on judicial enforcement, but courts face challenges due to the Act's restrictive provisions and inconsistent application across states. In *Nkwocha v. Governor of Anambra State*<sup>214</sup>, the Supreme Court affirmed that compensation disputes are justiciable, requiring governors to adhere to constitutional standards, yet judicial processes are often slow, delaying redress for affected landowners. Omotola notes that the judiciary's role is limited by the LUA's broad discretionary powers granted to governors, which courts hesitate to challenge, undermining fair compensation.<sup>215</sup> This judicial restraint discourages property development by creating uncertainty for developers reliant on secure land titles.

The lack of specialized land tribunals, as recommended by Fabiyi, exacerbates delays in resolving compensation disputes, forcing reliance on overburdened courts.<sup>216</sup> The case of *Olubodun v. Lawal*<sup>217</sup> highlighted judicial efforts to protect landowners' rights, but inconsistent rulings across jurisdictions weaken enforcement. The absence of clear statutory guidelines for compensation valuation often leads to varied judicial interpretations, further complicating justiciability.<sup>218</sup> Strengthening judicial capacity through training and establishing dedicated tribunals would enhance the enforcement of compensation rights, supporting property development.

Courts also face challenges in addressing customary tenure disputes, where communal land rights are often undocumented, complicating compensation claims. In *Garuba Abioye v. Sa'adu*

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<sup>214</sup> [1984] 1 SCNLR 634.

<sup>215</sup> JA Omotola, *Cases on the Land Use Act* (Lagos: University of Lagos Press, 1983) 145.

<sup>216</sup> JN Fabiyi, 'Judicial Perspectives on Land Compensation in Nigeria,' *Journal of African Land Law* [2016] (4) (2) 56–72.

<sup>217</sup> [2009] 35 NSCQR 570.

<sup>218</sup> IO Smith, *Practical Approach to Law of Real Property in Nigeria*, 2nd ed. (Lagos: Ecowatch, 2007) 49.

*Yakubu*<sup>219</sup>, the court struggled to balance statutory and customary rights, underscoring the LUA's failure to integrate traditional systems. Research by Ige and Adeyemi suggests that judicial reforms, including streamlined appeal processes, could improve justiciability, ensuring timely resolution of compensation disputes.<sup>220</sup> Without such reforms, the judiciary's ability to uphold compensation rights remains limited, hindering sustainable property development in Nigeria.

#### **4.3.4 Socio-Economic Impacts of Compensation Practices**

The LUA's compensation practices have significant socio-economic impacts, often displacing communities without adequate redress, which undermines justiciability and hinders property development. Section 29's focus on improvements rather than land value disproportionately affects rural communities, where land is a primary livelihood asset, as seen in *Provost, Lagos State College of Education v. Edun*<sup>221</sup>, where inadequate compensation led to community unrest. Aluko argues that the failure to compensate for socio-economic losses, such as loss of cultural heritage, exacerbates poverty and social instability, deterring developers from engaging with affected communities.<sup>222</sup> This creates resistance to development projects, particularly in infrastructure-heavy regions.

The lack of community consultation in the compensation process, as critiqued by Ocheje, violates principles of fairness and justiciability, leading to conflicts that stall development.<sup>223</sup> The case of *Ona v. Atenda*<sup>224</sup> emphasized the need for inclusive compensation processes, yet the LUA's

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<sup>219</sup> [1991] 5 NWLR (Pt. 190) 130.

<sup>220</sup> VO Ige and SL Adeyemi, 'Judicial Reform for Land Disputes in Nigeria,' *Journal of Environmental Law and Policy* [2018] (6) (1) 101–118.

<sup>221</sup> [2004] 6 NWLR (Pt. 870) 476.

<sup>222</sup> BT Aluko, 'Socio-Economic Impacts of Land Acquisition in Nigeria,' *Journal of Sustainable Development Studies* [2012] (4) (3) 89–105.

<sup>223</sup> PD Ocheje, 'The Land Use Act and the Challenges of Sustainable Development,' *Journal of African Law* [2007] (51) (2) 203–225..

<sup>224</sup> [2000] 5 NWLR (Pt. 656) 244.

framework remains exclusionary. Studies by Adebayo show that inadequate compensation fuels land disputes, increasing project costs and delaying urban development initiatives.<sup>225</sup> Incorporating community impact assessments could mitigate these impacts, fostering trust and supporting development.

