

CORRUPTION IN LAND ADMINISTRATION IN NIGERIA: LEGAL ISSUES AND CHALLENGES

Busari Morufu Salawu*

ABSTRACT

Corruption is a phenomenon which has spread into all sectors of Nigerian public life. Many research efforts on corruption focused on financial and political issues, while less attention has been paid to corruption in land in Nigeria. This study gives an overview of corruption in Nigeria. It examined corruption in land administration under Nigeria's Land Use Act 1978 and how this stultifies sustainable development in land use and planning. Efforts of Nigeria's Federal Government in combating this trend were discussed, while issues and challenges militating against the efforts were interrogated. The doctrinal research approach, relying on primary and secondary sources, was adopted. The primary source consisted of statutes (Constitution of the Federal Republic of Nigeria 1999, Land Use Act 1978, transparency laws such as Corrupt Practices and other Related Offences Act 2000 and Economic and Financial Crimes Commission (Establishment) Act 2004, etc.) and the case law while the secondary source included journal articles, textbooks, conference proceedings and the internet. Findings reveal that land administration in Nigeria was faced with myriads of problems such as plural land tenure systems, multiple property legislations, weak and (sometimes insincere) implementation of land policy. It also highlights that although the Nigerian government has enacted comprehensive transparency and anti-corruption laws, their effectiveness has been undermined by persistent official corruption, rent-seeking behaviour and the constitutional immunity granted to certain public officials. It concluded that while the Land Use Act 1978 and other relevant property

* LLB, LLM, PhD: Lecturer, Department Public and International Law, Faculty of Law, Osun University, Osogbo, Osun State, Nigeria E-mail: busari.salawu@uniosun.edu.ng (Corresponding Author).

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legislations should be reformed to clog corruption holes, these laws should be implemented strictly for national development.

Keywords: Land Access, Land Administration, Land Corruption, Executive Immunity, Rule of Law.

RASUAH DALAM PENTADBIRAN TANAH DI NIGERIA: ISU DAN CABARAN PERUNDANGAN

ABSTRAK

Rasuah merupakan satu fenomena yang telah menular ke dalam semua sektor kehidupan awam Nigeria. Kajian ini memberikan gambaran keseluruhan mengenai rasuah di Nigeria. Ia meneliti rasuah dalam pentadbiran tanah di bawah Akta Penggunaan Tanah Nigeria 1978 dan bagaimana ia menghambat pembangunan mampan dalam penggunaan dan perancangan tanah. Usaha-usaha Kerajaan Persekutuan Nigeria dalam memerangi trend ini turut dibincangkan, sementara isu dan cabaran yang menghalang usaha-usaha tersebut diteliti. Pendekatan penyelidikan doktrinal, yang bergantung pada sumber primer dan sekunder, telah digunakan. Sumber primer terdiri daripada statut (Perlembagaan Republik Persekutuan Nigeria 1999, Akta Penggunaan Tanah 1978, undang-undang ketelusan seperti Akta Amalan Rasuah 2004 dan Akta Suruhanjaya Jenayah Ekonomi dan Kewangan 2004, dan lain-lain) dan undang-undang kes, manakala sumber sekunder merangkumi artikel jurnal, buku teks, prosiding persidangan dan internet. Hasil kajian menunjukkan bahawa pentadbiran tanah di Nigeria menghadapi pelbagai masalah seperti sistem pemegangan tanah yang pelbagai, pelbagai perundangan harta tanah, pelaksanaan dasar tanah yang lemah dan (kadang-kadang tidak ikhlas). Ia juga menumpukan perhatian bahawa perundangan ketelusan dan anti-rasuah yang diluluskan oleh Kerajaan Nigeria adalah komprehensif, tetapi pelaksanaannya telah dicemari oleh rasuah pegawai, tingkah laku mencari keuntungan peribadi dan kekebalan perlembagaan yang sedia ada. Kajian ini menyimpulkan bahawa sementara Akta Penggunaan Tanah 1978 dan perundangan harta tanah lain yang berkaitan perlu direformasi untuk menutup ruang lingkup rasuah, undang-undang ini harus dilaksanakan dengan tegas demi pembangunan negara.

Kata Kunci: Akses Tanah, Pentadbiran Tanah, Rasuah Tanah, Kekebalan Eksekutif, Kedaulatan Undang-Undang.

INTRODUCTION

The importance of land to people cannot be underestimated. It has both physical and spiritual values to the people as it has been conceived to have a generational value: it belongs to the dead, the living and the yet unborn.¹ Perhaps, this explains the reason for the unending communal conflicts existing among communities in Nigeria. Examples of these are rural land conflicts between farmers and herdsman, in many parts of Nigeria; communities of Ife and Modakeke,² Ifon and Ilobu in Osun States,³ and inter-communal land conflicts in Benin City,⁴ among others. Apart from its spiritual essence, land is a major economic resource upon which the sustenance of the people resides. More than 70% of Nigerians' rural dwellers are either farmers or in the agricultural value chain, estimated to be in excess of USD85 billion.⁵ Land is the basis of rural land conflicts between farmers and herdsman, in many parts of Nigeria; communities of Ife and Modakeke,⁶ Ifon and Ilobu in Osun States,⁷ and inter-communal land conflicts in Benin City,⁸ among others. However, the phenomenon of corruption which is

¹Kolawole A. Owolabi, *Because of our future, the Imperative for an Environmental Ethic for Africa*, (IFRA Nigeria, 2022). DOI:10:4000/books.infra.3572

²J.O. Toriola, "The Ife/Modakeke Crisis: An Insider View," *Ife Psychologia*, 9(3) (2001), 21 – 29.

³Adeolu Adeyemo, "Ifon/Ilobu Crisis: Five Feared Killed as Communities Review Hostility," *Tribune Online*, January 30, 2024, accessed May 30, 2024, <www.tribuonlineng.com>.

⁴Justin Eduriere Agheyisi, "International land conflicts in Benin City, Nigeria: Exploring the Root Causes in the Context of Customary Land Supply," *Land Use Policy* 83 (2019), 532-542

⁵Olaoluwa Oloyede, 'Fundamentals of the Nigerian Agricultural Value Chain'. *Babban Gona* (2020), accessed April 23, 2024, <<https://babbangona.com/author/olaoluwa/>>.

⁶J.O. Toriola, "The Ife/Modakeke Crisis: An Insider View," *Ife Psychologia*, 9(3) (2001), 21 – 29.

⁷Adeolu Adeyemo, "Ifon/Ilobu Crisis: Five Feared Killed as Communities Review Hostility," *Tribune Online*, January 30, 2024, accessed May 30, 2024, <www.tribuonlineng.com>.

⁸Justin Eduriere Agheyisi, "International land conflicts in Benin City, Nigeria: Exploring the Root Causes in the Context of Customary Land Supply," *Land Use Policy* 83 (2019), 532-542

pervasive in Nigeria's environment, is gradually having harmful effects on the management and control of land in Nigeria. Various incidences of corruption under the customary land holdings and the Land Use Act 1978 exist to make land unalluring for economic transactions,⁹ such as mortgage and sale.

Although the 2019 Report of the United Nations Office on Drugs and Crime (UNODC) shows a significant decrease in the prevalence of bribery from the first report in 2016, the police officers and land registry officers were the top three corrupt officials especially in the North-Central, North-west and South-East zones of Nigeria.¹⁰ In addition, a high risk of corruption exists in Nigeria's land administration, which has made the ease of doing business very difficult in the nation.¹¹ Corruption on land ranges from 'gifts or facilitation payments to obtain a construction permit', allocation of land for political patronage and the unwholesome activities of traditional title holders (*Omo Onile*) in land transactions.¹² In all, corruption in Nigeria is forecast to cost up to 37% of GDP by 2030 if immediate corrective actions are not taken.¹³

This paper is conducted due to the awareness that many research efforts have been focused on financial and political corruption, while less attention has been paid to investigations on corruption in land in Nigeria, despite the importance of land as a national resource. The outcome of this paper would contribute to the literature in the study, promote knowledge on the achievement of the Sustainable

⁹Adamu Bala, Menare Royal Mabakeng and Terwase Tosin Youngu, "Corruption of Land Administration in Sub Sahara Africa: Reports from Nigeria and Namibia" (Paper Presented at the FIG Congress 2022: *Volunteering for the future – Geospatial Excellence for a Better Living*, Warsaw, Poland, 11 – 15 September 2022).

