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## THE EXTENT OF THE POWER OF GOVERNOR IN THE EXERCISE OF LAND CONTROL AND MANAGEMENT IN NIGERIA

BY

**Theophilus C. Nwano PhD\***  
Faculty of Law,  
Beson Idahosa University,  
Benin-City, Edo State, Nigeria

### Abstract

This paper critically examines the extent of the power of Governor in the Exercise of Land Control and Management in Nigeria. The central question to this paper is the extent of balance in the powers exercisable by the State Governor. The paper discovers that the powers of the State Governor is excessively absolute and finds that Government powers over land control and management poses serious threat to the constitutionally guaranteed right of Nigerians to acquire and own immovable property anywhere in the country. While the paper observed the oppressive nature of the Governor's powers, the paper recommends the amendment of the Act to allow for independent and ownership of land devoid of any fear or intimidation. The paper recommends that the prohibition of alienation of customary and statutory rights of occupancy without the consent of the Governor as provided in section 21 and 22 should be removed. Individuals and groups as well as communities and body corporate that have legitimately acquired rights of occupancy either expressly or deemed granted should possess the free will to exercise their rights to alienate such land for any legitimate purpose without been subjected to obtaining the consent of the Governor first before such alienation, this is to allow for the independent exercise of their powers.

\*Ph.D Senior Lecturer Faculty of Law Benson Idahosa University, Benin-City. [tnwano@gmail.com](mailto:tnwano@gmail.com)

### 1.1 Introduction

This paper examines the Exercise of Land Control and Management in Nigeria. The paper seeks to examine the balance or otherwise of the powers allocated to the Governor of the State in the exercise of land control and management and makes a case for the review of the current provisions as well as recommendations in bringing them up to date. Land can be considered as the most vital and precious property man can own. In fact the existence of man is largely dependent on land. Because the importance of land cannot be overemphasized and man cannot do without land which provides him shelter and guarantees his dignity, and in recognition of this natural right man has enacted laws in protecting this right, as the exercise of rights available to man is subject to abuse, laws were made by man from time immemorial to regulate the exercise of this inalienable right available to man. In Nigeria for instance land laws have been in existence before, during and after the era of colonialism. Prior to 1978, customary land tenure system which governed the ownership and use of land in various parts of Nigeria were in existence, and from the promulgation of the Land Use Act in 1978, a uniform land tenure system have been in existence for the avoidance of abuse in the acquisition and use of land by individuals in particular and the society in general. The Act vests the power to regulate the use of land in the State Governors and the Local Government in its current form. This paper seeks to examine the powers of the governor in controlling and management of land in Nigeria.

In an attempt by government to ameliorate the challenges associated with acquisition of land in Nigeria, the need for a uniform method of acquiring land became imperative. This led to the promulgation of the Land Use Act (LUA). The LUA was thought to be capable of easing the issues associated with land holding system, but unfortunately this was not to be as the LUA itself became laced with contradictions and as such faced a lot of criticisms from scholars and jurists. The LUA divested previous land holders of their fee simple but never seized to recognize them as the substance on which a statutory right of occupancy can be founded. The consent provision in the LUA requiring a holder to seek the consent of the governor, who holds the land in trust for the benefit of the citizens seems to have stifled the ability of those dealing in land from doing so effectively. Those who are saddled with the responsibility of implementing the provisions of the LUA were not faithfully committed to it. Executive lawlessness was noticed in most cases where landed properties of some private citizens were revoked and same allotted to other private citizens against the spirit and letters of the LUA. Even where land was lawfully revoked, compensation was hardly ever paid leading to judicial intervention. It is therefore recommended that a holistic amendment of the LUA is required to enable it achieve its laudable objectives.

It is trite that the importance of land to man on earth through all ages can hardly be overemphasized.<sup>573</sup> In Nigeria land is a fundamental source of wealth either directly or indirectly, and it provides about ninety nine percent of the citizens' sources of livelihood.<sup>574</sup> The Constitution of Nigeria in recognition of the importance of land has empowered all Nigerians with the fundamental right to acquire and own immovable property anywhere in the country.<sup>575</sup> It is based on the crucial role land plays in the survival of man that the Land Use Act was promulgated to address the challenges faced by Governments, individuals as well as corporate bodies.

