

Towards Effective Pro-Poor Land Administration in Nigeria: The Challenges and Prospects

By

Namnso Bassey Udoekanem

Department of Estate Management, Federal University of Technology, Minna, Niger State, Nigeria

Abstract

Every nation requires effective land administration for several purposes. One of such purposes is access to land by everyone, including the poor. Access to land by the poor is imperative for agrarian and rural development, economic growth and poverty alleviation. This paper examines the tools for land administration in Nigeria. The paper argues that existing tools for land administration in the country are elitist, expensive and anti-poor. The paper identifies the Land Use Act of 1978; dearth of qualified land professionals; poverty; corruption and poor governance as challenges to effective pro-poor tools for land administration in Nigeria. The paper concludes that these challenges could be overcome through sustainable land reform and correction of the inadequacies of land administration agencies in the country.

Keywords: *land, administration, reform, pro-poor.*

1.0 Introduction

Land is an important natural resource required by everyone for various purposes. It plays an essential role in supporting our existence and our day-to-day activities. We live on land, work on land and feed from land and as such cannot do without land in the course of our existence. According to Barlowe (1986), land provides us with living space, with the primary products that support our material needs and with opportunities and satisfaction dear to our ways of life. Land is an important factor of production and as such nations the world over have established land administration agencies in their territories to enhance effective use of land resources and to facilitate economic growth and development. Basically, the land administration functions of these agencies include land registration, cadastral surveying, land adjudication, land valuation, land taxation and management of

Udoekanem, N. B. (2008). Towards Effective Pro – Poor Land Administration in Nigeria: The Challenges and Prospects. In Zubairu, S. N., Morenikeji, O. O., Sanusi, Y. A., Jinadu, A. M. and Ojigi, L.M. (Eds). *Proceedings of the 2nd Annual Conference of the School of Environmental Technology, Federal University of Technology, Minna, Nigeria on the theme “Preserving the Environment”* held at the Engineering Lecture Theatre, Gidan Kwano Campus of the University, 27th – 28th February. Pp. 323 – 329.

State land. As a core function of land administration, land registration entails land titling, recording of rights in land and documentation of transactions in land (Walijatun and Grant, 1996). In Nigeria, land registration is regulated by the provisions of the Land Use Act of 1978. The Act provides the legal framework for land administration in the country as it vests ownership of land in State Governors; empowers only the State Governors to grant statutory right of occupancy to individuals in respect of land whether or not in urban areas and to issue Certificate of Occupancy in evidence of such right of occupancy. The Act also prohibits all forms of land alienation in Nigeria without the consent of the Governor of the state where such land situates. However, in the course of the State Governors exercising these powers, excessive bureaucracy and administrative bottlenecks have been introduced into land administration in the country. These have resulted in unnecessary delays, favoritism, corruption and poor governance in land registration. This paper examines the existing land administration system in Nigeria as provided by the Land Use Act of 1978, how it affects access to land by the poor in the country and measures necessary for pro- poor land administration in Nigeria.

2.0 Review of Components of Land Administration

Land administration is the process of determining, recording and disseminating information about the tenure, value and use of land, usually by a public agency (Adams, 2006). It is distinct from land management. Land management itself is concerned with the management of land as a resource from an environmental and an economic perspective.

Although these two major functions may be performed by a single land administration agency, they are completely distinct from each other, *stricto sensu*. As argued by Okoth-Ogendo (1993), there are five basic components of land administration. With respect to the Nigeria situation, these components are analysed as follows:

(a) The Juridical Component

This component of land administration function ensures that the land rights attached to a particular land tenure category is clearly defined in law and in practice. In Nigeria, the

juridical component of land administration function is inefficient. While the Land Use Act of 1978 extinguished private freehold interest in land in Nigeria, and replaced it with right of occupancy for a maximum holding period of 99 years, which to all intents and purposes is leasehold interest for term of years (Omotola, 1982). Such interests, in practice, are still traded in the property market as freehold interest and also valued as such, particularly if it has unexpired term of 65 years and above (Egolum, 1994). This has eroded the confidence of property investors in the legal status of transactions made in the Nigerian property market.