¹⁰UNODC, *Corruption in Nigeria: Patterns and Trends Second Survey in Corruption as Experienced by the population*. December 2019, accessed May 24, 2024, <<https://www.unodc.org>>.

¹¹GAN Integrity, 'Sub-Saharan Africa: Nigeria at Risk Report' November 4, 2020, accessed May 24, 2024 <ganintegrity.com/country-profiles/Nigeria/land-administration>.

¹²Kolawole A. Owolabi, *Because of our future*

¹³Pricewater House Coopers, "Impact of corruption on Nigeria's economy." accessed May 24, 2024 <<https://www.pwc.com>>.

Development Goals and ensure transparency and probity in the Nigerian property sector.

Based on the above, the objectives of the paper are to:

- (a) undertake an overview of corruption in land administration in Nigeria,
- (b) discuss legal and institutional efforts to combat corruption in the real property sector, and
- (c) identify and appraise challenges to the efforts to combat corruption.

The study adopted a doctrinal research method which relied on primary and secondary sources of information gathering. The primary source made use of statutes such as the Land Use Act (LUA)¹⁴, Economic and Financial Crimes Commission (Establishment) Act 2000, Corrupt Practices and other Related Offences Act 2000,¹⁵ etc., and case law, while the secondary source made use of textbooks, journal articles, newspapers, conference proceedings and the internet.

OVERVIEW OF CORRUPTION IN LAND ADMINISTRATION IN NIGERIA

Etiology of Land Corruption

Corruption is a complex human behaviour that has engaged the attention of scholars from time immemorial. It is a concept that is incapable of easy explanation, as no one theory can explain its complexity.¹⁶ According to the United Nations Office of Drugs and Crimes (UNODC), a meaningful approach to the understanding of corruption is multifaceted.¹⁷ It is a phenomenon which has engaged the attention of scholars in different parts of the world because no society

¹⁴Cap L5, Law of the Federation of Nigeria (LFN)2004.

¹⁵Cap 407 LFN 2004.

¹⁶UNODC, 'Global Resource for Anti-Corruption Education and Youth Empowerment' accessed April 30, 2024, <<https://www.grace.unodc.org>>.

¹⁷This includes. principal agent theory, collective action theory, institutional theory and resource curse theory

is totally free from it.¹⁸ However, it is pervasive in Nigeria, not because its people differ from others globally, but because the atmosphere in Nigeria grows and nurtures corruption.¹⁹

Factors such as leadership styles, lack of rule of law, poor wages of public service workers,²⁰ non-equitable income distribution, poverty and under-employment²¹ have been attributed to this trend. Other factors include transparency, probity and accountability,²² culture, ethnicity, and religion contribute largely to the sustenance of the phenomenon. A public official who goes home with the national minimum wage of ₦30,000 (before tax) (equivalent of USD20.85) in a month, with a university professor earning not more than ₦450,000 (USD312.81) at the rate of 1492.52 to a dollar²³ in a month, while the political office holders (the executive, legislative and judiciary) earn “fat salary.”²⁴ Various forms of corruption abound to sustain the living standards of the public officer. The devaluation of the national currency has made the current minimum wage unrealistic, while a realistic minimum wage has not been fixed.²⁵

Nigeria is a nation rich in natural resources including vast arable land which can support its population. Land is a key national resource for national development. Corruption affecting land resource will, therefore, negatively impact people’s livelihood and cripple the

¹⁸Mojeed Olujinmi A. Alabi, “Political Parties in the fight against Corruption,” in Yusuf O. Ali (ed.). *Anatomy of Corruption in Nigeria: Issues, Challenges and Solutions* (Yusuf O. Ali. 2016), 203-227

¹⁹Daluda D. Phillip, “Corruption as a Bane for Underdevelopment in Nigeria: Issues and Challenges,” *International Affairs and Global Strategy*, 15 (2013), 76 – 83.

²⁰Daluda D. Phillip, “Corruption as a Bane for Underdevelopment in Nigeria: Issues and Challenges,”

²¹Yusuf O. Ali, ‘The fight against corruption in Nigeria Myth or Reality?’ In Yusuf O. Ali (ed.) *Anatomy of Corruption in Nigeria: Issues, Challenges & Solutions* (Yusuf O. Ali, 2016), 1 – 32.

²²Daluda D. Philip, 78.

²³XEAPP, accessed June 5, 2024, < <https://www.xe.com>>.

²⁴XEAP

²⁵Adebayo Folorunso-Francis, Dirisu Yakubu, Henry Falaye *et al*, Minimum Wage Talks: Labour Considers N100,000 as Tinubu Issues Ultimatum. *Punch*, June 5, 2024, accessed June 5, 2024, <<https://www.punchng.com>>.

economy.²⁶ In a cross-border study conducted on the indices of corruption on land in Sub-Sahara Africa, it is observed that lack of transparency, observation of the rule of law and probity in land management and control, has, on many occasions led to communal conflicts, denial of people the opportunities to earn their livelihoods through farming. It also leads to the expropriation of land in favour of some sections of the society, either in government, or those who are friends of those in government. Furthermore, the study notes that regulations and institutions for land administration and control have been affected by the menace of bribery and corruption, which should be discouraged.²⁷

Corruption in real property market is a common phenomenon bedevilling the country.²⁸ Factors encouraging corruption in this sector are a lack of viable and transparent mortgage system, no visible anti-corruption policy specifically targeted to the real estate sector, prestige associated with property ownership,²⁹ ineffective land registries manned by public officers prone to corruption due to poor wages and salaries, and the greed and materialism of the political leaders.³⁰

In its follow up report, Inter-Governmental Action Group against Money Laundering in West Africa (GIABA) noted substantial noncompliance with due process in where “untraceable financial channels including Forex dealers, hawaladars and cash couriers” still

²⁶Adamu Bala, Menare Royal Mabakeng and Terwase Tosin Youngu, ‘Corruption of Land Administration in Sub-Saharan Africa: Reports from Nigeria and Namibia’ *FIG Congress 2022*, Warsaw, Poland, 11-15 September 2022

https://www.fig.net/resources/proceedings/fig_proceedings/fig2022/papers/ts03e/TS03E_bala_mabakeng_et_al_11648.pdf accessed 7 May 2025.

²⁷Adamu Bala, Menare Royal Mabakeng and Terwase Tosin Youngu, ‘Corruption of Land Administration in Sub-Saharan Africa: Reports from Nigeria and Namibia’

²⁸ Joseph Oyewale Oyedeki and Abiodun Kazeem Sodiya, “Corruption in Real Property Market in Nigeria: Factors and Solutions” *Journal of Management and Corporate Governance*, 7 (2) (2014), 46 - 60

²⁹Joseph Oyewale Oyedeki and Abiodun Kazeem Sodiya, “Corruption in Real Property Market in Nigeria: Factors and Solutions”

³⁰UNODC, Second Report 2018.

dominate real property markets in West Africa.³¹ Its operation lacks reliable data, which makes monitoring very difficult and allows all forms of illegal funds to enter and be used in the market, due to its informality.³² Furthermore, the investment in real estate ensures value appreciation in an economy in which local currencies depreciate at a very rapid rate, though the unstable exchange rate of the naira to foreign currency.

The observation of GIABA in 2025 on money laundering in West Africa reflects the continuing rampage of corruption. The real estate market remains informal, cash-based which leaves no opportunity for an audit trail and promotes corruption, while the Nigerian economy still allows the movement and use of “untraceable cash” through many unofficial channels, despite the recent bank reforms involving the linking of the National Identification Number (NIN) to bank accounts.³³

In Nigeria, real estate has been identified as one of the most patronised routes to get illegal funds back into the financial system, as it “doesn’t have a name that shows on it, unless someone puts it.”³⁴ Many of those involved in the use of the real estate sector to launder funds are public servants, politicians, public officers in the executive arm, the legislature and the judiciary. Chuka Uroko cited a report in the Dubai property market which linked 800 luxury properties valued at ₦146 billion to Nigeria’s political elite.³⁵

Furthermore, the Federal High Court in Nigeria has recently granted interim forfeiture of funds and properties of the former Governor of the Central Bank of Nigeria, Godwin Emefiele who has been undergoing trial in Nigerian courts, to the Economic and Financial

³¹GIABA, ‘GIABA Member States Technical Assistance Needs 2025 (GIABA,2024) https://www.giaba.org/technical-assistance/3439__giaba-member-states-technical-assistance-needs-for-2025.html, accessed 5 May 2025.