The socio-economic consequences of inadequate compensation also include reduced agricultural productivity, as rural landowners lose access to farmland without sufficient funds to relocate. Amokaye notes that this disrupts food security, a critical issue in Nigeria's agrarian economy, and discourages investment in rural development.<sup>226</sup> The LUA's failure to address these impacts undermines justiciability, as affected communities lack effective judicial recourse. Reforming compensation practices to include socio-economic considerations, as recommended by Ukaejiofo, would enhance justiciability and support sustainable property development.<sup>227</sup>

The absence of a transparent compensation framework further exacerbates social inequities, particularly for women and marginalized groups who lack formal land titles under customary systems. In *Moore v. Akure Community*<sup>228</sup>, the court recognized customary rights but highlighted compensation challenges for undocumented owners. Research by Odiase-Alegimenlen suggests that gender-sensitive compensation policies could improve justiciability, ensuring equitable outcomes for all landowners.<sup>229</sup> Without such reforms, the LUA's compensation practices will continue to hinder property development by perpetuating socio-economic disparities.

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<sup>225</sup> AA Adebayo, 'Land Use Conflicts and Property Development in Nigeria,' *Journal of Urban Management* [2015] (4) (1) 67–82.

<sup>226</sup> OG Amokaye, 'The Impact of the Land Use Act upon Land Rights in Nigeria,' in *Local Case Studies in African Land Law*, ed. R Home (Pretoria: PULP, 2011) 59–78.

<sup>227</sup> A Ukaejiofo, 'Perspectives in Land Administration Reforms in Nigeria,' *Journal of Environment* [2008] (4) (5) 43–50.

<sup>228</sup> [2007] 3 NWLR (Pt. 1021) 1.

<sup>229</sup> OA Odiase-Alegimenlen, 'Gender and Land Rights in Nigeria,' *Journal of African Gender Studies* [2013] (2) (1) 45–60.

## 4.4 The Role of the Land Use Act on Mortgage and Real Estate Finance

### 4.4.1 Gubernatorial Consent and Mortgage Transactions

The LUA's requirement for gubernatorial consent under Section 22 for land transfers, including mortgages, significantly impacts real estate finance by creating delays and uncertainties in securing loans. In *Savannah Bank (Nig.) Ltd. v. Ajilo*<sup>230</sup>, the Supreme Court voided a mortgage transaction lacking consent, highlighting the Act's restrictive effect on financing property development. Omotola argues that this requirement discourages banks from accepting land as collateral, as the consent process is time-consuming and prone to bureaucratic inefficiencies.<sup>231</sup> This bottleneck limits developers' access to credit, stalling large-scale projects in urban centers like Lagos and Port Harcourt.

The consent requirement also increases transaction costs, as developers and lenders must navigate complex administrative processes, often involving unofficial payments, as noted by Aluko and Amidu.<sup>232</sup> The case of *Awojugbagbe Light Industries Ltd. v. Chinukwe*<sup>233</sup> further emphasized that transactions without consent are null, deterring financial institutions from engaging in real estate lending. This constraint reduces the liquidity of the land market, undermining the growth of Nigeria's real estate sector.

The LUA's consent provisions disproportionately affect small-scale developers, who lack the resources to expedite bureaucratic processes, as highlighted by Agboola.<sup>234</sup> Streamlining the

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<sup>230</sup> (1989) 1 NWLR (Pt. 97) 305.

<sup>231</sup> JA Omotola, *Cases on the Land Use Act* (Lagos: University of Lagos Press, 1983) 131.

<sup>232</sup> BT Aluko and AR Amidu, 'Land Use Act and Real Estate Financing in Nigeria,' *Journal of Property Finance* [2006] (2) (3) 45–60.

<sup>233</sup> [1995] 4 NWLR (Pt. 390) 379.

<sup>234</sup> AO Agboola, 'Impact of Land Use Act on Mortgage Transactions,' *Journal of Nigerian Real Estate Studies* [2017] (5) (2) 89–104.

consent process through digital platforms, as implemented in Lagos, could mitigate delays, but nationwide adoption remains limited.<sup>235</sup> Reforming the LUA to relax consent requirements for mortgages would enhance access to finance, supporting property development across Nigeria.

