

BALANCING EQUITY AND FINANCIAL SECURITY: A CRITICAL EXAMINATION OF  
CONVEYANCING LIENS IN NIGERIA \*<sup>1</sup>

**Abstract**

Conveyancing liens are essential legal mechanisms in Nigerian property transactions, safeguarding the financial interests of vendors, purchasers, and legal professionals. The judiciary has played a pivotal role in defining and enforcing these liens, particularly through the distinction between common law and equitable liens, Judicial safeguards, such as restrictions on solicitors' liens over client funds, prevent abuse while ensuring fairness in property dealings. However, challenges persist, including inconsistencies in judicial discretion, enforcement delays, and the absence of comprehensive statutory provisions. The reliance on case law rather than codified legislation results in legal uncertainty, potentially affecting the efficiency of property transactions. This paper critically evaluates the strengths and weaknesses of the conveyancing liens in Nigeria, advocating for legislative reforms to enhance clarity, predictability, and equitable enforcement in property law.

**Keywords:** Conveyancing liens, Equitable liens, Judicial discretion, Property transactions, Legal enforcement in Nigeria

**1. Introduction**

Conveyancing liens are fundamental legal instruments in property transactions, providing security for unpaid financial obligations between vendors, purchasers, and legal professionals. These liens ensure that vendors retain an equitable interest in the property until full payment is made, while purchasers may also assert a lien when they have paid for but not received legal title. As an essential aspect of property law, conveyancing liens operate at the intersection of equity and contract law, ensuring fairness and protecting financial interests in real estate transactions. The Nigerian judiciary has played a significant role in shaping the enforcement and interpretation of conveyancing liens, particularly by distinguishing between common law and equitable liens.<sup>2</sup> Courts have consistently upheld the principle that a vendor's lien arises automatically upon the execution of a sale agreement and persists until full consideration is paid. Similarly, a purchaser's lien allows buyers to assert a financial interest in the property if the vendor fails to deliver legal title after payment.<sup>3</sup> Judicial recognition of these liens has been instrumental in protecting stakeholders, yet several challenges persist, including uncertainty in judicial discretion, enforcement delays, and the absence of statutory codification. While courts have imposed safeguards to prevent the abuse of conveyancing liens, particularly by legal professionals, gaps remain in statutory provisions. For instance, in *Afrotec Tech. Services (Nig.) Ltd. v. MIA & Sons Ltd.*<sup>4</sup>, the judiciary ruled that solicitors cannot exercise liens over client funds, thereby preventing fiduciary misconduct. However, the absence of comprehensive legislation results in reliance on judicial pronouncements, which may lead to inconsistencies in enforcement. Additionally, the enforcement of liens can delay property transactions, creating economic inefficiencies when title documents are withheld due to unpaid fees. This paper critically examines the judicial approach to conveyancing liens in Nigeria, analyzing its strengths and limitations. It explores the role of courts in enforcing these liens, assesses the challenges posed by judicial discretion and legal uncertainty, and evaluates the impact of enforcement delays on property transactions. Finally, the paper advocates for legislative reforms to establish a more structured and predictable legal framework, ensuring that conveyancing liens serve their intended purpose without room for exploitation or undue hardship.

**2. Understanding Conveyancing Liens**

**Definition and Doctrinal Foundations**

A conveyancing lien lacks a precise statutory definition but can be inferred from the broader concept of a lien, which grants a right over another's property until an obligation is fulfilled. In *B.J. Export & Chemical Processing Co. Ltd & Anor v. UBN*<sup>5</sup>, a lien is defined as a right over another's property, either contractually or by law. Justice Emmanuel Olayinka Ayoola, JSC, citing *Halsbury's Laws of England*<sup>6</sup>, describes a lien as a right to detain goods as security. Similarly, *Barclays Bank Plc v. Estates & Commercial Ltd*<sup>7</sup> confirms that upon entering a binding contract for land sale, the vendor holds a lien until payment is made. This establishes a conveyancing lien as a security interest ensuring financial obligations are met.