(b) The Regulatory Component

This component of land administration seeks to enforce and maintain standards to achieve sustainable land development. In Nigeria, the interests of the citizens in land are protected through the enforcement of appropriate land use regulations. This is done by State land ministries, development control departments and town planning authorities.

(c) The Fiscal Component

This component of land administration recognizes the monetary value of real property, not only to the owners, but also to the government as an important source of revenue. It enhances the revenue generation capacity of land administration. In Nigeria, various forms of land taxes are used by very few local and state governments to boost their revenue base. These taxes include tenement rates, development levies, capital transfer tax, capital gains tax, land use charges, among others. However, the potentials of land as a fiscal asset are yet to be explored in most states in the country. Thus, land valuation and taxation is an essential element of the fiscal component of land administration.

(d) The Cadastral Component

This component of land administration is concerned with the documentation of the features, location, use, occupation and ownership of land. The cadastral component is the

pivot of land administration in every nation as it involves the mapping, titling and registration of land. Again, in Nigeria, this component of land administration is ineffective, crude and cumbersome. As a result of this, less than 3% of the total land area of the country can be tied to well documented records of the use and the user (Ukaejiofo, 2007).

(e) Conflict Resolution

This involves the use of Alternative Dispute Resolution (ADR) mechanism, customary courts, land tribunals and civil courts to preserve the integrity of individual and community land rights and also guarantee their peaceful enjoyment. The present – day land administration system in Nigeria lacks adequate capacity for conflict resolution. This inadequacy is created by the Land Use Act of 1978, which is the current law guiding land administration in the country. Section 47 of the Act provides as follows:-

1. *This Act shall have effect notwithstanding anything to the contrary in any law or rule of law including the Constitution of the Federal Republic of Nigeria and, without prejudice to the generality of the foregoing, no court shall have jurisdiction to inquire into:-*
 - (a) *Any question concerning or pertaining to the vesting of all land in the Governor in accordance with the provisions of this Act; or*
 - (b) *Any question concerning or pertaining to the right of the Governor to grant a statutory right of occupancy in accordance with the provisions of this Act; or*
 - (c) *Any question concerning or pertaining to the right of a Local government to grant a customary right of occupancy under this Act.*
2. *No court shall have jurisdiction to inquire into any question concerning or pertaining to the amount or adequacy of any compensation paid or to be paid under this Act.*

Thus, the court and even the constitution of the Federal Republic of Nigeria are excluded from inquiring into any question pertaining to the granting of land rights by the Governor and payment of compensation in cases of compulsory land acquisition.

3.0 Existing Tools for Land Administration in Nigeria

The basic tools for land administration existing in Nigeria today were established by the Land Use Act since its commencement on 29th March, 1978. The Act vests all land comprised in the territory of each State, except land vested in the Federal Government or its agencies solely in the Governor of the State, who would hold such land in trust for the people and would also be responsible for allocation of land in all urban areas to individuals resident in the State and to organisations for residential, agricultural, commercial and other purposes. Similar powers with respect to non-urban areas have been conferred on Local governments by the Act. Based on the provisions of the Act, the basic tools for land administration are as follows:-

- (a) Land Titling
- (b) Documentation of Land Transactions
- (c) Land Taxation

Land Titling

Land titling involves the granting of rights to ownership, occupation and use of land and the registration of such rights by the government or its agency. Section 5 (i) (a) of the Land Use Act empowers the Governor of a State to grant statutory rights of occupancy to any person for all purposes in respect of land, whether or not in an urban area and issue a certificate of occupancy in evidence of such right of occupancy in accordance with the provisions of Section 9 (1) of the Act. Also, Section 5 (2) of the Act provides inter alia as follows:

“Upon the grant of a statutory right of occupancy under the provisions of sub-section (1) of this section, all existing rights to the use and occupation of the land which is the subject of the statutory right of occupancy shall be extinguished”.