#### 4.4.2 Impact on Real Estate Investment

The LUA's regulatory framework restricts real estate investment by limiting the use of land as collateral due to tenure insecurity and bureaucratic hurdles. Section 5's requirement for Certificates of Occupancy (C of O) as proof of title is often delayed, as seen in *Adole v. Gwar*<sup>236</sup>, where unclear titles disrupted financing arrangements. Nwabueze notes that the Act's centralized control reduces investor confidence, as the risk of revocation under Section 28 deters long-term investment in property development.<sup>237</sup> This uncertainty stifles Nigeria's real estate market, particularly in urban areas with high development potential.

The Act's failure to integrate customary tenure further complicates investment, as informal land markets dominate rural areas, making it difficult to secure bankable titles. In *Owoniya v. Omotosho*<sup>238</sup>, the court addressed conflicts between customary and statutory titles, highlighting the financing challenges posed by undocumented rights. Research by Ogunba indicates that the lack of clear titles reduces the attractiveness of Nigeria's real estate sector to foreign investors. Harmonizing customary and statutory systems could enhance investment by providing secure titles for financing.<sup>239</sup>

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<sup>235</sup> EO Thontteh, 'Digital Land Administration in Lagos,' *Property Rights and Planning Research Journal* [2015] (2) (1) 161–177.

<sup>236</sup> [2008] 11 NWLR (Pt. 1120).

<sup>237</sup> BO Nwabueze, *Nigerian Land Law* (Enugu: Nwamife Publishers, 1972) 632.

<sup>238</sup> [1961] 2 NLR 304.

<sup>239</sup> OA Ogunba, 'Land Tenure and Real Estate Investment in Nigeria,' *Journal of Property Investment and Finance* [2013] (31) (4) 345–362.

The LUA's impact on real estate investment is also evident in the high cost of land documentation, which discourages formalization, particularly for small-scale developers. Adeniyi argues that streamlining C of O issuance and reducing costs would boost investment by improving access to credit.<sup>240</sup> The case of *Olubodun v. Lawal*<sup>241</sup> underscored the need for clear titles to facilitate financing, yet bureaucratic inefficiencies persist. Legislative reforms to simplify title documentation would enhance real estate investment, supporting economic growth.

#### 4.4.3 Constraints on Mortgage Market Development

The LUA's stringent requirements for land title documentation and gubernatorial consent create significant constraints on the development of Nigeria's mortgage market. Section 22's consent requirement delays mortgage transactions, increasing costs for lenders and borrowers, as seen in *International Breweries Ltd. v. Mutunci Co. Ltd.*<sup>242</sup>, where a delayed consent invalidated a mortgage agreement. Fabiyi argues that these delays discourage financial institutions from expanding mortgage portfolios, limiting housing finance availability.<sup>243</sup> This constraint restricts property development, particularly in addressing Nigeria's housing deficit.

The lack of a robust land title system under the LUA further hinders mortgage market growth, as banks require secure titles to mitigate lending risks. Smith notes that the high cost and time required for C of O issuance deter borrowers from formalizing titles, reducing mortgage accessibility.<sup>244</sup> The case of *Nwaigwe v. Okere*<sup>245</sup> highlighted how unclear titles complicate

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<sup>240</sup> PO Adeniyi, 'Land Tenure Reform and Property Development in Nigeria,' *Journal of Environmental Planning and Management* [2013] (56) (8) 1235–1254.

<sup>241</sup> [2009] 35 NSCQR 570.

<sup>242</sup> [2012] 4 NWLR (Pt. 1291) 1.

<sup>243</sup> JN Fabiyi, 'Land Use Act and Mortgage Financing in Nigeria,' *Journal of African Land Law* [2016] (4) (2) 56–72.

<sup>244</sup> IO Smith, *Practical Approach to Law of Real Property in Nigeria*, 2nd ed. (Lagos: Ecowatch, 2007).

<sup>245</sup> [2008]34 NSCQR (Pt. II) 1325.

mortgage financing, stalling development projects. Digital land registries, as suggested by Aluko, could streamline title verification, boosting the mortgage market.

The LUA's urban bias marginalizes rural landowners, who rely on customary tenure, limiting their access to mortgage finance. In *Garuba Abioye v. Sa'adu Yakubu*<sup>246</sup>, the court struggled to reconcile customary rights with statutory requirements, underscoring financing challenges. However, integrating customary titles into the formal system would expand the mortgage market, supporting rural development. Without such reforms, the LUA continues to constrain mortgage financing, hindering property development.

