

# UNDERSTANDING PROPERTY TITLES AND LAW IN NIGERIA

For Real Estate Investment in Nigeria





Prepared by:



**Folashade Alli & Associates**  
LEGAL PRACTITIONERS & ARBITRATORS

# TRAINING OBJECTIVES



-  Ensure participants understand Real Estate investments.
-  Ensure participants understand the procedural & documentary requirements for all forms of Real Estate investments.

**N.B.:**

The training material will be shared with interested participants subsequently.



*“Real estate is an imperishable asset, ever-increasing in value. It is the most solid security that human ingenuity has devised. It is the basis of all security and about the only indestructible security”*

*– Russell Sage*



# WHAT IS REAL ESTATE?

Real estate is generally described and legally conceived as the physical parcel of land and everything on it.

From a financial and investment standpoint, Land is generally recognized as a fixed asset.

## GOVERNING LAWS ON REAL ESTATE IN NIGERIA & LAGOS

1. Land Use Act of 1978.
2. Property and Conveyancing Law of 1959.
3. Conveyancing Act 1881.
4. Mortgage and Property Law of Lagos State 2010.
5. Tenancy Law of Lagos State 2011.
6. Land Registration Law of Lagos State 2015.



# OVERVIEW OF LAND USE ACT 1978

Enacted on 29<sup>th</sup> March 1978.

The Act vests all land in the territory of each state in the Governor of the state (excluding land vested with the Federal Government of Nigeria), who is mandated to hold such Land in trust for the people and is responsible for the allocation of land to individuals for any of the following purposes:

- a. Agricultural
- b. Commercial
- c. Residential



## N.B.:

- Ensure you are informed about the purpose of the grant of the land (if the land has a C of O).
- Ensure that the Certificate of Occupancy (C of O) issued for commercial purposes is not utilized for residential purposes as the C of O can be revoked upon breach of the conditions governing the grant of occupancy.

# ESSENTIAL FACTS ABOUT REAL ESTATE

- Primarily governed by law in terms of practice and procedure.
- A high-demand driven investment area.
- Upon completing a valid purchase, real estate remains one of the most secure assets to own, barring any intervening circumstances such as natural disasters.
- Potential and existing investors in the real estate market require the guidance and practical experience of experts to navigate and make informed investment decisions in relation to the market. Such experts include lawyers, property agents & managers, surveyors amongst others.



## CATEGORIES OF TITLE THAT CAN BE HELD IN REAL ESTATE

### LEGAL TITLE

This is a valid and superior interest or right an individual holds in respect of a property. It is widely recognized as a secure and good title and is usually derived from a transfer of title by the lawful beneficial owner of a property.

### EQUITABLE TITLE

This is also a valid interest or right an individual holds in respect of a property. However, equitable title may be deemed as inferior and can be displaced by the holder of a valid legal title.

### REGISTERED TITLE

A registered title is a document of title registered at the registry in the state where the property is located. Upon registration, a title number is issued which makes any subsequent search on the title at the land registry very easy.

### UNREGISTERED TITLE

It simply means a title that is not registered.

## ADVANTAGES OF REGISTERING YOUR TITLE

- It serves as proof of ownership of land.
- It permits easy transfer of your title.
- Disputes regarding ownership can be easily resolved.
- It can be used to prevent encroachments.

## TYPES OF OWNERSHIP

- **FREEHOLD:** This refers to an absolute form of ownership which preceded the enactment of the Land Use Act 1978.
- **LEASEHOLD:** This refers to the right of ownership or land title which came into existence with the emergence of the Land Use Act.

# HOW CAN YOU BECOME THE OWNER OF A PROPERTY

- **Purchase** – Most common form of ownership.
- **Gift** – Always ensure a deed of gift is issued.
- **First Settlement** – These are usually the initial land dwellers.
- **Inheritance** – Through Wills.