³²GIABA, ‘GIABA Member States Technical Assistance Needs 2025

³³GIABA, ‘GIABA Member States Technical Assistance Needs 2025

³⁴Chuka Uroko, “Why Real Estate Attracts Lot of Illicit funds,” *Business Day*, June 28, 2022, accessed May 25, 2024, <https://www.businessday.ng>.

³⁵Chuka Uroko, “Why Real Estate Attracts Lot of Illicit funds,”

Crimes Commission (EFCC).³⁶ In other cases, real estates have been forfeited in various parts of the federation.³⁷ The EFCC has prosecuted many high-profile cases of real property laundering in Nigeria. In the report compiled by the Human Resource Development Agenda (HEDA), Nigeria was ranked fifth in global property and money laundering.³⁸ The HEDA report revealed that in an analysis of 125 cases involving allegations of money laundering against Nigerian public officials between 2015 and 2020, at least USD2.3 trillion was laundered in the United States of America's estate sector.

Allison Diezani Madueke, a former Nigerian Minister of Petroleum Resources topped the list.³⁹ In a similar vein, EFCC had seized 753 duplexes in Abuja believed to have been the products of money laundering.⁴⁰ Although the Nigerian law allows the prosecution through an action-in-rem (an action against the property rather than individuals),⁴¹ it is widely believed that the concealment of the owner of the estate is part of the government's insincerity in the war against money laundering.⁴²

³⁶Ameh Ejekwonyilo, "Court Confiscates \$4.7million, #830m, Multimillion Properties Traced to Emefiele," *Premium Times*, 24 May 2024, <http://www.premiumtimesng.com>, accessed 24 May 2024.

³⁷Oluyinka Olutola Olajire "Money laundering and underdevelopment in Nigeria: A Criminological Re-appraisal." *Redeemers University Journal of Management and Social Sciences*, 6(11) (2023), accessed May 25, 2024, www.minimss.com.

³⁸HEDA, 'Nigeria Ranked Fifth in Property and Money Laundering as Diezani Leads the Ring' (HEDA, 21 July 2022) <https://hedang.org/nigeria-ranked-5th-in-property-and-money-laundering-as-diezani-leads-the-ring/> accessed 6 May 2025.

³⁹HEDA, 'Nigeria Ranked Fifth in Property and Money Laundering as Diezani Leads the Ring'

⁴⁰Solomom Odeniyi, 'Why We Concealed Owner of Seized 753-Duplex Abuja Estate's Identity-EFCC' (Lagos, Punch 3 December 2024) < <https://punchng.com/why-we-concealed-owner-of-seized-753-duplex-abuja-estates-identity-efcc/>> accessed 6 May 2025,

⁴¹Advance Fee Fraud Act 1995, Cap A6, LFN 2004. S.17.

⁴²Solomom Odeniyi, 'Why We Concealed Owner of Seized 753-Duplex Abuja Estate's Identity-EFCC'

Money Laundering as a Typology of Corruption on Land

Money laundering is a major crime in the property industry worldwide. It has been noted to contribute to Nigeria's underdevelopment. Its continued spread has been attributed to the loopholes existing in the regulatory framework and the lack of commitment of the leaders in the public and private sectors of the economy, many of whom embark on it. Money laundering thrives where public officers (including those of regulatory agencies) are corrupt, the institutions are weak and corrupt, people have an insatiable crave for materialism, and the socio-cultural and religious values overlook its incidences.⁴³

This situation is a line of the countries in Sub-Sahara Africa of which Nigeria is a part despite the evidence of money laundering cases involving foreign collaborators, Nigeria has weak capacities at its disposal to fight these global crimes. Hence, money laundering and other global financial crimes have become fully entrenched in Nigeria, and they have a very grave impact on the Nigerian economy. The feeble attempts of the government to fight these crimes further expose the nation to the international community as a nation where there is no transparency, probity and rule of law when it comes to combatting financial crimes.⁴⁴

The anti-graft agencies are hamstrung by the executive (and sometimes, the legislature and the judiciary) through undue delay(s) of investigation and the unwholesome actions of some members of the bar.⁴⁵ Cases of the politically exposed persons in Nigeria with land and real estate with billions of dollars in foreign countries such as Dubai, United Kingdom and United States of America exist, while the efforts of the Economic and Financial Commission (EFCC) to investigate, prosecute and obtain conation if such persons appear to be stalled by

⁴³Olajire "Money laundering and underdevelopment in Nigeria: A Criminological Re-appraisal."

⁴⁴K.K. Eleja, "The Bar in the vanguard of War against Corruption," in Yusuf O. Ali (ed.). *Anatomy of Corruption in Nigeria: Issues, Challenges & Solutions* (Yusuf O. Ali, 2016) 163 - 202

⁴⁵Ngenegbo Emmanuel, 'Corruption and Access to Justice in Nigeria' (Enugu, The Sun 18 November 2024) < <https://thesun.ng/corruption-and-access-to-justice-in-nigeria-2/>> accessed 6 May 2025.

the lack of the political will of the Nigerian elites including the members of the bar and bench.⁴⁶

Nigeria's Land Policy

The Nigerian land policy is complex as it is woven around the multiple tenure systems – customary land law, Received English doctrine of estates and the Land Use Act 1978 (LUA).⁴⁷ The Received English doctrine of estates is part of the Received law in Nigeria. Its applicability is subject to the availability of domestic legislation and local circumstances.⁴⁸ The Interpretation Act 1962 provides:

- 2) Such imperial laws shall be in force so far only as the limits of the local jurisdiction and local circumstances shall permit and subject to any federal law.
- 3) For the purpose of facilitating the application of the said imperial laws they shall be read with such formal alteration not affecting the substance as to names, localities, officers, persons, moneys penalties and otherwise as may be necessary to render the same applicable in the circumstance.⁴⁹

Most land policies and principles under the Received law have been replaced by the provisions of the LUA, and the operation of the customary land tenure law, subject to the LUA.⁵⁰ Subject to the above, statutes like the Frauds Act 1611, Conveyancing Act 1881 etc., and principles of common law and doctrines of equity apply in conveyancing practices in existence in England prior to 1 January 1900. The LUA introduces the uniform land tenure to Nigeria, while it upholds and recognises the existing land tenure systems (customary land tenure and the Received English doctrine of estates).⁵¹ These have introduced some complexities to the administration and control of land in Nigeria.

⁴⁶Ngenegbo Emmanuel, 'Corruption and Access to Justice in Nigeria'

⁴⁷Adefi M.D. Olong, *Land Law in Nigeria* (2nd Edition, Malthouse Ltd, 2011), 34.

⁴⁸Interpretation Act 1962 Cal 17, Cap LFN 2004, S.32.

⁴⁹Interpretation Act 1962 Cal 17

⁵⁰LUA, S. 36.

⁵¹Land Use Act 1978, Cap L5, LFN 2004, Ss 34 & 36

Land is defined variously by scholars. Those definitions reflect the interdisciplinary value of land as a resource upon which the existence of man depends and around which the ecosystem is built. It is a habitat for the living things, including man who live on it and are buried within it. The classical and neoclassical economists see land as a free gift of nature that man does nothing to bring into existence: its supply is fixed, and all man's productive efforts depend on it.⁵²

In law, it is a concept that consists of corporeal and incorporeal hereditaments.⁵³ While a corporeal hereditament consists of non-tangible aspects of the land, which are interests and rights that go with the land, a corporeal hereditament is the physical and tangible aspect of the land, including the earth surface, all things affixed to it (including buildings), all things naturally on it (including oceans and seas), all things under it such as gold, bitumen, crude oil etc, as well as those things above it.⁵⁴ This definition reflects the common law conception of land of *quicquid plantatur solo solo cedit*, which has been held to be the same as the conception of land under the indigenous customary land tenure.⁵⁵

The statutory definition of land under the Property and Conveyancing Law (PCL)⁵⁶ appears to capture this essence when it states:

Land includes land of any tenure, buildings or parts of buildings (whether the division is horizontal, vertical or made in any other way) other corporeal hereditaments, and an easement, right, privilege or benefit in, over, or derived from land.⁵⁷

The definitions of land point to its immense value as an immovable property whose values are stable; its supply is stable and rights emanating from it are expansive. Hence, rights on land include ownership and possession, legal and inequitable rights, corporeal and

⁵²Thomas Malthus, (*First*) *Essay on Population* (1798) (New York Macmillan 1986) 65.