Prior to the promulgation of the Act in 1978, customary land tenure was the operational system in the control and management of land and this was preserved under two systems of law which were in existence in Nigeria. The land tenure of Northern Nigeria 1962 applicable in the Northern States and the States land laws applicable in the southern states.<sup>576</sup> Under the Land Tenure Law of Northern Nigeria, all lands in Northern Nigeria were vested in the Minister of Lands of Northern Nigeria in trust for the people.<sup>577</sup> Under this system, individuals had only a right of occupancy, statutory or customary, granted by the Minister of Local Governments respectively, while in the south vast lands within the States were vested in individuals, families and communities as absolute owners under customary law except few portions of lands that were vested in the States under the land tenure law of each state.<sup>578</sup>

During this period Governments faced serious challenges in acquiring land for economic and agricultural development purposes. The problem of urbanization also ushered in the need for basic social amenities and infrastructure coupled with governments' dire need to acquire land for the settlement of new settlers to the urban areas<sup>579</sup> and the exorbitant prices in the purchase of land<sup>580</sup>. High cost of compensation, tenure arrangements imposing impediments on agricultural modernization,<sup>581</sup> the absence of well defined titles which negated the use of land as collateral for bank loans especially for agricultural investments, the quest for Government to assist the citizenry in peaceful and secured settlement, the nature of land

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<sup>573</sup> Nwano, T.C., "Compulsory Acquisition of Land in Nigeria: An Analysis of its Process and Procedure," *BIU Law Journal*, (2015), Vol.2, No.1, p 474.

<sup>574</sup> *Ibid*

<sup>575</sup> Section 43, Constitution of the Federal Republic of Nigeria 1999 as amended 2011

<sup>576</sup> Ogizi, L.O., "Impact of the Land Use Act on Customary Land Tenure in Nigeria" *Benue State University Law Journal*, (2002), Vol. 1, No. 1, p 63.

<sup>577</sup> *Ibid*

<sup>578</sup> *Ibid*

<sup>579</sup> Tsaor, A., "An Appraisal of Land Management and Control by the Local Government under the Land Use Act," *Law and the Society*, (2011), Vol.13, p 103-104.

<sup>580</sup> *Ibid*

<sup>581</sup> *Ibid*

ownership with the erection of permanent structures<sup>582</sup> etc. In light of the above, panels were constituted to investigate these challenges. The panels in their report identified the land tenure system as contributory to the inflationary tendencies in the country and as a major hindrance to rapid economic development.<sup>583</sup>

The Government white paper on the report of the rent panel accepted the recommendation that all lands should be vested in the State but however called for a further study of its practical implication.<sup>584</sup> The Federal Government in 1977 inaugurated the Land Use Panel to formulate a land policy for the country and on April 16th 1977 the Land Use Panel headed by justice Chike Idigbo was set up with terms of reference<sup>585</sup> and the Land Use Decree of 1978 was promulgated. The promulgation of the Land Use Act of 1978 transferred the powers of control and management of land from the Minister of Lands in Northern Nigeria; individuals, families and communities in the Southern Nigeria to the State Governors and Local Governments respectively.

## 1.2 Historical Perspective

Land, though represents only about two-fifth of the earth's surface,<sup>586</sup> it provides a platform on which man's activities are predicated. It is however ironical that while the world population increases, the land in supply appears to be receding.<sup>587</sup> Hence land is never thought to be sufficiently available to meet the need of man in a society. The ownership of land is jealously guarded against. Wars are fought, territories conquered to assert and preserve the ownership of land. The rift between Nigeria and Cameroon over Bakassi Peninsula, conflicts between Ife and Modakeke and that between Erinle and Offa attest to the above claim. For few available land to be equitably administered among the people and be maximally utilized there is need for a good land policy to be put in place for effective control and management of land in order to witness the desired development in the society.

Prior to 29th March, 1978 when the Land Use Act<sup>588</sup> was enacted, there were land laws<sup>589</sup> which governed compulsory acquisition of land in Nigeria before, during and after the advent of the colonial masters. The predominant land tenure system in Nigeria during the pre-colonial

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<sup>582</sup> Ibid

<sup>583</sup> Hakeem, I., "The Nigerian Land Use Act: A Critical Review," *Journal of Public Law and Constitutional Practice*, (2010), Vol.3, No.2, p 127-129.