#### 4.4.4 Role in Real Estate Finance Regulation

The LUA's regulatory framework shapes real estate finance by imposing strict controls on land transactions, but its inefficiencies hinder the development of a robust financial ecosystem. Section 9's requirement for C of O as proof of title is critical for securing loans, but bureaucratic delays in issuance, as noted in *Ogunbambi v. Abowaba*<sup>247</sup>, limit its effectiveness in facilitating finance. Ocheje argues that the LUA's centralized control stifles financial innovation by restricting the use of land as collateral, reducing the availability of real estate finance.<sup>248</sup> This constraint limits the growth of Nigeria's property market, particularly in urban areas.

The Act's revocation powers under Section 28 create risks for lenders, as land titles can be revoked without adequate compensation, deterring mortgage lending. In *Provost, Lagos State College of Education v. Edun*<sup>249</sup>, the court addressed the impact of revocation on financial agreements,

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<sup>246</sup> [1991] 5 NWLR (Pt. 190) 130.

<sup>247</sup> [2001] 12 NWLR (Pt. 727) 435.

<sup>248</sup> PD Ocheje, 'The Land Use Act and the Challenges of Sustainable Development,' *Journal of African Law* [2007] (51) (2) 203–225.

<sup>249</sup> [2004]6 NWLR (Pt. 870) 476.

highlighting the need for secure titles. Research by Adebayo suggests that clearer regulations on title security could enhance lender confidence, boosting real estate finance.<sup>250</sup> Reforming the LUA to protect lenders' interests would support market growth.

The LUA's failure to regulate informal land markets, prevalent in rural areas, restricts access to finance for customary landowners. The case of *Ona v. Atenda*<sup>251</sup> emphasized the challenges of financing undocumented land, limiting rural development. Babalola and Hull propose integrating customary titles into formal registries to expand access to real estate finance. Such reforms would align with Nigeria's economic goals, fostering inclusive development.<sup>252</sup>

The LUA's role in real estate finance regulation requires modernization to support Nigeria's housing and infrastructure needs. Ukaejiofo recommends decentralizing land administration to streamline financing processes, reducing reliance on gubernatorial consent.<sup>253</sup> The case of *Goldmark Nigeria Ltd. v. Ibafo Co. Ltd.*<sup>254</sup> underscored the need for regulatory clarity to facilitate financing, yet the LUA's rigid framework persists. Legislative reforms to enhance title security and reduce bureaucratic hurdles would strengthen real estate finance, supporting sustainable property development.

#### **4.5 Proposed Reforms and Legislative Amendments**

The Land Use Act (LUA) of 1978, Cap L5, Laws of the Federation of Nigeria 2004, requires significant reforms to address its limitations in facilitating property development and ensuring

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<sup>250</sup> AA Adebayo, 'Land Use Conflicts and Property Development in Nigeria,' *Journal of Urban Management* [2015] (4) (1) 67–82.

<sup>251</sup> [2000] 5 NWLR (Pt. 656) 244.

<sup>252</sup> KH Babalola and SA Hull, 'Using the New Continuum of Land Rights Model to Measure Tenure Security,' *South African Journal of Geomatics* [2019] 84–97.

<sup>253</sup> A Ukaejiofo, 'Perspectives in Land Administration Reforms in Nigeria,' *Journal of Environment* [2008] 43–50.

<sup>254</sup> [2012]10 NWLR (Pt. 1308) 291.

equitable land tenure. A key proposal is to decentralize land administration by transferring some authority from state governors to local governments or specialized land agencies, as advocated by Ukaejiofo, who argues that this would reduce bureaucratic delays in issuing Certificates of Occupancy (C of O) and streamline land transactions.<sup>255</sup> The current centralized system, where governors hold urban land in trust under Section 1, creates bottlenecks, particularly in obtaining gubernatorial consent for transfers under Section 22, which hinders real estate investment and development. Decentralization would empower local authorities to manage land more efficiently, aligning with community needs and fostering sustainable development across Nigeria's diverse regions.<sup>256</sup>

Another critical reform is integrating customary land tenure systems into the LUA's framework to enhance tenure security and support property development, particularly in rural areas. Scholars like Ocheje argue that the Act's urban bias marginalizes customary landowners, who rely on informal systems, leading to disputes and limited access to land for development.<sup>257</sup> Amending Sections 5 and 9 to recognize customary titles alongside statutory rights of occupancy, as proposed by Babalola and Hull, would formalize communal land rights, enabling rural landowners to leverage land for agricultural and housing projects.<sup>258</sup> This reform would also align with Nigeria's socio-economic goals by reducing poverty and enhancing food security through increased access to land for productive use.