⁵³Adewale Taiwo, *The Nigerian Land Law* (Revised Edition, Ababas Press Ltd.,2011), 65-68.

⁵⁴*Lewis v Bankole* (1908) NLR 82.

⁵⁵*Francis v Ibitoye* (1936) 13 NLR.

⁵⁶Property and Conveyancing Law, Cap 100, Law of Western Nigeria 1959, S. 2.

⁵⁷Property and Conveyancing Law, Cap 100

incorporeal rights etc. The existence of these rights makes it suitable for economic transactions and it, therefore, attracts land speculation and incidences of illicit investment through money laundering.

Customary Land Tenure

Customary land has been defined as “the customs and usages traditionally observed among the indigenous African peoples and which form part of the culture of those peoples”⁵⁸ This definition indicates that it is the law that is transmitted over generations and thereby represents the thoughts, decisions and values of the ancestors.⁵⁹ It therefore, encompasses the customs and usages of the people, and “a mirror of the accepted usage.”⁶⁰ However, over the years, with the effects of colonisation, neo-colonisation and globalisation, customary law is changing rapidly to accommodate contemporary customs and values.

It is dynamic and responsive to cultural dynamics and varies from one community to another. There is no single customary land tenure throughout Nigeria, but it is used as a blanket description of the indigenous land practices in heterogeneous Nigeria.⁶¹ It is a system of landholding which exhibits corporate land ownership of the community and the family, while the individual landholding which emanates from modern trends and the economic emancipation of the individual arises from new patterns of economic activity.⁶² Therefore, the position expressed by Lord Haldane, in *Amodu Tijani v Secretary of Southern Nigeria*⁶³ remains relevant. It states:

The next fact which it is important to bear in mind in order to understand native land law is that the notion of individual ownership is quite foreign to native ideas. Land belongs to the community, the village or the family, never to the individual. This is a pure native custom along the whole length of this coast, and wherever we find,

⁵⁸R.B. Mpeke, *Customary Law and the New Millenium* (Lovedale Oress, 2003), 3.

⁵⁹R.B. Mpeke, *Customary Law and the New Millenium*

⁶⁰*Owonyin v Omotosho* (1961) All NLR 309 at 309.

⁶¹Michael Takim Otu, *Customary Land Law in Nigeria: Law and Practice* (Princeton & Associates, 2022), 146-147.

⁶²B.O. Nwabueze, *Nigerian Land Law* (Nwamife Publishers, 1982), 35-36.

⁶³(1952) 14 WACA 404.

as in Lagos, individual owners, this is again due to the introduction of English ideas.⁶⁴

Due to an effluxion of time, corporate ownership is giving way to individual ownership due to several factors, which include increased need of land for economic activities, breakdown of communal and kinship relations and rapid urbanisation and industrial developments,⁶⁵ agricultural mechanisation and food security etc. Corporate land ownership in customary land tenure has, however, been criticised by learned commentators and the courts who reasoned that the idea of the family/communal/ownership started with individual ownership through the founder of the community who was a settler or conqueror.⁶⁶ They argued that current incidences of individual land ownership under customary law are a confirmation of the customary practices before the British colonial intervention.

The rules of management and control of land under customary tenure have been modified by the Land Use Act 1978⁶⁷ which is the primary legislation in land control and management in Nigeria. despite the LUA, lands in rural areas in Nigeria are mainly administered through customary land law. The Act saves and allows the existing laws when it states:

All existing laws relating to the registration of title to, or interest in, land or the transfer of title to or any interest in land shall have effect, subject to such modifications (whether by way of addition, alteration or omission) as will bring those laws into conformity with this Act or its general intendment.⁶⁸

These modifications accommodate the customary land tenure in the policy of the LUA. The principles of customary land tenure are therefore imported into the Act. The customary tenure allows discriminatory land use and access in favour of communal and family members. This continues as an incident of the communal law under the LUA. Each member of the community or family has an equal right to

⁶⁴(1952) 14 WACA 404.

⁶⁵Adewale Taiwo, *The Nigerian Land Law* (Revised Edition, Princeton & Associates, 2016), 12.

⁶⁶Niki Tobi, *Sources of Nigerian Law* (MIJ Publishers, 1996) 80; *Coker v Sanyaolu* (1983) 3SC 124.

⁶⁷Cap L5, LFN 2004, S. 48

⁶⁸LUA, S. 48

a portion of land to build or farm,⁶⁹ while the stranger is not entitled to a portion of the communal land, to build or farm as of right.⁷⁰ Anybody who is not a member of the community can only be granted customary tenancy.⁷¹ The stranger cannot acquire ownership of the land, and cannot appropriate land for personal use, unlike a member of the community.⁷² A large scale investment involving the use of land is not therefore possible under these strict tenurial principles. The alternative is to go by gifts and other forms of patronage to the chiefs and the family heads and other principal members who have powers over land allotment in the rural settings.

In Sub-Sahara Africa, large scale corruption has been reported on rural land.⁷³ These transnational land investors acquire the land in a shady manner.⁷⁴ This illicit land acquisition is fuelled by lack of proper documentation and registration of titles in Nigeria.⁷⁵ Hence, many farmers have been thrown out of their lands by these investors who purchased lands through the communal leaders, thus infringing citizens' rights to have access to land to live and farm.⁷⁶

⁶⁹Adewale Taiwo, 175

⁷⁰Adewale Taiwo, 143

⁷¹*Lasisi v Tubi* (1974) 1 All NLR (Pt. 11)

⁷²Nieves Zuniga, *Land Corruption Topic Guide* (Transparency International, 2018) 8, accessed June 1, 2024,

<https://www.transparencyinternational.org>, accessed 12 May 2024; Andrea Staeritz, *Land Corruption in West Africa* (Transparency International, 2024)

https://images.transparencycdn.org/images/2024_Report_LandCorruptionWestAfrica_EN.pdf, accessed 6 May 2025.

⁷³GIABA, 'GIABA Member States Technical Assistance Needs 2025 (GIABA,2024).

⁷⁴Olivier De Shutter, *Tainted Lands: Corruption in Large-Scale Land Deals Report of the International Accountability Roundtable*, (2012), 8.

⁷⁵Segun Adewole, 'Real Estate Used for Money Laundering, Illicit Financial Flows-ICPC'(Lagos, Punch 2 November 2021) <
<https://punchng.com/real-estate-used-for-money-laundering-illicit-financial-flows-icpc-chairman/>> accessed 6 May 2025.

⁷⁶Akintunde Otubu, 'The Land Use Act and Land Administration in 21st Century Nigeria: Need for Reforms' (2018) (9)(1) *Afe Babalola J. of Sust. Dev. Law and Policy*, 80
<https://jsdlp.oogeasinstitute.edu.ng/index.php/jsdlp/article/view/306>, accessed 6 May 2025.

According to the Transparency International, land corruption in the rural areas takes many dimensions such as the payment of bribery in cash or in kind for the acquisition and registration of property and the exclusion of those who cannot afford the payment of bribes.⁷⁷ Land corruption inhibits the proper implementation of land laws, leaving the citizens unprotected and vulnerable to abuse.⁷⁸ Effects of land corruption in the rural areas include food insecurity, deepening poverty, increasing rural economic inequality and gender inequality.⁷⁹ Women in some communities have to accept levirate marriages in order to be allowed to farm on the land of their late husbands.⁸⁰

*Land Use Act*⁸¹

The Land Use Act (LUA) was introduced to the land management and control in Nigeria to harmonise the pre-existing land tenures (customary land tenure; estate tenure under the Received English Law, the Land Tenure Law 1962 (LTL)⁸² in northern Nigeria) and ensure that citizens have access to lands for whatever purpose for integrated and sustainable national development. In *Nkwocha v Governor of Anambra State & Ors*,⁸³ Kayode Eso JSC, while delivering the lead judgement underscored the effect of LUA when it was held

The tenor of the Act as a single piece of legislation is the nationalization of all lands, in this country by vesting its ownership in the State leaving the individual with an interest in land which is a mere right of occupancy, and which is the only right protected in his favour by law after the promulgation of the Act.