**Legal Preconditions for the Establishment of a Conveyancing Lien**

A conveyancing lien arises when one party fulfills their contractual duty, but the other does not, particularly in property transactions. Equity acknowledges that a vendor who transfers land retains a lien for unpaid purchase money<sup>8</sup>. Conversely, a purchaser who makes payment but does not receive a conveyance may also claim a lien.<sup>9</sup>

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<sup>2</sup> *Oyamenda & Anor v. Abdulrahman & Anor* (2013) LPELR-22744(CA)

<sup>3</sup> *Williams v. Hope Rising Voluntary Funds Society* (1982) 1 SC 145

<sup>4</sup> (2000) 15 NWLR (Pt. 692) 730

<sup>5</sup> (2019) LPELR-49712(CA)

<sup>6</sup> 4th Edition, Vol. 28, para. 73

<sup>7</sup> (1997) WLR p. 415

<sup>8</sup> *Afrotec Technical Services (Nig) Ltd v. Mia & Sons Ltd & Anor* [(2000) LPELR-219(SC)]

<sup>9</sup> *Oguntimehin v. Unity Bank PLC* [(2017) LPELR-43244(CA)]

### **Divergent Jurisprudential Views on the Creation of a Lien**

There are two key perspectives on when a conveyancing lien arises: The Contract Execution School: This school asserts that a lien emerges when the contract is executed<sup>10</sup>; *Re Birmingham*.<sup>11</sup> *Barclays Bank Plc v. Estates & Commercial Ltd*<sup>12</sup> supports this, affirming that the lien arises upon exchange of contracts, not completion. The Possession School: This view argues that the lien arises when the vendor grants possession without full payment.<sup>13</sup> Equity intervenes only when possession is granted without full payment.<sup>14</sup> The consensus is that vendors retain an equitable lien over conveyed land if unpaid.<sup>15</sup>

### **Key Legal Attributes of Conveyancing Liens**

#### ***Equitable Foundation and Security Implications***

A conveyancing lien is an equitable, rather than a legal, right. At common law, vendors hold a lien on land until full payment.<sup>16</sup> In *Ogunbambi v. Abowaba*<sup>17</sup>, an unpaid vendor retained an equitable lien despite transferring possession. Purchasers also have liens securing their deposit, enforceable through judicial relief.<sup>18</sup>

#### ***Priority and Enforceability in Relation to Legal Interests***

Conveyancing liens are subordinate to legal interests like registered mortgages. A vendor initially retains a legal lien, but upon conveyance, the lien shifts to an equitable one.<sup>19</sup> Unlike a mortgage, a lien does not transfer title but grants security via judicial sale.<sup>20</sup> Courts affirm that a vendor's lien persists until payment, even if possession is transferred.<sup>21</sup>

#### ***The Primacy of Bona Fide Purchasers over Vendor's Equitable Liens***

Equity protects vendor's liens except against bona fide purchasers without notice.<sup>22</sup> This reinforces the principle that equities being equal, the law prevails. Vendors must notify prospective buyers of outstanding balances.

#### ***Mechanisms for Protecting the Vendor's Lien***

Nigerian jurisprudence offers several protective measures<sup>23</sup>: Endorsement of Conveyance at the Land Registry to give constructive notice. Lodging a Caveat to create a public record of the vendor's interest (Registration of Title Act). Registering the Agreement for Payment to ensure enforceability. Retention of Title Deeds until full payment.

#### ***Competing Equitable Interests and the Rule of Priority***

Courts apply the *Qui prior est tempore, potior est jure* doctrine.<sup>24</sup> A registered equitable interest, such as a mortgage, will supersede a vendor's lien if recorded first.<sup>25</sup>

### **The Right of Retention and Its Limitations**

Vendors may retain possession until full payment, but this right is not absolute.