<sup>584</sup> Ibid

<sup>585</sup> Ibid

<sup>586</sup> "The Land Use Act of 1978: Appraisal, Problems and Prospects" in <https://www.unilorin.edu.ng/studproj/law/0640ia168.pdf> (Accessed 26/10/2014)

<sup>587</sup> Ibid.

<sup>588</sup> The Land Use Act No. 6 March 29, CAP L5. LFN 2004

<sup>589</sup> These pre-existing land laws include-customary, received English land laws and the Land Tenure Law

period was the customary land tenancy where land holdings were owned by villages, towns, communities and families. Land was deemed not owned by individuals but by communities and families in trust for all the family members.<sup>590</sup> In pre-colonial Nigeria compulsory acquisition process was carried out in different communities and tribal kingdoms based on existing socio-cultural patterns and political hegemony existing in the various communities.<sup>591</sup> The power was essentially used for establishment of public institutions like village shrines, markets and grooves. The process was also used as a punitive expropriation scheme as part of the traditional machinery for public justice.<sup>592</sup> In acquiring the property the individual affected was usually carried along and was usually convinced of the need to relinquish his land for communal use. Thus the process was devoid of disputes and or disagreement between the acquiring authority and the land owners. During this period compensation was mostly by way of resettlement and allocation of alternative land to victims of compulsory acquisition, except when the acquisition was done in furtherance of administration of communal justice. In the later circumstance the acquisition in penal in nature and therefore devoid of any compensation. The alternative land so offered needed neither to be comparable with the land taken nor to be an adequate quid pro quo for it<sup>593</sup>

The inception of the colonial rule in Nigeria did not immediately terminate the customary mode of compulsory acquisition and compensation scheme; it continued for a considerable period until the full establishment of colonial rule by the British imperialist in what later became known as Nigeria.<sup>594</sup> Statutory compulsory acquisition was introduced in Nigeria in 1863, in connection with the Town Improvement Ordinance in Lagos. 1876 saw the introduction of the Public Lands Ordinance with the first general powers of acquisition in Lagos, which extended to southern Nigeria in 1906 and was made to cover the other parts in 1917 by the Public Land Acquisition Ordinance. This enactment (Public Lands Acquisition Ordinance) of 3rd May 1917 empowers acquisition of land for public purpose either in the form of an estate in fee simple or for a term of years as deemed appropriate but subject to payment of compensation. A minimum of six (6) weeks' notice of intention to acquire is served upon all persons who have interest or estate on the parcel either personally or left in the usual place of abode or business. Disputes arising on compensation claims are to be settled by

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<sup>590</sup> Omuojine, E.O., "The Land Use Act and the English Doctrine of Estate" *Journal of the Nigerian Institution of Estate Surveyors and Valuers*, (1999), Vol. 22, No. 3, pp. 54-56

<sup>591</sup> These includes the Town, Village, community and groups which performed functions similar to those of a modern state.

<sup>592</sup> For example where oath deities acquired lands and other assets of culprits

<sup>593</sup> Umeh, J.A., *Compulsory Acquisition of Land and Compensation in Nigeria* (sweet & Maxwell: 1973) (cited by Otubu, T., "Private Property Rights and Compulsory Acquisition Process in Nigeria: The Past, Present and Future" *Acta Universitatis Danubius Juridica*, (2012) 8 (3), pp. 14 in <http://journals.univ-danubius.ro/index.php/juridica/article/view/1504> (Accessed 28/12/2014)

<sup>594</sup> Ibid.

the high court under the provision of this Act. The written report of Government Land Officers and Agriculture or Forestry Officers as to the value of land, building, trees and crops are to be used as evidence. There is no compensation for unoccupied land and a party is not compelled to sell or convey a part of a house if such party is not willing to dispose at all.<sup>595</sup>

In Northern States, the colonial administration promulgated the Land and Native Rights Proclamation of 1910<sup>596</sup> which was repealed and replaced with the Land and Native Rights Ordinance of 1916.<sup>597</sup> The Land Tenure Law of 1962<sup>598</sup> later replaced this Ordinance. Under the Land Tenure Law, the absolute ownership rights of the natives over land was subjugated and circumscribed to a mere right of occupancy, which is a limited right of use over land for a determinable period. This management power was so expansive to the extent, that even the limited right of use of the land is revocable by the chief executive without compensation in some cases. And where compensation was payable it was only for the improvement or development on the land and not the land itself or any other ancillary rights.