This makes statutory right of occupancy granted by a Governor the highest title to land in Nigeria. Due to the relevance of land administration to good governance, every State in the federation of Nigeria has either a Bureau of Lands or Directorate of Lands or Ministry

of Lands to handle matters related to land administration and land management. These agencies also handle the cadastral aspect of land titling process and maintain a lands register where all titles to land comprised in the territory of each State are recorded. The vesting of land ownership in State Governors by the Land Use Act since its commencement has made public office holders in the country obtain Certificate of Occupancy with ease. These public office holders are mostly elites who are few in number compared to the proportion of the population who are poor. Due to their affluence, influence, political affiliation and perhaps their closeness to the State Governors, their certificates of occupancy are processed without delay. Besides, the basic requirements for obtaining certificate of occupancy are sometimes out of reach of the poor. These requirements are provided in the various land use regulations which are subsidiary legislations to the Land Use Act. Thus, given the literacy and poverty levels in Nigeria, the elites have the economic capacity to meet the requirements necessary for obtaining the certificate of occupancy from the Governor under the provisions of the Act than the poor.

Documentation of Land Transactions

As earlier stated, all land transactions in Nigeria are regulated by the Land Use Act of 1978. Sections 21 and 22 of the Act explicitly prohibit alienation of customary right of occupancy and statutory right of occupancy without requisite consent or approval of the Governor. In the course of the Governor granting consent to any transaction, Section 22 (2) provides that the seeker of such consent shall submit an instrument executed in evidence of such transaction, be it transfer, assignment, mortgage, sub-lease, pledge, among others for endorsement and documentation by the Governor. Thus, all deeds of transfer, deeds of assignment, deeds of variation and deeds of sub-lease are documented as part of the records at the lands registry. However, most poor people in Nigeria, particularly those in the agrarian communities in the rural areas access land through the informal sector based on customary land tenure arrangements. Documentation of such informal land transactions in their original forms has been difficult as Section 26 of the Land Use Act does not recognise

customary land tenure system and land rights created by it which are not within the provisions of the Act.

Land Taxation

This is another existing tool for land administration in Nigeria. The essence of land taxation is to convert land into a fiscal asset. Although the Land Use Act is not explicit on the mode of levying of major land taxes in Nigeria such as property rate, capital transfer tax, capital gains tax, probate tax and betterment levy apparently due to the fact that other existing laws currently regulate the levying of these taxes, the Act empowers the Governor to levy some pseudo land taxes on applicants who are either seeking to obtain certificate of occupancy or consent to land transaction. These pseudo land taxes include stamp duties, deed fees and fees payable for the preparation of certificate of occupancy issued by the Governor.

4.0 Challenges of Access to Land by the Poor in Nigeria.

Everyone, including the poor, requires land for various purposes. This is because land is the ultimate source of wealth, for without land, life on earth cannot be sustained. Nigeria is blessed with a vast land area. It has been estimated that Nigeria has a land area of 924,768 square kilometres (NPC, 2004). The composition of this land area is presented in Table 1 as follows:-

Table 1: Composition of Nigeria’s Land Area

Land Type	% of Total Land Area	Land Area in Square Kilometers
Urban Land	20	184,953.6
Rural Land	80	739,814.4
Total	100	924,768.

Source: Calculated from NPC (2004) and Ukaejiofo (2007)

Also, it has been estimated that about 3% of the 20% of land in the urban areas of Nigeria is mapped, titled and registered (Ukajejiofo, 2007). As shown in Table 1, a greater proportion of Nigeria's land area is in the rural areas and the economic base of most rural communities in Nigeria is agrarian.

One of the greatest challenges of access to land by the poor in Nigeria is poverty. The National Planning Commission has consistently argued that although Nigeria is rich in natural and human resources, 7 of every 10 Nigerians live on less than US \$ 1 (N129) a day and that most of these poor people are more likely to live in rural areas(NPC, 2004). Thus, access to land by the poor is imperative for agrarian development, economic growth and poverty alleviation. The poverty head count (in %) by geo-political zones in Nigeria is presented in Table 2 as follows:

Table 2: Poverty Headcount (in %) in Nigeria.

Geo-Political Zone	Non Poor %	Moderately Poor %	Core Poor %	Total % of Poor People
South-South	41.8	34.8	23.4	58.2
South-west	38.1	33.4	27.5	60.9
South-East	46.5	35.3	18.2	53.5
North-West	22.5	39.9	37.6	77.5
North-East	29.9	35.7	34.4	70.1
All Nigeria	29.3	36.3	34.4	70.7

Source: National Bureau of Statistics (1999) as Adopted by Chukuezi (2006).