# DOCUMENTS FOR TRANSFER OF TITLE

- Sale and Purchase Agreements
- Deed of Assignment
- Survey Plan
- Purchase Receipt
- Form 1(c) – Lagos State

## NOTE:

Safe keeping and protective custody of property documents is of primary importance for all Property owners. It is important to keep your documents safe either with a lawyer or custodian house and in some instances a bank.

## WHY DO PEOPLE HAVE PROBLEMS IN REAL ESTATE TRANSACTIONS?

- Purchase of property from individuals other than the actual property owners thereby resulting in the acquisition and transfer of defective title.
- Failure to carry out due diligence and investigation on the property.
- Resort to self-help in commencing and concluding real estate transactions without adequate consultation and engagement of experts.
- Insufficient knowledge and expertise with respect to the nature and types of various real estate transactions.
- Appointment of inexperienced individuals or professionals to undertake comprehensive due diligence exercises including title investigation.

 DID  
YOU?  
KNOW

- The Lagos State Real Estate Regulatory Authority (LASRERA) has mandated the use of lawyers from the commencement to the completion of any and all real estate transactions in Lagos State.
- If you deal in or render services in the real estate market within Lagos state, you must be fully registered with LASRERA.

## WHO CAN I BUY A PROPERTY FROM AND WHAT SHOULD I DO BEFORE PURCHASE

The following are the common categories of entities that are typically involved in the sale and purchase of property.

- **COMPANY** – You need to verify that the Company is in existence by carrying out a search at the Corporate Affairs Commission (CAC), Abuja.
  - Ensure you check the reviews of sales done by the Company.
  - Ensure your deed is in the Company name and you make payment in Company name.
  - In some instances, you may require resolutions of the Board and Shareholders of the Company particularly where the Company's Memorandum and Articles of Association restricts the sale of Company assets, in such instance, you should avoid purchasing the property unless you have obtained the approval of the Board and Shareholders.



## WHO CAN I BUY A PROPERTY FROM AND WHAT SHOULD I DO BEFORE PURCHASE (CONT.)

### INDIVIDUALS

- Ensure the individual has ownership by conducting a search and you can trace the individual's root of title.
- Inquire about all title documents and conduct a search to ensure that it is free of defects and encumbrances.


## WHO CAN I BUY A PROPERTY FROM AND WHAT SHOULD I DO BEFORE PURCHASE (CONT.)

### FAMILY

- Exercise care while trying to buy property from a family.
- Ensure there are no factions in the family as uniform consent is required.
- Ensure you are dealing with the right family representatives/parties (to avoid double payment or a bad transaction).
- Ensure you carry out local intelligence gathering to get comfort about their identity, history of other transactions, in order to get comfort that issues will not spring up subsequently.
- Verify information given by the representatives of the family from a larger part of the family members.
- Once you have completed your transaction, take possession immediately, or put someone on the property as precautionary measure against trespassers.

### **N.B.:**

Ensure during due diligence, that all building permits and any other permits required were secured and are presented for your verification. Also ensure that all professionals you have engaged, issue you with a due diligence report in respect of the transaction, and it is executed by them.



○ WHAT SHOULD I DO  
WHEN I WANT TO  
**PURCHASE REAL ESTATE?**

Answer:

**Conduct a comprehensive and thorough due diligence exercise.**



## ○ WHAT IS DUE DILIGENCE?

Due diligence generally comprises of steps taken towards investigating the title to ensure that you make a sound decision in respect of your purchase.

## HOW DO YOU CARRY OUT DUE DILIGENCE?

You need to ask the following questions:

- How the seller came about ownership of the real estate?
- Is it genuine?
- Is it free from government acquisition? (Avoid government owned land, unless you are purchasing directly from the government).
- Is the location a good one?
- Are there any encumbrances? (Factors that will prevent you from enjoying possession).

## GENERAL STEPS TO ADOPT FOR DUE DILIGENCE ON REAL ESTATE TRANSACTIONS

- Carry out a physical inspection by paying a visit to the site with your lawyer and surveyor.
- Ask for copies of title documents so you can carry out a search on the document (deeds and survey plans).
- If the deed is registered carry out a search at the land registry to ensure the land is free from encumbrances.
- Verify the survey plan at the office of the Surveyor General to ensure it is free from the government acquisition and that the beacon numbers indicated on the survey plan corresponds with the actual measurement of the land.