***Waiver of Right of Retention:*** Accepting other security may constitute a waiver.<sup>26</sup>

***Effect of Payment and Transfer of Title:*** Full payment extinguishes the lien. A vendor who transfers legal title loses the right of retention but retains an equitable lien.<sup>27</sup>

***Priority of Third-Party Interests:*** A *bona fide* purchaser without notice takes free of the lien.<sup>28</sup>

Conveyancing liens, rooted in both common law and equity, ensure unpaid purchase money is secured. The timing of lien creation remains debated, but equity generally intervenes post-possession. Judicial precedence supports vendor's equitable liens to balance interests between vendors and purchasers. Nigerian property law may benefit from enhanced registration mechanisms to better secure vendors' interests and prevent disputes arising from procedural gaps.

<sup>10</sup> *Whytes v. Lee* [(1885) 61 E.R p. 954

<sup>11</sup> (1959) Ch. p. 523

<sup>12</sup> [(1997) WLR p. 415]

<sup>13</sup> I.O. Smith, *Nigerian Law of Secured Credit*, p. 135

<sup>14</sup> Sugden, *Vendors and Purchasers of Estates*, 14th ed. 1862, Chap. 19, pp. 670-671

<sup>15</sup> Barnsley, *Conveyancing Liens* (1997) 61 Conv. (Sweet & Maxwell) p. 336 at p. 340.

<sup>16</sup> *Re Birmingham Deed* [(1959) Ch 523 at 529 per Upjohn J.]

<sup>17</sup> (1951) 13 WACA 222

<sup>18</sup> *Yaro v. Arewa Construction Ltd & Ors* [(2007) 17 NWLR (Pt. 1063) 333]

<sup>19</sup> I.O. Smith, *Nigerian Law of Secured Credit*, p. 136)

<sup>20</sup> *Hewitt v. Court* [(1982) 149 CLR 639 at 664 per Deane J.]

<sup>21</sup> *Savage v. Sarrough* [(1937) 13 NLR 141]; *Anyanwu v. Uzowuaka*

<sup>22</sup> *Ayorinde v. Scott* (CCCHCJ/2/72)

<sup>23</sup> Smith, *Nigerian Law of Secured Credit*, p. 139

<sup>24</sup> *Cave v. Cave* (1880) 15 Ch. D. 69

<sup>25</sup> *Yesufu v. Oke* (1970) 1 All NIR 117

<sup>26</sup> *Ogunbambi v. Abowaba* (1951) 13 WACA 222

<sup>27</sup> *Ashaye v. African Continental Bank Ltd* (1973) NNLR 59)

<sup>28</sup> *Bank of the North Ltd v. Yau* (2001) 10 NWLR (Pt. 721) 408

### 3. Scope of Conveyancing Lien

Conveyancing liens, including vendor's liens and purchaser's liens, remain central to property law, balancing equitable rights with legal priorities. Their enforceability often comes into question when competing interests emerge, such as claims from bona fide purchasers and secured creditors. While these liens serve a crucial function in securing unpaid purchase money, their effectiveness depends on legal safeguards that prevent their subordination to third-party interests. The scope of a conveyancing lien encompasses its characteristics, application, and enforceability in property transactions. A vendor's lien allows a seller to retain an interest in the property until full payment is made, whereas a purchaser's lien secures the buyer's interest when part or full consideration has been paid without title transfer. However, the operation of these liens is affected by competing claims, judicial interpretations, and statutory protections.

#### Vendor's Lien: Legal Basis and Jurisprudence

A vendor retains a lien for unpaid purchase money even after executing an absolute conveyance and parting with possession of the property and title deeds. This principle was upheld in *Barclays Bank v. Estates & Commercial Ltd.*, affirming the vendor's equitable right post-transfer of legal title. The lien takes effect immediately upon sale and extends to purchase money, including compensation for compulsory acquisition.<sup>29</sup> However, the enforceability of an unpaid vendor's lien is constrained when a bona fide purchaser for value acquires the property without notice of the lien. This limitation was emphasized in *Ayorinde v. Scott*, where the defendant's lack of knowledge of unpaid purchase money protected them from the vendor's equitable lien. This case reaffirms the doctrine that prioritizes bona fide purchasers, as recognized in *Rice v. Rice*.<sup>30</sup>