In Post-Colonial period, the extant legislations on the subject during the colonial period continued after independence and until the military takeover of 1966. Given the prevailing socio-economic realities of the time and the need to fast track economic development of the country while also tackling the ills of the society in land management, the military government, in quick succession, promulgated 3 Decrees to tackle land acquisition and compensation issues in the country; namely, the Requisition and other powers Decree<sup>599</sup>, the State lands (compensation) Decree<sup>600</sup> and the Public Land Acquisition (Miscellaneous Provisions) Decree.<sup>601</sup> Under the Decrees both the acquisition and compensation processes were faulty. There was no provision for the service of adequate notices and no room for objection or public participation in the process. On the compensation side, many otherwise recognizable proprietary interest were ignored and not compensated, while the quantum of compensation paid were grossly inadequate. The letters and spirit of the provisions of the constitution on the subject were totally disregarded and ignored. Such was the scenario when the Land Use Act was promulgated as uniform land legislation in the country in 1978.<sup>602</sup>

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<sup>595</sup> Akinlabi, A. J., "A Study of Adequacy of Compensation for Land Acquisition Under The Land Use Act" in [http://nauilibrary.org/dglibrary/admin/book\\_directory/Thesis/11552.pdf](http://nauilibrary.org/dglibrary/admin/book_directory/Thesis/11552.pdf). (Accessed 28/12/2014)

<sup>596</sup> No. 9 of 1910 cap 96 Laws of Northern Nigeria 1958

<sup>597</sup> No. 1 of 1916

<sup>598</sup> Cap 59 Laws of Northern Nigeria 1963

<sup>599</sup> No. 39 of 1967

<sup>600</sup> No. 38 of 1968

<sup>601</sup> No. 4 of 1976

<sup>602</sup> Otubu, T., "Private Property Rights and Compulsory Acquisition Process in Nigeria: The Past, Present and Future" *Acta Universitatis Danubius Juridica*, (2012) 8 (3), pp. 14 in <http://journals.univ-danubius.ro/index.php/juridica/article/view/1504> (Accessed 28/12/2014)

These laws continued to be in operation until they were found to be defective because despite their existence, the problems of land tenure persisted in Nigeria. One the most serious of these problems was the difficulty in acquiring land by the government in major urban centres for national development because of land speculations, racketeering and high cost of compensation<sup>603</sup> usually demanded by the land owners whenever government acquired land to execute its projects.

Against this background, the Federal Government in a deliberate effort to unify land tenure, streamline and simplify ownership of land in Nigeria, set up the Land Use Panel in 1977<sup>604</sup> made up of 8 members and had the following terms of reference:

1. To undertake an in-depth study of the various land tenure, land use and conservation practices in the country and recommend steps to be taken to streamline them;
2. To study and analyse the implications of a uniform land policy for the country as well as examine the possibility of a uniform land policy for the entire country, make necessary recommendations and propose guidelines for their implementation; and
3. To examine steps necessary for controlling future land use and also opening and developing new lands for the needs of the government and Nigeria's growing population in both urban and rural areas and make appropriate recommendations.<sup>605</sup>

On 29 March 1978, the Land Use Act was promulgated to among other reasons address the apparent difficulty encountered by Local, State and Federal Governments in acquiring land for development. Firstly the Act vested all lands in the state in the Governor in trust for the benefits of all Nigerians<sup>606</sup> and thereafter created a property interest in land less than ownership known as a right of occupancy,<sup>607</sup> which interest is not only of limited duration but also de-feasible under certain conditions. From the inception of Act the reversionary interest in all lands in the country became vested in the State. This policy informed the compulsory acquisition process adopted by the Act, to the extent that what the State compulsorily acquires is not the land *simpliciter*, but the unexhausted development on the land at the point of acquisition. Thus, what operates under the Act is the revocation of the right of occupancy earlier expressly or deemed granted by the State.<sup>608</sup>

### 1.3 Vesting of All Lands in the State Governor

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<sup>603</sup> The Public Land (Miscellaneous) Decree, 1976 which provided for the amount of compensation throughout the whole country. But it has been repealed by the Land Use Act 1978

<sup>604</sup> The Land Use Panel set up on the 16th April 1977 headed by Justice Chike Idigbo

<sup>605</sup> Main Report of the Land Use Panel 1977

<sup>606</sup> Section 1 Land Use Act

<sup>607</sup> Though the Act did not define the expression 'right of occupancy' but its precursor the Land Tenure Law of Northern Nigeria defines it in section 1 as 'title to the use and occupation of land....'