⁷⁷Anni Arial and others, 'Corruption in Land Sector' Working Paper, Transparency International, April 2011, <https://www.transparency.org>, 2.

⁷⁸Anni Arial and others, 'Corruption in Land Sector'

⁷⁹Nieves Zuniga.

⁸⁰Marcella Villareal. *Changing Customary Land Rights and Gender Relations in the Context of HIV/AIDS in Africa*, (Paper Presented at Colloque International Conference, Montpellier, May 16 – 19, 2006) < <https://gsdrc.org/document-library/changing-customary-land-rights-and-gender-relations-in-the-context-of-hiv-aids-in-africa/>> accessed 6 May 2025.

⁸¹1978 Cap L5, LFN 2004

⁸²No 25 of 1962

⁸³(1983) UNJLR 719

In fulfilling its function as the grundnorm on land management and control, all lands in Nigeria are vested in the State Governors, who hold the land in trust for all Nigerians.⁸⁴ Furthermore, its policy includes state ownership of lands, the dichotomy of lands into rural and urban lands,⁸⁵ creation of a system of statutory right of occupancy to be granted by the Governors⁸⁶ in rural and urban areas and the customary right of occupancy in rural Nigeria by the local government.⁸⁷

However, the customary rights in rural areas do not exceed 500 hectares for farming and 5000 hectares for grazing.⁸⁸ Any grant above this threshold is to be referred to the Governor.⁸⁹ The Governor reserves the right to declare any part of the State as urban,⁹⁰ thus effectively removing the appropriating powers of the local government, even in the rural areas. Other aspects of the land policy under the LUA are the issuance of certificate of occupancy, consent for alienation, revocation of rights and compensation.⁹¹ The policy of land administration under the LUA gives expansive powers to the Governors of States to appropriate and always expropriate. These powers are absolute because the Governors are in-charge of dispute resolution through the Land Use and Allocation Committee at the State level and the Land Allocation and Advisory Committee for the local government appropriation of rural lands. The Governor appoints the members of these committees, and they perform their duties under the Governor's direction.⁹²

The Act ousts the jurisdiction of courts to investigate the vesting of all lands in the Governor; the right of occupancy; the right of a local government to grant a customary right of occupancy or "the amount or adequacy of any compensation paid or to be paid under this Act."⁹³ The

⁸⁴LUA, Section 1

⁸⁵LUA, Section 2(1)

⁸⁶LUA, Section 5

⁸⁷LUA, Section. 6(1)

⁸⁸LUA, Section 6 (2)

⁸⁹LUA

⁹⁰LUA, Sections 2

⁹¹LUA, Sections 9, 10, 21, 22, 28 and 29 generally.

⁹²LUA, Section 2(2) & (4)

⁹³LUA, Section 47

Act further accommodates the pre-existing tenures and affirms their validity, while creating deemed grants.⁹⁴

The LUA's effect was greater in southern Nigeria which operated customary land tenure and the English doctrine of estate.⁹⁵ The objectives of making the law were as set out by the Land Use Panel 1977, namely: to formulate a uniform land policy in the country; obtain lands for development with reasonable ease, and promote, operate and encourage a more buoyant and productive agricultural system.⁹⁶

The question is, has LUA achieved the cardinal objectives for which it has been enacted? It has had positive impacts on making land available for national development in any part of Nigeria.⁹⁷ It has also brought sanity into property development and gives an insight into property construction and planning.⁹⁸ It also advocates security of tenure and land rights of the citizens as an important foundation of economic development.⁹⁹ It insists on, and creates land titles which are ingredients of collateralisation for obtaining loans from credit institutions.¹⁰⁰

Although the LUA through its policy and principles, strive to make land available for economic and commercial developments, its success has been limited by pervasive corruption in land administration in Nigeria. The land use planning which involves zoning is susceptible to corruption because there is a high tendency of modifications and adjustments to satisfy the demand for specific sites for development.¹⁰¹

⁹⁴LUA, Sections 34 and 36

⁹⁵R.N. Nwabueze, 'Alienation under the Land Use Act and Express Declaration of Trust in Nigeria' (2009) 51(1) *Journal of African Law*, 59-89

⁹⁶Uwakwe Abugu, *Land Use and Land Reform in Nigeria: Law and Practice* (Immaculate Prints, 2012)

⁹⁷M.B. Nuhu, "Land Reform in Nigeria: The Nigerian Institution of Estate Surveyors and Valuers' Perspectives-Challenges and Prospects," (Presented at the FIG Working Week 2011, Marrakech, Morocco, 18 – 22 May 2011) 1 – 10.

⁹⁸M.B. Nuhu, "Land Reform in Nigeria: The Nigerian Institution of Estate Surveyors and Valuers' Perspectives-Challenges and Prospects,"

⁹⁹Adewale Taiwo, *The Nigerian Land Law*, 219.

¹⁰⁰LUA, Section 5. See also sections 9 and 10, for Certificate of Occupancy

¹⁰¹M. Pacione, *Global Perspectives* (Routledge, 2001), accessed June 1, 2001, <<https://doi.org/10.4324/19780203023525-16>>.

In Nigeria, developers bypass land use provisions and urban master plans to erect buildings that are not specified for the zones.¹⁰²

In a descriptive study examining corruption in land services which used Nigeria as a case study, Badiora and Bako¹⁰³ found that instances of bribery, fraud, conflict of interest, favouritism, nepotism and clientelism marred land services in Nigeria and that plans were altered and some bureaucratic procedures circumvented on the altar of corruption.¹⁰⁴ The authors further reported that political figures and administrations were the major actors in land use and planning corruption and that legal technicalities in planning statutes and low accountability also contribute to corruption in land matters. These findings coincided with the outcome of the Third Survey on corruption carried out by the UNODC which indicted public land registries as culpable of bribery and other forms of corruption.¹⁰⁵

In the same vein, Transparency International reports that corruption occurs in urban land administration globally through bribing politician to obtain land approvals, manipulation of land registries by developers to eject people and grab their land, use and allocation of land to political supporters.¹⁰⁶ The report identifies areas of land corruption to include policy making, legal systems, grant of land titles,

¹⁰²Ibid

¹⁰³Wumi Badiora and Abdullateef Iyanda Bako, "The illicit and Illegal sides of the Nigerian Public Administration: Corruption in Town Planning and Land Services," in I.O. Aransi, I.O. Fayomi-Awodele, A.O Hassan and S.O. Nofiu, *Contemporary Issues in Public Administration, A Festschrift in Honour of Professor (Bar) Ishaq Sola Omoleke* (Department of Public Administration, Obafemi Awolowo University Ile-Ife, Nigeria, 2020), 299-236

¹⁰⁴Wumi Badiora and Abdullateef Iyanda Bako, "The illicit and Illegal sides of the Nigerian Public Administration: Corruption in Town Planning and Land Services," Ibid

¹⁰⁵UNODC, *Corruption in Nigeria: Patterns and Trends; Third Survey as Experienced by the Population* (July 2024) <https://track.unodc.org/uploads/documents/corruption/Publications/2025/UNODC_Corruption_in_Nigeria_-_patterns_and_trends_2024.pdf> accessed 6 May 2025.

¹⁰⁶Nieves Zuniga, *Land Corruption Reform Topic Guide* (2018); Andrea Staeritz, *Land Corruption in West Africa* (Transparency International, 2024).

dichotomization of land (eg. urban/rural dichotomy under LUA),¹⁰⁷ land sales and leasing, enforcement of land rights and remedies for compensation.