**Protection and Perfection of Vendor's Lien:** Vendor's liens are vulnerable to bona fide purchasers and equitable mortgagees, necessitating proactive legal steps to preserve the vendor's security interest. In *Ayorinde v. Scott*, Odesanya J. suggested several protective measures: Endorsement of Encumbrance on Land Records: Notations at the Lands Registry serve as constructive notice to third parties. Lodging a Caveat with the Registrar of Titles: Essential in jurisdictions requiring title registration. Registering the Written Agreement for Deferred Payment: Ensures enforceability of outstanding obligations. Retention of Title Deeds: Serves as collateral security for unpaid purchase money. Neglecting these measures may result in loss of priority, with courts favoring subsequent mortgagees or purchasers who acquire legal title without notice.

**The Sub-Vendor's Lien: Extension of Equitable Protection:** A sub-vendor's lien arises when an original purchaser resells a property without receiving full payment. The initial vendor's lien may be enforceable against the subsequent purchaser under equitable principles. In *Ayorinde v. Scott*, the court suggested that the sub-vendor's lien relies on similar protective measures adopted by the original vendor. This aligns with broader equitable doctrines prioritizing fairness and notice over formal legal structures.

**Transfer and Subrogation of Vendor's Lien:** A lender financing a purchaser's payment may acquire a right of subrogation to the vendor's lien. This principle was reinforced in *Boodle v. British Films Ltd.*, where a financier who advanced funds for a land purchase was subrogated to the vendor's lien upon non-payment. The case underscores the doctrine preventing unjust enrichment by allowing creditors to assume the vendor's position in recovering outstanding sums. However, subrogation is not absolute. In *Nottingham Permanent Benefit Building Society v. Thurstan*, the court ruled that if the lender-borrower transaction is unenforceable, the lender cannot rely on the vendor's lien. This limitation ensures equitable relief does not override statutory restrictions or contractual fairness.

**Towards a More Secure Vendor's Equitable Interest:** Jurisprudence on vendor's liens highlights the need for vendors to secure their interests against third-party claims actively. Although equity acknowledges a vendor's right to unpaid purchase money, courts prioritize bona fide legal titleholders acting in good faith without notice of prior encumbrances. Future legislative reforms could enhance lien protection mechanisms, such as mandatory registration of vendor's liens and strengthened public notice requirements, ensuring a balance between legal certainty and equitable justice in property transactions.

**Third-Party Interests in Vendor's Equitable Liens:** The enforcement of a vendor's equitable lien remains a contentious issue in property law, particularly regarding its priority over third-party rights. The key challenge lies in applying equitable principles when a bona fide purchaser for value acquires legal title without notice of the vendor's lien. This part of the article critically examines the jurisprudence, engaging with case law and doctrinal arguments to explore the protection afforded to bona fide purchasers and its implications for vendors.

**Priority of Bona Fide Purchasers Over Vendor's Equitable Liens:** Equity protects a vendor's lien except against a bona fide purchaser for value without notice. This principle was illustrated in *Ayorinde v. Scott*, where the plaintiff vendor failed to enforce his lien against the defendant, a subsequent purchaser with no knowledge of unpaid purchase money. The case upholds the equitable maxim that "where equities are equal, the law prevails."

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<sup>29</sup> *Re Hamilton Snowball's Conveyance* (1959) Ch. 308

<sup>30</sup> 61 ER 646

**Mechanisms for Safeguarding the Vendor's Lien:** Given the vulnerability of vendor's liens, Nigerian jurisprudence, as seen in *Ayorinde v. Scott*, suggests several safeguarding mechanisms<sup>31</sup>: Endorsement of Conveyance at the Land Registry: Serves as constructive notice to third parties. Lodging a Caveat with the Registrar of Titles: Creates a public record of the vendor's interest (*Registration of Title Act*). Registering the Agreement for Payment: Documents deferred payment obligations for enforceability. Retention of the Title Deeds: Prevents unauthorized resale by the purchaser.