## **WHAT CAN BE SOLD TO YOU?**



### **BUILT PROPERTY**

(Completely built structure)



### **BARE LAND**

### **OFF PLAN**

(To be completed later)



## GUIDE FOR UNDERTAKING REAL ESTATE TRANSACTIONS FOR THOSE IN DIASPORA

- Identify the type of property, confirm the exact location.
- Appoint a legal practitioner specialized in Real Estate to carry out the due diligence on title documents at the relevant registries.
- Carry out physical inspection of the property, you can nominate a trusted agent, relation (its better to be present, if you cannot be present, ask for video recording, pictures, etc).
- Ensure you are presented with copies of all relevant permits for verification.
- Double check that the seller has authority to sell the real estate.

## GUIDE FOR UNDERTAKING REAL ESTATE TRANSACTIONS FOR THOSE IN DIASPORA (CONT.)

- Request for a letter of confirmation of sale from the landlord.
- Obtain due diligence report from all professional you engaged to conduct due diligence.
- Have a lawyer draft the title documents such as sale and purchase agreement, deed of assignment.
- Ensure the title documents are properly executed by both Parties (Assignor, Assignee).
- Get competent hands to manage the property for you in your absence.
- Take possession (if you are not around, station someone there, pay regular visits).

# WHAT HAPPENS AFTER THE DUE DILIGENCE REPORT IS SATISFACTORY, AND YOU WANT TO PROCEED WITH THE TRANSACTION?

## Answer:

- Make payment in the name of the assignor unless the assignor expressly states otherwise in writing.
- Obtain purchase receipts.
- Obtain several copies of your deed of assignment, sale and purchase agreement, and survey plans.
- Proceed to register your title at the land registry where the property is Located.

# RED FLAGS DURING DUE DILIGENCE

- **No document to show proof of title.**
- **Withholding or concealing information.**



## WHO CAN ASSIST IN CARRYING OUT YOUR DUE DILIGENCE?

- **Lawyer** – To check the title is free from encumbrance.
- **Estate Agents** – Provides advice and practical guidance on the suitability and location of the property.
- **Surveyor** –
  - To check that the Property is free from government or state acquisition.
  - To confirm that the beacon number on the Survey Plan corresponds with Land Measurements
  - To confirm that there are no encroachments on the land (extension outside or beyond the land assigned).
- **Property Consultant** – To aid in your choice of property.

## **DOCUMENTS REQUIRED FOR REGISTRATION OF TITLE AT THE LAND REGISTRY (USING LAGOS STATE AS A CASE STUDY)**

- One (1) copy of duly executed form 1c executed both the Assignor and Assignee.
- Four (4) Copies of the Deed of Assignment between the Assignor and Assignee.
- Four (4) Copies of Signed Survey Plan by a registered Surveyor.
- Evidence of Submission of record copy of Survey plan.
- A copy of the Tax Clearance Certificate of the Assignee.
- A copy of the Tax Clearance Certificate of the Assignor.
- Three (3) Copies of photographs showing the entire area of the property.

## DOCUMENTS REQUIRED FOR REGISTRATION OF TITLE AT THE LAND REGISTRY (USING LAGOS STATE AS A CASE STUDY)

- Application letter addressed to the Director of Land Services with Address and Telephone Number of Applicant. (Kindly note that where the Assignor/Assignee is a company, evidence of Tax payment by two directors of the company would be required).
- Location sketch of property (sample attached).
- Certified True Copy of Certificate of Occupancy.
- Three (3) passport photographs of the Assignee(s).
- Payment of Resettlement Fees, NIC, Ground Rent where applicable.



**Any Questions?**



Please add for further info contact:

 **info@faa-law.com**

 **07034081800**

 **omesi.mamedu@faa-law.com**

 **08032470630**