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<sup>255</sup> A Ukaejiofo, 'Perspectives in Land Administration Reforms in Nigeria,' *Journal of Environment* [2008] (1) 43–50.

<sup>256</sup> BO Nwabueze, *Nigerian Land Law* (Enugu: Nwamife Publishers, 1972) 632.

<sup>257</sup> PD Ocheje, 'The Land Use Act and the Challenges of Sustainable Development,' *Journal of African Law* [2007] (51) (2) 203–225.

<sup>258</sup> KH Babalola and SA Hull, 'Using the New Continuum of Land Rights Model to Measure Tenure Security,' *South African Journal of Geomatics* [2019] (5) (2) 84–97.

Reforming the compensation framework under Section 29 is essential to ensure justiciability and encourage investment in property development. Adeniyi suggests that the LUA should adopt comprehensive valuation criteria, including socio-economic impacts and future land value, to provide fair compensation for compulsory acquisitions.<sup>259</sup> The current focus on improvements and unexhausted economic trees, as critiqued by Aluko, often results in inadequate payments, discouraging developers and eroding trust in the system.<sup>260</sup> Introducing mandatory community consultations and standardized compensation guidelines, as recommended by Ogedengbe, would enhance fairness, reduce disputes, and support large-scale infrastructure projects critical for Nigeria's urbanization.<sup>7</sup>

Streamlining the gubernatorial consent process for land transfers, including mortgages, is another vital amendment to boost real estate finance and property development. Omotola argues that Section 22's consent requirement increases transaction costs and delays, limiting access to credit for developers.<sup>261</sup> Introducing time-bound consent processes and digital platforms for title verification, as implemented in Lagos and suggested by Thontteh, could reduce bureaucratic inefficiencies and enhance investor confidence.<sup>262</sup> These reforms, combined with public awareness campaigns to educate landowners on their rights, as proposed by Odiase-Alegimenlen, would create a more transparent and efficient land administration system, fostering sustainable property development across Nigeria.<sup>263</sup>

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<sup>259</sup> PO Adeniyi, 'Land Tenure Reform and Property Development in Nigeria,' *Journal of Environmental Planning and Management* [2013] (56) (8) 1235–1254.

<sup>260</sup> BT Aluko, 'Socio-Economic Impacts of Land Acquisition in Nigeria,' *Journal of Sustainable Development Studies* [2012] (4) (3) 89–105.

<sup>261</sup> JA Omotola, *Cases on the Land Use Act* (Lagos: University of Lagos Press, 1983) 131.

<sup>262</sup> EO Thontteh, 'Digital Land Administration in Lagos,' *Property Rights and Planning Research Journal* [2015] 161–177.

<sup>263</sup> OA Odiase-Alegimenlen, 'Gender and Land Rights in Nigeria,' *Journal of African Gender Studies* [2013] (2) (1) 45–60.

## CHAPTER FIVE

### CONCLUSION

#### 5.1 Summary of Findings

This study primarily focused on the analysis of the effect of the Land Use Act on property development in Nigeria. It investigated the effects whether positive or negative which the Land Use Act has on property development in Nigeria. However, the Act sought to accomplish its objective and these may be encapsulated for the sake of clarity.

First, the Act was intended to curb land speculation, which accounted for the astronomical rise in land values especially in urban areas. It was believed then that once ownership of land was vested in the government, speculators would be forced out of business and government would then be able to stabilize the value of land.

Second, the Act was intended to assist the citizenry irrespective of their social status to realize their ambitions or aspirations of owning the place where they and their families would live a secure and peaceful life.

Third, investing ownership of land in government sought to remove the difficulty which government encountered in acquiring land for public purposes.

Fourth, the Act intended to harmonize the tenure systems throughout the country especially in the southern part of the country (Land Tenure Law, 1962). In most parts of the South, the situations gave rise to multiple and endless litigations, which hampered economic development especially as it concerned the location of industries, the setting of infrastructural projects such as hospitals, schools, and the operation of mechanized agriculture. These problems encapsulated can be reduced, among others, were expected to be eliminated or at least drastically reduced by the enactment of the Land Use Act. The objectives of the Land Use Act are no doubt lofty and well intentioned but the Act turned out to be defective in many respects. Shackled with institutional

failure, dearth of political will and inherent defects, the law could not achieve most of its set objectives.