#### **Purchaser's Lien**

A purchaser's lien, first recognized in *Burgess v. Wheate* (1759) 1 WB 123, grants an equitable claim where the vendor fails to transfer title despite payment. It covers deposit recovery, title investigation expenses, and contractual improvements (*Whitbread & Co. Ltd v. Watt* (1902) 1 Ch. 835; *Lee-Parker v. Izz* (1971) 1 WLR 1688).

#### **Exclusion and Waiver of Liens**

A lien may be excluded contractually (*Capital Finance Co. Ltd v. Stokes* (1969) 1 Ch. 201) or waived when alternative security is accepted (*Barclays Bank v. Estates & Commercial Ltd*). However, a promissory note alone does not extinguish a lien (*Middleton v. Magnay* (71 ER 452)). While vendor's liens protect unpaid purchase money, they remain vulnerable to bona fide purchasers. Courts balance equitable rights with legal certainty, reinforcing the need for legislative intervention to bolster lien protection through mandatory registration and public notice mechanisms.

### **4. Enforcement of Conveyancing Liens in Nigeria: Legal Framework and Judicial Intervention**

Conveyancing liens serve as essential equitable interests in property transactions, ensuring protection for both vendors and purchasers. These liens require legal enforcement, with different mechanisms depending on their nature. Nigerian law recognizes vendor's and purchaser's liens, each necessitating distinct judicial interventions. This part of the paper critically examines the enforcement of conveyancing liens in Nigeria, emphasizing the need for a strong legal enforcement system to secure financial interests and promote equity in property dealings.

#### **Enforcement of Vendor's Lien**

A vendor's lien acts as security for the unpaid purchase price of a property, granting vendors equitable rights to judicial remedies in cases of purchaser default. Several enforcement mechanisms are available to vendors:

**Judicial Declaration of Lien:** Vendors may seek judicial affirmation of their lien through a High Court writ. Once declared, the vendor gains enforcement powers similar to those of a mortgagee, including foreclosure or sale. Judicial precedent, such as *Parrott v. Sweetland*<sup>32</sup> and *Winter v Lord Anson*<sup>33</sup>, supports this approach. Williams further confirms that once declared, a vendor's lien operates akin to a chargeholder's rights.<sup>34</sup>

**Judicial Sale of Property:** Upon purchaser default, vendors can petition the High Court for a sale order, as seen in *Savannah Bank Plc v. Ajilo*.<sup>35</sup> Courts require proof of default before granting such orders, ensuring financial restitution for vendors and protecting against undue losses.

**Appointment of a Receiver:** When judicial sales face delays, vendors can request the appointment of a receiver to manage the property and collect rents. This remedy, as upheld in *Re Stucley*<sup>36</sup>, helps vendors maintain financial control and mitigate hardship from purchaser default.

**Injunction against Further Transfers:** To prevent fraudulent property disposal, vendors may seek an injunction restraining further transfers until debts are settled. Courts routinely uphold this remedy to preserve vendor rights and ensure lien enforceability.

**Enforceability against Successors in Title:** A vendor's lien extends to successors in title unless they are bona fide purchasers without notice. The principle, as established in *Williams v. Hope Rising Voluntary Funds Society*<sup>37</sup>, ensures vendors can maintain claims against estates and voluntary acquirers who do not provide full consideration.

#### **Enforcement of Purchaser's Lien**

A purchaser's lien arises when payment is made but legal title is not transferred, preventing vendors from unjust enrichment. Courts recognize this lien as a security interest compelling vendors to complete transactions.

**Judicial Declaration of Lien and Sale of Property:** Purchasers may seek High Court recognition of their lien, leading to judicial orders for property sale or restraining vendor transfers. The case of *Isaac v. Imasuen* confirms that a purchaser paying part of the price retains a lien until title transfer.