Although these observations are global, it is instructive to note that they describe land corruption in Nigeria. The policy on land use is controlled by the Governor who possesses absolute powers to appropriate and expropriate land.¹⁰⁸ These powers are sometimes deployed in a non-transparent manner to favour political supporters or punish political opposition.¹⁰⁹ Furthermore, the co-existence of formal and customary laws and rights in Nigeria breeds corruption in the legal gaps created by the friction between the two legal systems. An example of this is the continued operation of the customary land tenure law in the policy of deemed grants that derogate from the objective of the LUA.

It allows an undeterminable tenure, as opposed to the determinable nature of actual grants in the LUA. These windows have been used by the public officials, politicians, and land speculators to manipulate the good intention of the Act because a large proportion of rural and urban land still operate under the deemed grants. Such lands operate without proper documentation and therefore, cannot be traced at the land registry.¹¹⁰ In addition, public officials deliberately backdate the date of the grants to make them pre-existing land alienation, to benefit from the indeterminable tenure of deemed grants.¹¹¹ These corrupt acts make lands unavailable to citizens and investors who genuinely want to use the land for chronic and commercial developments.

¹⁰⁷Nieves Zuniga, *Land Corruption Reform Topic Guide*

¹⁰⁸Section 1, LUA

¹⁰⁹Nicholas K. Tagharino, *et al*, ‘Compensation for Expropriate Community Farmland in Nigeria: An In-Depth Analysis of the Laws and Practices Related to Land Expiration for the Lekki Free Trade Zone in Lagos,’ (2018) 7(2) *Land*, accessed June 1, 2024 <<https://doi.org/10.3390/land7010023>>..

¹¹⁰Section 36(3) LUA stipulates that land documentation will be required upon the application of the occupier or the holder.

¹¹¹Dayo Benson and Bartholomew Madukwe, ‘C of O’. Lagos AG Condemns Usage of Backdated Documents,” *Vanguard* (May 23, 2013), accessed June 1, 2024. < <https://www.vanguardngr.com>>.

Sections 21 and 22 of the LUA provide for the consent of the local government and the Governor for the alienation of land. these sections have generated a lot of controversies and have engaged the attention of Nigerian courts for decades.¹¹² The undue delays in the grant of consent, high cost of processing and general lack of political will to set workable rules for obtaining consent of the Governor and that of the local government have bred corruption.

Decisions in *Savannah Bank v Ajilo*¹¹³ and *Union Bank of Nigeria v Ayodare & Sons*¹¹⁴ where borrowers were allowed to avoid the consent procured, promoted corruption in land transactions in Nigeria. In *Union Bank of Nigeria v Ayodare* the apex court followed its judgement in *Savannah Bank v Ajilo*¹¹⁵ and thereby prevented the sale of the mortgaged property. In the two cases, the Supreme Court excluded the equitable principle of “*ex turpi causa non oritur actio*”¹¹⁶ espoused in *Bucknor – Mclean v Inlaks Ltd*¹¹⁷ to prevent the fraud. The confusion this could cause was exemplified in *Awojugbagbe Light Industries v Chinukwe*¹¹⁸ where the consent perfection was delayed for five years. Onu JSC stated that:

“... I need only to remark in passing that it is inequitable and morally despicable, after obtaining a loan and after utilizing the same to now turn round and allege that the agreement (Exhibit E) between it and the grantor of the loan, i.e the 2nd respondent, is null and void.”¹¹⁹

LAND INSTITUTIONAL EFFORTS TO COMBAT CORRUPTION IN LAND IN NIGERIA

Anti-corruption legislations and agencies which are set up as part of the strategies to fight corruption in Nigeria have, as part of their

¹¹²*Savannah Bank v Ajilo* (1989) 1 NWLR (Pt 97); *Union Bank v Ayodare* (2007) 13 NWLR (Pt. 1032)

¹¹³*Savannah Bank v Ajilo* (1989) 1 NWLR (Pt 97);

¹¹⁴*Savannah Bank v Ajilo* (1989) 1 NWLR (Pt 97);

¹¹⁵*Savannah Bank v Ajilo* (1989) 1 NWLR (Pt 97);

¹¹⁶This means that “from an immoral consideration, an action does not arise”

¹¹⁷(1980) 8-11 SC1

¹¹⁸(1995) 4 NWLR (Pt. 390) 379

¹¹⁹(1995) 4 NWLR (Pt. 390)

mandate, the objective of fighting corruption in land administration and control for sustainable national development. The provisions of these laws in combating the menace in the land administration are appraised are assessed in this section of the paper.

Constitution of the Federal Republic of Nigeria (CFRN) 1999¹²⁰

The CFRN 1999 is the most important legal document in Nigeria. it regulates the affairs of the nation. Any law which contradicts the constitution is to the extent of its contradiction, null and void.¹²¹ The CFRN 1999 is an anti-corruption legislation which aims to curb all forms of corrupt activities in the nation. It provides for asset disclosure, regulations governing the offer and reception of gifts for members of the executive and other public officials.

The Constitution makes provision for the Code of Conduct of Public Officers.¹²² This Code prohibits the involvement of public officers in corrupt practices. Section 8 specifically states that:

No person shall offer a public offer any property, gift or benefit of any kind as an inducement or bribe for the granting of any favour or the discharge in his favour of the public officer's duties.

Other sections of the Code prohibit abuse of powers, or any arbitrary use of powers to confer advantage on oneself, or the family, political proteges, or anybody whatsoever at the expense of the State.¹²³ This Code is strict, and an effective implementation of its content will prevent the Governors who are citizens' trustees in land administration from eschewing any conduct that would violate the constitutional provision. However, the Code of Conduct for Public Officers is not strictly implemented, due to a lack of political will on the part of the trustee.¹²⁴

¹²⁰(As amended) Cap C23LFN 2004.

¹²¹*AG Abia v AG Federation* (2002) 6 NWLR (Pt. 763) 264.

¹²²Fifth Schedule, CFRN 1999, Part 1.

¹²³Fifth Schedule, CFRN 1999, Sections 6, 7, 9, 10.

¹²⁴I.A. Umezulike, "The Land Use Act: More than Two Decades after and Problems of Adaptive Strategies of Implementation, (Being a Lecture Delivered at College of Law, Igbinnedion University, Okada, March 4, 2004).

In addition, two anti-corruption agencies are established by the constitution, namely: the Code of Conduct Bureau (CCB)¹²⁵ and the Code of Conduct Tribunal.¹²⁶ The CCB is saddled with the powers to receive public officers' asset declarations and investigate any allegation of breach of the Public Officers Code.¹²⁷ The Code of Conduct Tribunal (CCT) is a tribunal clothed with judicial power and headed by a judge of a superior court of record. An appeal from the decision of the CCT lies as of right to the Court of Appeal.¹²⁸ In view of the serious views of the legislature on corruption, the constitutional provisions relating to the prerogative of mercy do not apply to any of the punishments imposed by the CCT.¹²⁹ The CCB and CCT are further strengthened with the enactment of the Code of Conduct Bureau and Tribunal Act.¹³⁰ A cardinal function of the CCB under the Act is to prohibit a public officer's conflict of interest in the performance of his duties and responsibilities¹³¹ and forbids him from maintaining or operating a foreign account.¹³² No public officer should accept gifts or benefits of any kind on account of the performance of his duties,¹³³ while a public officer shall not embark on abuse of office, or any act prejudicial to the rights of any other person.¹³⁴

The CFRN 1999 merely provides an enabling legal environment for the Bureau to receive declarations by public officers; examines the declaration and retains custody of such declaration and makes them available for inspection to ensure compliance with the Code of Conduct Bureau and Tribunal Act 1999 (CCBTA).¹³⁵

The constitutional provisions and CCBTA provide the basis for the control of public sector corruption in land administration and control in Nigeria. The two statutes have combined efforts to regulate land and property rights of public officials by ensuring that the

¹²⁵Third Schedule, CFRN 1999 (As amended).

¹²⁶Fifth Schedule, Part 1, B. 15, CFRN 1999 (as amended).

¹²⁷Fifth Schedule, Part 1 S. 12.

¹²⁸Fifth Schedule, Part 1, Section 18(4).

¹²⁹Fifth Schedule, Section 18(7).

¹³⁰Cap A15, LFN 2004

¹³¹Code of Conduct Bureau Cap A15 LFN 2004 Section 5.