<sup>608</sup> Subsections 28 & 38 Land Use Act

Section 1 of the Act<sup>609</sup> provides:

Subject to the provisions of this Act, all lands comprised in the territory of each state in the Federation are hereby vested in the Governor of that State and such land shall be held in trust and administered for the use and common benefit of all Nigerians in accordance with the provisions of this Act.

The foregoing provision vests in the Governor of each State in Nigeria the radical title to land subject to the provisions of the Act. The section indeed vests the radical title in the Governor devoid of the possessory interest of the erstwhile land owners upon trust.<sup>610</sup> Since the Governor has the radical title to land, no person can claim unlimited interests. However, being a trustee of the land vested in him the Governor only holds nominal ownership of land for the purpose of accomplishing the objectives of the Act.<sup>611</sup> The real effect of section 1 is the expropriation of radical title in the form of absolute ownership in favour of the Governor subject to the other provisions of the Act which preserve existing interests in land.<sup>612</sup>

The vesting of all lands in the Governor has consequently replaced the concept of individual ownership of land with that of ‘occupancy.’ Omotola<sup>613</sup> contends that section 1 of the Act took away absolute ownership of land from citizens and vests it on the Governor of the State; that ownership of land has been set aside by the Act and now replaced by a right of occupancy, be it statutory or customary. The Supreme Court in the case of *Salami v. Oke*<sup>614</sup> stated that the innovation introduced by the Land Use Act is to divest any claimant of his radical title and limit his claims to a right of occupancy. In *Ogualaji v. A.G. Rivers State and Anor*,<sup>615</sup> the court further stated that an absolute ownership of land is vested in the Governor of each State. An individual person can only have or acquire possessory title, statutory or customary. In chains of cases before it, the Supreme Court stated time and time again that radical title has been removed by the Act. In the 1990’s the supreme court also in the case of *Abioye v. Yakubu*<sup>616</sup> stated that: it has been said that the Land Use Act 1978 has revolutionalised the Land Tenure System in Nigeria and has removed the radical title from individual Nigerians and vested it in the Military Governor of each State in trust for the use and benefit of all Nigerians

#### **1.4 Governor’s Power of Control and Management of Land**

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<sup>609</sup> Land Use Act 1978 CAP. L5 L.F.N. 2010

<sup>610</sup> Adewale, T., *The Nigerian Land Law*, (Ibadan: Ababa Press Limited: 2011). p 206.

<sup>611</sup> Smith, I. O., *Practical Approach to Law of Real Property in Nigeria*, (Lagos: Ecowatch Publications Limited: 2013). p 475.

<sup>612</sup> *ibid*

<sup>613</sup> Omotola, J.A., ‘Essays on the Land Use Act 1978’ (Lagos: University Press: 1984) p 15.

<sup>614</sup> (1987) 4 N.W.L.R. (Pt. 63)1

<sup>615</sup> (1999) 5 S.C.M.J. 240

<sup>616</sup> (1991)5 N.W.L.R. (Pt. 190) 130 at 223

The power of control and management of land in Nigeria vests in the Governor who holds all lands in trust and administered for the use and common benefit of all Nigerians. The Governor is empowered with the control and management all lands. The Act<sup>617</sup> in section 2(1)(a) provides to the effect that all lands in urban areas shall be under the control and management of the Governor of each State. Lands in urban areas is subject to the control of the Governor and the management of such lands within the territory of each State must be administered for the use and common benefit of all Nigerians resident in the State. In light of the foregoing, an arbitrary exercise of his power in the control and management of land will constitute a violation of the provisions. Its exercise must only be for the use and benefit of all. The control and management of land by the Governor includes but not limited to the following;

#### **1.4.1 Power of the Governor on Appointment of Land Committees**

Section 2 (2)<sup>618</sup> provides:

There shall be established in each State a body to be known as ‘‘the Land Use and Allocation Committee’’ which shall have responsibility for-

(a) advising the Governor on any matter connected with the management of land to which paragraph (a) of subsection (1) of this section relates;