<sup>31</sup> Smith, *Nigerian Law of Secured Credit*, p. 139

<sup>32</sup> 40 E.R. 250

<sup>33</sup> 38 E.R. 658

<sup>34</sup> *On Vendor & Purchaser* (4th ed., 1936, vol. 2, p. 984)

<sup>35</sup> (1989) SCNJ 159

<sup>36</sup> (1906) 1 Ch 67

<sup>37</sup> (1982) 1 SC 145

**Specific Performance as a Remedy:** Specific performance compels vendors to fulfill contractual obligations, particularly in cases where monetary damages are insufficient. Courts enforce this remedy to prevent vendors from reneging on agreements.

**Judicial Sale of Property to Enforce Purchaser's Lien:** If a vendor refuses title transfer despite full payment, the court may order a judicial sale, ensuring financial restitution. The Supreme Court in *Union Bank of Nigeria Plc v. Alhaji Adams Ajabule & Anor* established that a purchaser is entitled to judicial sale where the vendor defaults. The enforcement of conveyancing liens in Nigeria highlights the judiciary's essential role in maintaining equity in property transactions. Vendors and purchasers benefit from legal mechanisms that prevent financial injustice. However, procedural delays and judicial discretion impact enforcement efficacy. Strengthening the legal framework through legislative reforms can enhance lien enforcement in Nigeria's property market.

## **5. The Enforceability of Purchaser and Sub-Purchaser Liens in Nigerian Conveyancing Law**

### **The Binding Nature of a Purchaser's Lien on Successors in Title**

A purchaser's lien ensures their equitable interest remains until full contractual fulfillment. However, its enforceability against successors depends on registration or judicial recognition. The Supreme Court in *SO Isaac v Imasuen*<sup>38</sup> emphasized the importance of such protections. If successors acquire property with notice of the lien, they remain bound by it. *Union Bank of Nigeria Plc v Alhaji Adams Ajabule & Anor*<sup>39</sup> reaffirmed that equitable rights are preserved if properly registered or acknowledged.

### **Enforcement of Sub-Purchaser's Lien**

A sub-purchaser's lien protects financial interests when a purchaser resells their stake before completing the original agreement.

### **Sub-Purchaser's Lien before Completion of the Contract**

Before completing the primary contract, a sub-purchaser has a lien over the purchaser's interest. If the vendor defaults, the sub-purchaser can claim refunds. *Benjamin Onwughamba Ezenwa v Okpara Oko & Ors*<sup>40</sup> upheld the principle that sub-purchasers can claim against a purchaser's equitable interest before contract completion.

### **Liability for Non-Completion of the Contract**

If the contract is not completed: Vendor's Default: The vendor must refund the purchaser, who reimburses the sub-purchaser. Purchaser's Default: The sub-purchaser can sue the purchaser for breach. *A. O. Williams v Hope Rising Voluntary Funds Society*<sup>41</sup> clarified that sub-purchasers must direct claims against the defaulting purchaser.

### **Sub-Purchaser's Lien after Completion of the Contract**

After contract completion, the sub-purchaser's lien transitions from an equitable claim to a direct legal interest. The ruling in *SO Isaac v Imasuen* confirmed that such liens bind subsequent owners who have notice, ensuring ongoing protection. Conveyancing liens protect purchasers and sub-purchasers, reinforcing transparency in property dealings. Nigerian case law, including *Isaac v Imasuen* and *Benjamin Onwughamba Ezenwa v Okpara Oko & Ors*, affirms their enforceability post-completion if properly registered. These legal safeguards deter fraud and ensure financial fairness in real estate transactions.

## **6. The Judicial Approach to Conveyancing Liens in Nigeria: A Critical Analysis**

Conveyancing liens play a crucial role in property transactions by securing financial interests. As equitable interests, they ensure contractual compliance. However, Nigerian courts scrutinize their enforcement, balancing recognition with restrictions to prevent abuse.