¹³²Code of Conduct Bureau Cap A15 LFN 2004, Section 7.

¹³³Code of Conduct Bureau Cap A15 LFN 2004, Section 10.

¹³⁴Code of Conduct Bureau Cap A15 LFN 2004, Section 13.

¹³⁵Part 1, Fifth Schedule, CFRN 1999.

properties acquired are within their incomes and do not emanate from illicit sources.

Economic and Financial Crimes Commission-

The EFCC Establishment Act¹³⁶ establishes the Economic and Financial Crimes Commission (EFCC). It endows it with the powers to enforce the provisions of the Act; investigates all financial crimes such as “advance fee fraud, money laundering, counterfeiting, illegal charge transfers, futures market fraud, fraudulent encashment of negotiable instruments, computer credit card fraud, contract scam, etc; co-ordinates and enforces all economic and financial crimes and enforcing powers conferred on any other person or authority.¹³⁷ The Commission has the overall power to investigate and prosecute all economic and financial crimes in Nigeria to ensure that they do not go unpunished.

The Act creates offences in relation to terrorism, false information, retention of proceeds of criminal conduct and offences relating to economic and financial crimes and penalties.¹³⁸ Section 18 which provides for offences relating to economic and financial crimes, subsumes offences relating to land corruption and their investigations. It states that

- (1) A person who-
 - (a) engages in the acquisition, possession or use of the property, knowing at the time of its acquisition, possession or use that such property was derived from any offence under this Act.
 - (b) engages in the management, organisation or financing of any of the offences under this Act.
 - (c) engages in the conversion, transfer of any property knowing that such property is derived from any offence under this Act; or
 - (d) engages in the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to

¹³⁶Cap EI, LFN 2004

¹³⁷Cap EI, LFN 2004Section 6

¹³⁸Cap EI, LFN 2004, Sections 14 - 18

or ownership of property, knowing that such property is derived from any offence under this Act, commit an offence under this Act and is liable on conviction to the penalties provided in subsection (2) of this section.¹³⁹

The EFCC has investigated and successfully prosecuted many corruption offences in land and real property matters in Nigeria. For instance, the Federal High Court has ordered the final forfeiture of a USD37.5 million property in Banana Island allegedly belonging to Diezani Allison- Madueke,¹⁴⁰ while the 753 duplexes in Abuja have also been forfeited to the government.¹⁴¹ The EFCC has warned real estate agents to desist from assisting corrupt Nigerians in laundering proceeds of crime.¹⁴² This has become necessary in view of the rampant cases of money laundering in the sector, especially by the politically exposed persons.¹⁴³ The legal framework provided by the Act for the operation and effectiveness of EFCC is robust, and it has contributed to fight corruption on land in Nigeria.

The Corrupt Practices Act and Other Related Offences Act 2000 (ICPC)¹⁴⁴

The Act is the only anti-corruption law in Nigeria which deals extensively with the definition, conception, investigation and presentation of corruption in all its ramifications in Nigeria. It defines corruption to include bribery, and other related offences, dealing with such matters which includes “(a) any purchase, sale, loan, charge, mortgage, lien, pledge, caveat, transfer, delivery, assignment, subrogation, transmission, gift, donation, trust, settlement, deposit, withdrawal, transfer between accounts, or extension of credit.”¹⁴⁵ The

¹³⁹Cap EI, LFN 2004

¹⁴⁰EFCC, ‘Court Orders Final Forfeiture of Diezani’s \$37.5 Banana Island Property’

¹⁴¹Taofeek Oyedokum, EFCC secures Final Forfeiture of Abuja Estate with 753 Duplexes. Apartments’ (Lagos, BusinessDay, 3 December 2024)

¹⁴²EFCC, “EFCC Warns Real Estate Agents against Money Laundering,” (September 20, 2023), <<https://www.efcc.gov.ng>> accessed 4 June 2024.

¹⁴³EFCC, Setting the Records Straight on Investigation of Humanitarian Ministry, accessed 4 June 2024, <<https://www.efcc.gov.ng>>.

¹⁴⁴Corrupt Practices and Other Related Offences Act

¹⁴⁵Corrupt Practices and Other Related Offences Act, Section 2.

Act addresses public sector fraud involving public officials on diverse issues.

It establishes the Independent Corrupt Practices and other Related Offences Commission (ICPC) with ample powers to receive, investigate complaints and prosecute offenders. It has the duty of giving anti-corruption education and enlightenment to Ministries, Departments and Agencies (MDAs), schools and the public towards anti-corruption stance.¹⁴⁶ It also enlists public support in fighting corruption.¹⁴⁷ The Act specifically forbids the fraudulent acquisition of property when it states that:

Any person who receives anything which has been obtained by means of any act constituting a felony or misdemeanor, or by means of any act done at a place outside Nigeria, which if it had been done in Nigeria would have constituted a felony or misdemeanor and which is an offence under the laws in force in the place where it was done, knowing the same to have been so obtained, is guilty of a felony.¹⁴⁸

The penalty for fraudulent receipt of property as provided for in the above section is imprisonment for a term not exceeding five (5) years.¹⁴⁹ Through the ICPC established by the Act, the war against corruption has been sustained through the prosecution of the offenders, education of the citizens and socialisation of the youths.¹⁵⁰

CHALLENGES TO THE GOVERNMENT'S EFFORTS TO COMBAT CORRUPTION ON LAND

Despite the comprehensive legal regime on the war against corruption in Nigeria, the menace persists on many fronts, especially in the crime in land and estate. This section will address these challenges.

¹⁴⁶Corrupt Practices and Other Related Offences Act, Section 10.

¹⁴⁷Corrupt Practices and Other Related Offences Act, Section 18(f).

¹⁴⁸Corrupt Practices and Other Related Offences Act, Section 16.

¹⁴⁹Corrupt Practices and Other Related Offences Act, Section 27

¹⁵⁰Corrupt Practices and Other Related Offences Act, Section 10

Weak Law Implementation and Judicial Limitations

Nigeria has a long list of anti-corruption statutes, out of which four, namely: The CFRN 1999 (as amended), Money Laundering Act 2011, EFCC Act and ICPC Act 2004 have been examined. The provisions of the anti-corruption statutes on fraudulent practices forbid corrupt practices in land transactions and estate dealings.¹⁵¹ Apart from the provisions of anti-corruption laws, land tenure laws governing land transactions such as customary law and the Land Use Act 1978 and case law have been examined.

The question that then arises, from the foregoing paragraph, is, despite the ample laws and case law, why is it that land corruption and fraudulent activities on estates persist? First, is the poor attitude of the government to corruption in public service governance. Governors, as land trustees, are not transparent in discharging their duties of land management under the LUA.¹⁵² Also, the anti-corruption laws suffer from weak implementation. This allows public sector corruption to thrive in the public sector with collaborations from the bar, the bench and financial institutions.¹⁵³

Excessive Executive Powers

Furthermore, the institutional frameworks of these laws have not been fully implemented, thus allowing public officials to take advantage of them. For example, the procedures to be followed in procuring Governor's approval in Section 22 of the LUA are left to State Governors to determine, with the consequence that a request for approval is unduly delayed,¹⁵⁴ unjustly denied or outrightly rejected. This has slowed down economic use of land, either for food production, estate development or as the security of a loan.

Furthermore, the LUA makes provision for the revocation of a right of occupancy for public purposes. But the details of the procedure

¹⁵¹See Section 15 Corrupt Practices Act; Section 18 EFCC Act; Section 6, Money Laundering Act etc.

¹⁵²Pat Onukwuli, "Broad Powers of State Governors under the Land Use Act, 1978 and Land Governance in Nigeria," (Presented at Annual World Bank Conference on Land and Poverty, Washington DC, March 19-23, 2018).

¹⁵³GIABA, op. cit

¹⁵⁴See *Awojugbagbe Light Industries v PN Chinukwe*.

for public purposes stated in section 51 LUA have never been done, thus giving opportunities for public officials to take advantage of the opaque provisions.¹⁵⁵

In *Awojugbagbe Light Industries v Chinukwe & Ors*,¹⁵⁶ it took the mortgagor five years to secure the Governor's consent. The mortgage deed was endorsed in 1980 but the consent was not granted until October 1985 due to the delay in the Governor's approval. Delays in obtaining the Governor's consent breed corruption in the land registries, where public officials take bribes to help the grantors "lobby" for the release of their approval.