(b) advising the Governor on any matter connected with the resettlement of persons affected by revocation of rights of occupancy on the ground of overriding public interest under this Act; and

(c) determining disputes as to the amount of compensation payable under this Act for improvements on land

(3) The Land Use and Allocation Committee shall consist of such number of persons as the Governor may determine and shall include in its membership-

(a) not less than two persons possessing qualifications approved for appointment to the civil service as estate surveyors or land officers and who have had such qualification for not less than five years; and

(b) a legal practitioner

(4) The Land Use and Allocation Committee shall be presided over by such one of its members as may be designated by the Governor and, subject to such directions as may be given in that regard by the Governor, shall have power to regulate its proceedings

(5) there shall also be established for each Local Government a body known as ‘‘the Land Allocation Advisory Committee’’ which shall consist of such persons as may be determined by the Governor acting after consultation with the Local Government and shall have

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<sup>617</sup> Land Use Act 1978 CAP. L5 L.F.N. 2010

<sup>618</sup> *ibid*

responsibility for advising the Local Government on any matter connected with the management of land to which paragraph (b) of subsection (1) of this section relates.

In other for the effective and efficient control and management of land the Governor is vested with the sole power to appoint committees as to assist him in the general management of land in the State. The Land Use and Allocation Committee as provided is saddled with the responsibility to advise the Governor on any matter connected with the resettlement of persons who may be affected by revocation of rights of occupancy for overriding public interest as well as to determine disputes on any amount of compensation payable on improvements on such revoked land. The Governor is equally empowered to appoint for each Local Government in the State the Land Allocation and Advisory Committee after due consultations with the Local Government, in other to advise the Local Government in the general control and management of land in the LGAs as provided for in section 6 of the Act. In line with the designation of land into urban and non urban land by the Governor of the State, section 2 of the Act establishes the two separate committees as to assist both the Governor and the Chairmen of the various Local Governments.<sup>619</sup>

#### **1.4.2 Power of the Governor to Designate Land**

Section 3 of the Act<sup>620</sup> provides for the power of the Governor to designate land. The section states: subject to such general conditions as may be specified in that behalf by the National Council of States, the Governor may for the purposes of this Act by order published in the State Gazette designate the parts of the area of the territory of the State constitution land in an urban area.<sup>621</sup> In light of the above, certain parts of a State may be designated as urban areas and other parts as non-urban areas by the Governor. By reason of section 3 of the Act, the Governor is empowered to declare any land in the state as an urban land irrespective of where the land is situate. Management of the urban areas is the sole responsibility of the State Governor.<sup>622</sup> Often times, this managerial powers are delegated to his subordinates, usually to the directors at the Bureau for Lands and Survey.<sup>623</sup> There is the requirement of publication in the Gazette of the decision of the Governor designating 0areas urban.<sup>624</sup>

#### **1.4.3 Power of the Governor to Grant Statutory Rights of Occupancy**

Section 5 (1)<sup>625</sup> provides that it shall be lawful for the Governor in respect of land, whether or not in an urban area (a) to grant statutory rights of occupancy for all purposes.

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<sup>619</sup> Alubo, O. A., *Contemporary Nigerian Land Law*, (Jos: Innovative Communications: 2012). p 103

<sup>620</sup> Land Use Act 1978 CAP. L5 L.F.N. 2010

<sup>621</sup> *ibid*

<sup>622</sup> *ibid*

<sup>623</sup> Alubo, O. A., *Contemporary Nigerian Land Law*, (Jos: Innovative Communications: 2012). p 108