### **Judicial Interpretation of Conveyancing Liens**

Nigerian courts affirm conveyancing liens as protective mechanisms for professionals in property transactions. In *Afrotech Tech. Services (Nig.) Ltd. v. MIA & Sons Ltd.*<sup>42</sup>, the Supreme Court defined a lien as a right to retain property until financial obligations are met. Courts permit legal practitioners to retain documents for unpaid fees but prohibit liens over funds held in trust. In *Re Morris*<sup>43</sup>, it was held that solicitors maintain general liens over documents related to their legal work, reinforcing their protective function.

### **Distinction between Equitable and Common Law Liens**

Nigerian courts distinguish between equitable and common law liens. In *Oyamenda & Anor v. Abdulrahman & Anor*<sup>44</sup>, Justice Adewale Abiru explained that common law liens require possession, while equitable liens act as an equitable charge enforceable through judicial intervention. This distinction expands enforceability beyond possession, ensuring judicial remedies for vendors and purchasers.

### **Judicial Protection of Vendor and Purchaser Liens**

Courts recognize the vendor's right to retain documents until full payment and the purchaser's equitable lien if substantial payments have been made without title transfer. In *Williams v. Hope Rising Voluntary Funds Society*<sup>45</sup>, the Supreme Court

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<sup>38</sup> (2016) 8 NWLR (Pt. 1524) 120

<sup>39</sup> (2011) 18 NWLR (Pt. 1278) 152

<sup>40</sup> (2016) 4 MILR (SPA. 1503) 300

<sup>41</sup> (1982) 1 SC 145

<sup>42</sup> (2000) 15 NWLR (Pt. 692) 730

<sup>43</sup> (1896) 2 Ch 253

<sup>44</sup> (2013) LPELR-22744(CA)

<sup>45</sup> (1982) 1 SC 145; (2013) LPELR-22744(CA)

held that a purchaser's lien binds successors with actual or constructive notice, preventing fraudulent transactions and ensuring good-faith ownership transfers.

### **Restrictions and Judicial Discretion in the Enforcement of Liens**

Courts impose restrictions to prevent lien misuse. Excessive retention of documents may constitute wrongful detention. Judicial discretion ensures fairness, as courts may refuse enforcement if it results in inequity. This approach balances protection and restriction, upholding liens' necessity while preventing abuse. The judicial approach to conveyancing liens in Nigeria plays a crucial role in securing financial interests for vendors, purchasers, and legal professionals while maintaining fairness in enforcement. Courts have distinguished between common law and equitable liens<sup>46</sup> and implemented safeguards against misuse, such as restricting solicitors' liens over client funds<sup>47</sup>. Judicial discretion further ensures that liens are not enforced oppressively, thereby reinforcing good faith in property transactions.<sup>48</sup>

### **7. Conclusion and Recommendation**

Despite these safeguards, the enforcement of conveyancing liens remains challenging due to doctrinal ambiguities, judicial inconsistencies, and vulnerability to third-party interests. The absence of statutory definitions has led to conflicting judicial interpretations, with some recognizing liens as equitable security interests<sup>49</sup>, while others limit them to possessory rights.<sup>50</sup> The debate over when a lien arises—whether at contract execution<sup>51</sup> or upon possession transfer<sup>52</sup>—further complicates enforcement. Conveyancing liens are also subordinated to legal interests such as registered mortgages<sup>53</sup>, and they may be unenforceable against bona fide purchasers without notice.<sup>54</sup> Procedural weaknesses, including the failure to register liens or lodge caveats<sup>55</sup>, can lead to their loss, and unlike mortgages, which allow direct foreclosure, lien enforcement requires judicial intervention, making it both costly and time-consuming. Nevertheless, conveyancing liens provide essential security in property transactions. Vendors retain an equitable claim until full payment is made, safeguarding their financial interests against defaulting purchasers.<sup>56</sup> Protective mechanisms such as lodging caveats, retaining title deeds, and leveraging the doctrine of subrogation<sup>57</sup> help strengthen a vendor's position. Judicial precedents, including *Rice v. Rice* and *Re Hamilton Snowball's Conveyance*, reinforce the importance of liens in protecting equitable rights. However, vulnerabilities persist. Vendor's liens remain susceptible to bona fide purchasers, judicial inconsistencies, and procedural limitations such as high registration costs and delays. Courts apply the doctrine of waiver inconsistently, raising uncertainty over whether alternative securities, such as promissory notes, extinguish a lien.<sup>58</sup> Additionally, liens often rank below registered interests, limiting their effectiveness as security instruments.