Furthermore, the framework for anti-corruption legislations such as ICPC and EFCC comprise the nominees of the executive arm of the government. Out of 16 members of the EFCC Board, only the appointments of the Chairman and Secretary pass through the Senate confirmation,¹⁵⁷ where the 14 others are nominees of the executive arm. Other members are the *ex-officio* members representing the interest of the executive arm on the Board. With the composition of the EFCC Board, its independence as an anti-corruption body is in doubt.

Compared to the EFCC, the ICPC Board is appointed by the Chief Justice of the Federation, subject to the confirmation of the Senate.¹⁵⁸ Perhaps, the origin of the two Boards (EFCC and ICPC) appears to reflect in their stability since inception. It is suggested that the EFCC Act be reformed in a way to ensure that a truly independent Governing Board be created to reposition it for the enormous challenge of combating financial and economic fraud.

Corrupt Bureaucracy and Opaque Procedures

An essential prerequisite for effective implementation of any land reform legislation is the existence of a competent, incorruptible and well-motivated bureaucracy.¹⁵⁹ The role of public service in ensuring security of title, grant of the Governor's approval, revocation and an

¹⁵⁵See *Awojugbagbe Light Industries v PN Chinukwe*

¹⁵⁶(1993) 1 NWLR (Pt. 270) 485.

¹⁵⁷EFCC Act, Section 2(1).

¹⁵⁸EFCC Act: Section 2(3)

¹⁵⁹Uwakwe Abugu, *Land Use and Reform in Nigeria: Law and Practice* (Immaculate Prints, 2012)

effective compensation regime is cardinal. Nigeria's public service may not be up to these tasks for several reasons. First, the self-serving interests of the officials who fraudulently secure allocation of land in urban and rural areas invest the proceeds of crimes in land and estates in urban centres and allow the proceeds of crimes to be invested to finance mortgages, inhibit their performance of duties required.¹⁶⁰ Also, the bad incentives in the form of salaries and remuneration paid to the public service workers make them vulnerable to corruption. More importantly, the public sector in Nigeria appears to have lacked accountability, transparency and probity in its performance.¹⁶¹

Lack of Proper Land Data and Documentation

In Nigeria, land is not properly documented. The land registries do not, in most cases, possess correct and up to date information reflecting the owner of the grant, the purpose for which it has been granted and the quantum of land the grantee has held cumulatively. Hence, the position of the Land Use Act 1978 in Sections 34 and 36 delimiting the quantum of undeveloped land that an individual could own in urban and rural areas could not be enforced due to inadequate information. The maximum pre-existing undeveloped urban land that an individual could hold while transitioning to the LUA is half a hectare.¹⁶² This rule cannot be implemented due to a lack of records. In addition, through the connivance of public officials and unscrupulous solicitors, land documents are forged through backdating to allow illicit holding of land titles.

Ouster of Courts' Jurisdiction

Section 47 of the LUA ousts the jurisdiction of the courts from making inquiries on any question relating to the vesting of all lands in a State in the Governor, or his power to grant the right of occupancy. The same thing applies to the powers of all local government or any question concerning the adequacy of compensation payable under the Act.

¹⁶⁰GIABA

¹⁶¹Yusuf O. Ali, 'The Fight against Corruption in Nigeria – myth or reality'? In Yusuf O. Ali, *Anatomy of Corruption in Nigeria: Issues, Challenges and Solutions*, 1 - 31

¹⁶²LUA, Section 34 (2)

Although these provisions cannot stand in the face of contradictions with the constitution, they are soft grounds for corrupt Governors to tread on to perpetuate corruption on land

RECOMMENDATIONS

Promoting Transparency and Reducing Bureaucratic Corruption

Equitable access to land resources is inhibited by pervasive corruption in the real estate sector through the activities of various stakeholders, including the Governor designated as a trustee of land in the state. Although the anti-corruption laws have ample provisions for the prevention of land corruption, money laundering and other vices, weak implementation has marred their performances. The composition of the governing boards of the EFCC and ICPC commissions should be strengthened through the amendment of their establishment sections to include technocrats, representatives of the global anti-corruption agencies and financial transparency groups such as GIABA, Transparency International and the local professional bodies for effective implementation of the laws. The current composition of the boards which are populated in favour of public officials and politicians may not assist with the war. This will promote transparency, reduce money laundering and other forms of public service corruption on land.

Strengthening of institutional Frameworks

The LUA is the single, most important enactment on land in Nigeria. However, it lacks implementation guidelines to ensure its smooth implementation. Despite the uniform tenure introduced by the law, the implementation strategies differ. Although the LUA is designed to operate nationally under the superintendence of the State Governors, each state is left to its own whimsicalness in its implementation despite the clear provision in its Section 48 that the National Council of State should formulate regulations for this. These have led to delays in the implementation of the land policy. A uniform Land Use Regulations should be developed by the National Council of States, saddled with these responsibilities by Section 46 of the LUA.

Improving Land Registry and Documentation

Land registries have been identified as where corruption and inefficiency thrive due to corrupt public officials, obsolete record keeping methods and undue delay from the executive arm. Hence, they should be upgraded with modern facilities for the collection, storage and retrieval of accurate information. The global development in data management could be harnessed in this regard. Doing this will expose illicit operators' identities and source(s) of their funds. Through these, investing in the products of corruption will be difficult, if not impossible, as sources of funds, the identities of the vendors and the nature of their occupations will no longer be hidden, as in the case of 753 duplexes in Nigeria whose ownership is still shrouded in mystery.

Legal Reforms

The LUA has been variously criticised by scholars and jurists as having introduced confusing principles and policies into the land administration in Nigeria. Some provisions of the LUA, such as sections 21 and 22 on consent provisions, Section 28 on the revocation of land rights, Section 29 on compensation and Section 47 on ousting the jurisdiction of courts. These should be amended to whittle down the absolute powers of the Governors and restore constitutional rights to property in Nigeria. Doing these will reduce the bureaucratic bottlenecks and public service corruption which appear imbued in the LUA.

Public Enlightenment

A cardinal method of tackling corruption is through youth socialisation and enlightenment. Hence, enlightenment campaigns embarked upon by various anti-money laundering commissions such as the ICPC and EFCC in MDAs and educational institutions should be sustained. These could foster the culture of due process and transparency which could go a long way in positive socialisation to the rule of law and citizenship values.

CONCLUSION

This paper focused on land corruption in Nigeria, legal issues and challenges. It was noted that this perpetuated poverty, unemployment and food insecurity. It deepened the economic crisis and promoted money laundering. Despite the robust anti-corruption laws, challenges of weak implementation and judicial limitations, excessive use of executive powers, lack of land data and documentation and the continued operation of corrupt bureaucracy perpetuate corruption in Nigeria.

The findings of the study are as follows. First, Weak implementation of various due process enactments such as the Money Laundering Act, EFCC Act, and ICPC Act by the executive and judicial arm substantially derogates from the war on corruption in Nigeria. The composition of the governing boards of the bodies established by these Acts is populated by public officials, most of whom are players in land corruption. Second, the absolute dominion of the Governor in land matters put the governor, and his cronies in public office, at an advantage in manipulating land tenure rules in their favour. The Nigerian bureaucracy is mostly corrupt due to inadequate incentives and payment of abysmally low wages that predispose them to corruption. The public servants (including land registry officials) therefore become collaborators to corrupt public officials who manipulate land administration procedures for the investment of illegal money.

Furthermore, a lack of proper land data and documentation makes the investment of illicit funds in the real estate sector, thereby promoting corruption. Finally, some provisions of the LUA, such as consent, revocation, compensation clauses and ousting of court's jurisdiction in Sections 21 and 22, 28 29 and 47 respectively promote executive recklessness, and thereby breed corruption. Winning the war on corruption is important for national development. The policy framework behind the LUA which is to provide equitable access to all Nigerians will be achieved without hindrance. Also, the current spate of food insecurity, unemployment, and ethno-religious tensions would subside, as citizens would have due access to land resources dominated by corrupt investors. These findings are central to policy and institutional reforms on land in Nigeria.

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