## **5.2 Recommendations**

To re-focus the Act and secure economic development and easy access to land by both government and the citizens, the paper recommended amendment of certain provisions of that act and that government should muster the requisite political will to implement the law effectively, fairly and equitably. Notwithstanding, the desire for economic development through effective, fair and equitable utilization of land and land resources could be attained if the law is holistically amended to overturn certain anachronistic and antithetical provisions and replaced with realistic and effective policies that would put the Nigeria on the part of economic progress.

The paper recommend that a new policy be enacted that would guide and favour real estate development in Nigeria. I also recommend the followings:

1. There is need for statutory reshaping of the Act to promote people's access to Land Rights, so as to improve access to land and guarantee effective property development.
2. Some stipulations of the Land Use Act need to be re-visited for a review so as to eliminate ambiguity of expression, resentment as well as rivalry and conflict of authority which causes serious obstruction to the implementation of the Act.
3. Direct State allocation is recommended such that the Act should guarantee access to developable land for those citizens deprived of theirs through the process of revocation of land for public purposes.
4. A holder of a certificate of occupancy should have exclusive possession against all persons including the governor and his delegates.

5. Finally, the government should aim at providing adequate planning authority, monitoring and evaluation committee who will serve as a watchdog to the activities of the land operators.

### **5.3 Contributions to Knowledge**

This study makes essential contributions to the academics and practical colloquy on the property law in Nigeria by scrutinizing the impacts and importance of the Land Use Act on property development in Nigeria. It provides a compendious examination on the impacts of the Act on the right of a person over its property, ownership of land, offering a new view into the evolving dynamics of real estate and their legal implications. By flaunting the inadequacies bedeviled in the Land Use Act of 1978, research enriches the ongoing debate on the need for legislative and legal reform geared towards digital age. Furthermore, it advances theoretical understanding by striking a legal balance between the rights of ownership (acquiring of property) enshrined in the constitution, and the statutory and customary right of occupancy vested on the Governor and local government chairman respectively.

This research also contributes to global scholarship on platform governance by reviewing the limited right of ownership of land under Nigerian law, and proposing context-specific regulatory mechanism to enhance the use of land in Nigeria. By advocating for a multidimensional strategy that will integrates legislative updates, collaborative platform regulation, and public education on property law, the study provides a practical blueprint for policymakers and stakeholders aiming to address real estate issues while preserving democratic values. Collectively, these contributions lay a robust foundation for future research and policy development, providing actionable insights to align Nigeria's land law.

## 5.4 Areas for Further Studies

This study on the impact of the Land Use Act on property development in Nigeria illuminates critical intersections between technology in property development and legal frameworks regulating the use of land in Nigeria, yet it also reveals gaps that warrant further scholarly exploration. The following areas offer promising avenues for advancing knowledge and supporting the adaptation of technology in Nigeria land law:

1. Technology in property development: such as the integration of technology into Nigerian land law which includes
  - Smart building
  - Virtual and augmented reality (VR/AR)
  - Emerging trends and market dynamics by analyzing the benefits and challenges of creating urban and rural spaces that blend residential, commercial and recreational uses.
2. Investigating innovative development models and policies aimed at addressing the Nigerian affordable housing crisis.
3. Socio-economic impacts: the overall effect of the Act on Nigeria's socio-economic landscape.
4. Urban vs rural development: a comparative study of the Act's effects on land development in urban and rural areas, and the specific challenges and opportunities presented by the Act in different contexts.
5. Compensation and right of revocation: an analysis of the adequacy and fairness of compensation provided for revoked rights of occupancy
6. The need for necessary adjustments and reforms in the Act to promote effective land use and property development.

## **5.5 Conclusion**

The Land Use Act, at the time of its enactment, was hailed as a revolutionary law that would propel Nigeria into the path of economic prosperity. It effectively abrogated absolute ownership or freehold interests by the community, the family and the individual and created same in favour of government to hold in trust for the use of all Nigerians. Unfortunately, the optimism that heralded the Act gradually and steadily faded into disillusionment as its lofty aims turned out to be defeated due to inherent defects and contradictions in the Act on the one hand, and institutional failure and lack of political will to implement the Act firmly and equitably on the other.

Finally, having identified the major issues and problems of the Land Use Act of 1978, greater achievements will be made to review some aspects of the Act which are ambiguous as well as proper reorientation being introduced to address short comings on real estate development in Nigeria.

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