The judicial approach to conveyancing liens in Nigeria reflects a critical balance between financial security and equitable principles in property transactions. The recognition of both common law and equitable liens has provided vendors, purchasers, and legal professionals with a legal mechanism to secure their financial interests and ensure contractual obligations are met. Judicial precedents, such as *Oyamenda & Anor v. Abdulrahman & Anor*<sup>59</sup>, have clarified the distinction between these liens, reinforcing their significance in protecting stakeholders. Additionally, courts have imposed safeguards against potential abuse, as seen in *Afrotec Tech. Services (Nig.) Ltd. v. MIA & Sons Ltd.*<sup>60</sup>, which restricted solicitors from exercising liens over client funds to prevent fiduciary misconduct. Despite these efforts, challenges persist in the enforcement of conveyancing liens. The reliance on judicial discretion often results in inconsistencies, making it difficult for property stakeholders to predict legal outcomes with certainty. Furthermore, the absence of comprehensive statutory provisions governing conveyancing liens has led to enforcement gaps, with case law serving as the primary legal guide. This reliance on judicial pronouncements rather than codified legislation increases the risk of conflicting interpretations, complicating lien enforcement. Additionally, enforcement delays—such as the retention of property documents due to unpaid fees—affect economic efficiency and may hinder real estate investments. To address these challenges, legislative reforms are necessary to codify the principles governing conveyancing liens, establish clear enforcement mechanisms, and reduce over-reliance on judicial discretion. A well-defined legal framework would enhance predictability, improve procedural efficiency, and ensure equitable protection for all stakeholders in property transactions. Furthermore, regulatory measures should be introduced to prevent the misuse of liens, ensuring they do not lead to unnecessary legal disputes or transaction delays. Ultimately, while the Nigerian judiciary has played a pivotal role in the recognition and enforcement of conveyancing liens, a more structured legislative approach is required to address existing ambiguities and inefficiencies. Strengthening statutory provisions, improving procedural mechanisms, and ensuring consistency in judicial decisions will enhance the effectiveness of conveyancing liens, ensuring they continue to serve as reliable security interests in Nigerian property transactions.

<sup>46</sup> *Oyamenda & Anor v. Abdulrahman & Anor* (2013) LPELR-22744(CA)

<sup>47</sup> *Afrotec Tech. Services (Nig.) Ltd. v. MIA & Sons Ltd.* (2000) 15 NWLR (Pt. 692) 730

<sup>48</sup> *Williams v. Hope Rising Voluntary Funds Society* (1982) 1 SC 145

<sup>49</sup> *Barclays Bank Plc v. Estates & Commercial Ltd* (1997) WLR 415

<sup>50</sup> *Sugden, Vendors and Purchasers of Estates*, 1862

<sup>51</sup> *Whytes v. Lee* (1885) 61 ER 954

<sup>52</sup> *Afrotec Technical Services (Nig) Ltd v. Mia & Sons Ltd & Anor* (2000) LPELR-219(SC)

<sup>53</sup> *Yesufu v. Oke* (1970) 1 All NIR 117

<sup>54</sup> *Bank of the North Ltd v. Yau* (2001) 10 NWLR (Pt. 721) 408

<sup>55</sup> *Ayorinde v. Scott* (CCCHCJ/2/72)

<sup>56</sup> *Ayorinde v. Scott*

<sup>57</sup> *Boodle & Hatfield & Co v. British Films Ltd*

<sup>58</sup> *Middleton v. Magnay*

<sup>59</sup> (2013) LPELR-22744(CA)

<sup>60</sup> (2000) 15 NWLR (Pt. 692) 730