As shown in Table 2, about 70% of Nigerians are poor. Due to their low-income level, this proportion of the population cannot afford the cost of access to land under the present land administration system except they are economically and financially empowered. The existing tools for land administration in the country, particularly those related to land titling and documentation of land transactions are elitist and expensive. However, the poor in the rural areas of the country can effectively have access to land through communal initiatives, based on the customary land tenure system. Unfortunately, the customary land tenure system is not recognized by the Land Use Act. Particularly, Section 1 of the Act vests all land in the territory of each state in the Governor and Section 5 (1) empowers the Governor to grant statutory right of occupancy to any person for all purposes, in respect of land whether or not in an urban area. In addition to that, section 26 of the Act provides that *“any transaction or any instrument which purports to confer on or vest in any person any interest or right over land other than in accordance with the provisions of the Act shall be null and void”*. In other words, apart from the statutory right of occupancy granted by the Governor, any other interest in land in Nigeria is illegal, null and void. This has weakened the customary land tenure system as a means of land ownership in Nigeria.

Apart from the constraints posed by the Land Use Act in the areas of land titling and documentation of land transactions; another challenge to effective access to land by the

poor in Nigeria is the inadequacies of land administration agencies in the country. These agencies include the various bureaus, directorates and ministries of lands in the States as the case may be and the Federal Directorate of Lands in the case of the Federal Government. The inadequacies of these agencies include corruption and maladministration, resulting in undue and excessive bottlenecks in the land titling process; the use of ineffective and outdated cadastral infrastructure, under-compensation and sometimes complete embezzlement of compensation on lands compulsorily acquired for public purposes and inadequate qualified land professionals. Apart from the Abuja Geographic Information System (AGIS) in the case of FCT's lands department and the Federal Land Information System (FELIS) in the case of the Federal Directorate of Lands, many State land administration agencies are yet to establish a functional and efficient land information system based on up-to-date cadastral information. This hinders the efficiency of the land titling process. In the case of AGIS and FELIS, access to land information from the systems are expensive and out of reach of the poor.

5.0 Measures for Pro-Poor Land Administration in Nigeria

As already analysed, the poor constitutes the highest proportion of Nigeria's population. Thus, with a population of 140,003,542 people, about 98,002,479 people are living in poverty. The implication of this is that, except the poor people are economically empowered, they may not have effective access to land in the country. In other words, effective and sustainable pro-poor land administration reform should be embarked upon by the government as part of the poverty alleviation initiatives. This reform can be achieved through a comprehensive review of the Land Use Act of 1978. Such review should vest freehold ownership of land in Nigeria on Nigerians and not their Governors, remove unnecessary consent of the Governors on land transactions, create a uniform national land administration process and database, provide relief for the poor to have access to land as well as secure adequate, just and fair compensation for the poor whose land is compulsorily acquired for overriding public purposes. The government can provide relief for the poor to

access land by granting land allocations to persons within the lowest income group at near-zero ground rent and cost-effective land registration. As part of the National Economic Empowerment and Development Strategy (NEEDS) of the Federal Government, access to land by the poor is one of the instruments and interventions for poverty alleviation (NPC, 2004).

Also, the Federal Government has made land reform one of its 7-point Economic Agenda. What is required is for the Federal Government to develop a system of land administration that meets the social, economic and political needs of the Nigerian people. Such system should make land titling pro-poor, less cumbersome and cost effective. Experts in land administration, including Adams (2006) believe that the poor are rarely able to defend themselves against the strong-arm tactics of powerful land grabbers in the society. In situations of unjust dispossession of land, the poor rarely seek redress due to their ignorance, illiteracy and lack of wherewithal to prosecute such cases and obtain justice. Therefore, the dispute resolution aspects of land administration in the country should be reformed and strengthened to enhance the capacity of the poor to obtain justice whenever their right of access to land is denied. Land titling is about people and not technology. Technology only provides the tools and not standards. According to Burns et al (1996), the success of land titling is ultimately dependent, not on the elegance of its geodetic adjustments, the sophistication of the technology introduced, or even the vast numbers of certificates distributed, but on the extent to which it effectively meets the land administration needs of the society. While information technology adaptation is essential for the improvement of land titling process in Nigeria, such adaptation should not be anti-poor in terms of effective access to land information. Access to land information in the country should be affordable to everyone, including the poor, no matter the sophistication of the technology used to collect, record, store and retrieve such information.

6.0 Conclusion

There is need for sustainable land administration reform in Nigeria. Such reform should replace the elitist and expensive tools for land administration currently existing in the country with pro-poor tools that would facilitate access to land by everyone, including the poor, as well as correct the inadequacies of land administration agencies in the country. These pro-poor tools should include granting land allocations to persons within the lowest income group at near- zero ground rent, cost- effective land registration by the government and tenure security for customary land rights.

The gradual shift of the Nigerian economy from socialist economy to capitalist or free market economy has necessitated the need for an effective process of land titling in the country. This is based on the fact that individuals require titles to land and security of land tenure to enable them set up their enterprises. These private enterprises are required for employment generation, poverty alleviation and general economic growth and development. A pro-poor land administration system in which land is evenly distributed so that too much land is not owned by too few people, in which land titling and documentation of land transactions are cost-effective and less cumbersome and in which security of land tenure is enhanced is imperative to facilitate access to land by the poor in Nigeria.

References

- Adams, M. (2006). *Land Reform and Land Administration in Sub – Saharan Africa*. Retrieved from [www.icea.co.uk/archieve/ICEA Adams La](http://www.icea.co.uk/archieve/ICEA%20Adams%20La) on 14th November, 2007.
- Barlowe, R. (1986). *Land Resource Economics (4e)*. New Jersey: Prentice Hall.
- Burns, T.; Eddington, B.; Grant, C.; and Lloyd, I. (1996). *Land Titling Experience in Asia*. A Paper Presented at the International Conference on Land Tenure and Administration in Developing Countries, held in Orlando, Florida, 23rd – 26th November.
- Chukuezi, C. (2006). *Oil Exploration and Human Security in Nigeria: A Challenge to Sustainable Development*. Retrieved from [http://www.jsd- Africa.com/jsda/fall2006/PDF](http://www.jsd-Africa.com/jsda/fall2006/PDF) on 15th November, 2007
-
- Udoekanem, N. B.** (2008). Towards Effective Pro – Poor Land Administration in Nigeria: The Challenges and Prospects. In Zubairu, S. N., Morenikeji, O. O., Sanusi, Y. A., Jinadu, A. M. and Ojigi, L.M. (Eds). *Proceedings of the 2nd Annual Conference of the School of Environmental Technology, Federal University of Technology, Minna, Nigeria on the theme “Preserving the Environment”* held at the Engineering Lecture Theatre, Gidan Kwano Campus of the University, 27th – 28th February. Pp. 323 – 329.

- Egolum, C.C. (1994). Buy-out Value of Leasehold Interest and the Concept of Marriage Value. *The Estate Surveyor and Valuer*. Vol. 18, No.1. pp. 11-13
- Federal Republic of Nigeria (1978). The Land Use Act. Cap. 202. *Laws of the Federation of Nigeria*. 1990 Edition.
- Okoth-Ogendo, H.W.O. (1993) .Agrarian Reform in Sub-Saharan Africa: An Assessment of State Responses to the African Agrarian Crises and their Implications for Agricultural Development. In Bassett, T. and Crummey, D. (eds). *Land in African Agrarian Systems*. Madison: The University of Wisconsin Press.
- Omotola, J. A. (1982). The Land Use Act of 1978 and the Customary System of Tenure. *Report of National Workshop on the Land Use Act*. Lagos: University Press.
- NPC (2004). *National Economic Empowerment and Development Strategy*. Abuja: National Planning Commission.
- Ukajejofo, A N. (2007, 17th September). Perspectives for Reforms of Land Administration in Nigeria. *The Guardian*. Vol. 25, No.10, 524. p. 33.
- Walijatun, D. and Grant, C. (1996). *Land Registration Reform in Indonesia*. A Paper Presented at the International Conference on Land Tenure and Administration in Developing Countries, held in Orlando, Florida, 23rd – 26th November.