<sup>624</sup> *ibid*

<sup>625</sup> Land Use Act 1978 CAP. L5 L.F.N. 2010

Section 51<sup>626</sup> defines statutory right of occupancy as “a right of occupancy granted by the Governor under this Act.” Two types of rights of occupancy has been introduced by the Act: the statutory right of occupancy granted by the Governor; and customary rights of occupancy granted by the Local Government under the Act. Very massive powers are given to the Governor of a State in respect of land, with the most salient been the power to grant statutory right of occupancy amidst other powers such as the power to demand rent, ground rent from any person granted a right of occupancy and to revise the said rent in the light of economic realities and to grant easement appurtenant to statutory right of occupancy.<sup>627</sup> Certificate of occupancy contains terms or covenants between the Governor and the holder, eg erection of beacons, payment of ground rent, development, development within two years, alienation with the consent of the Governor etc.<sup>628</sup> and failure to do any of the things contained in the certificate of occupancy entitles the Governor to impose penal rent.<sup>629</sup> Most of the powers of the Governor in respect of land are delegated to the Commissioner for Lands, Survey and Town Planning.<sup>630</sup> The statutory right of occupancy relates only to land and not to rooms.<sup>631</sup> In *Obasofan v. Omorodion*<sup>632</sup>, the court held that there cannot be a statutory right of occupancy in relation to rooms in a building as the Land Use Act makes it clear that right of occupancy relates to land. The power of the Governor to grant statutory right of occupancy is not limited to land in urban areas, the Governor may also grant a statutory right of occupancy in respect land designated as non-urban.<sup>633</sup>

A right of occupancy under the Act may either be granted or deemed issued i.e the right may be acquired by express provisions of the Act or by operation of law.<sup>634</sup> Right of occupancy, either statutory or customary is granted or acquired expressly by virtue of sections 5 (1)(a), sections 6 (1)(a) and (b) of the Act.<sup>635</sup> A right of occupancy is deemed issued or by operation of law by virtue of sections 34 and 36 of the Act among others.<sup>636</sup> Section 34 (2) of the Act provides that: “Where the land is developed, the land shall continue to be held by the person in whom it was vested immediately before the commencement of this Act as if the holder of the land was the holder of a statutory right of occupancy issued by the Governor under this Act. Section 34(5) of the Act contains provision in respect of undeveloped land, and this provision is

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<sup>626</sup> *ibid*

<sup>627</sup> Alubo, O. A., *Contemporary Nigerian Land Law*, (Jos: Innovative Communications: 2012). p 108

<sup>628</sup> *ibid*

<sup>629</sup> *ibid*

<sup>630</sup> *ibid*

<sup>631</sup> *ibid*

<sup>632</sup> (2001) 13 NW LR (Pt. 729) at 228-229

<sup>633</sup> *Olagunsu v Adesoye* (2008) 9 NWLR (Pt. 1146) 225 at 265

<sup>634</sup> Adewale, T., *The Nigerian Land Law*, (Ibadan: Ababa Press Limited: 2011). p 10

<sup>635</sup> *ibid*

<sup>636</sup> *ibid*

not limited to urban land.<sup>637</sup> Provisions in respect of non-urban area for both developed and undeveloped land are contained in Sections 36 (4) and 36 (1)(2) of the Act respectively.<sup>638</sup>

The person granted a right of occupancy is called a holder and a holder may be an individual, group, community or corporate body. By virtue of Section 5 of the Act, it is lawful for the Governor to grant statutory right of occupancy to any person for all purposes in respect of any land whether or not in an urban area and rental may or may not be attached to such a grant.<sup>639</sup> Once a right of occupancy is granted, the occupier or holder of such a right shall have exclusive right to the land against all persons other than the Governor.<sup>640</sup> A right of occupancy may be granted for a definite term as provided for in section 8.<sup>641</sup> In practice, the right of occupancy under the Act is normally granted for a term of ninety-nine (99) years.<sup>642</sup>

#### 1.4.4 Issues on The Certificate of Occupancy

A major power allocated to Governor is the issuance of certificate of occupancy. Section 9 of the Act<sup>643</sup> provides:

- (1) it shall be lawful for the Governor-
  - (a) when granting a statutory right of occupancy to any person; or
  - (b) when any person is in occupation of land under a customary right of occupancy and applies in the prescribed manner; or
  - (c) when any person is entitled to a statutory right of occupancy, to issue a certificate under his hand in evidence of such right of occupancy
- (2) Such certificate shall be termed a certificate of occupancy and there shall be paid therefore, by the person in whose name it is issued, such fee (if any) as may be prescribed
- (3) If the person in whose name a certificate of occupancy is issued, without lawful excuse, refuses or neglects to accept and pay for the certificate and recover from such person any expenses incidental thereto, and in the case of a certificate evidencing a statutory right of occupancy to be granted under paragraph (a) of subsection (1) of this section, the Governor may revoke the right of occupancy
- (4) The terms and conditions of a certificate of occupancy granted under this Act and which has been accepted by the holder shall be enforceable against the holder and his successors in title, notwithstanding that the acceptance of such terms and conditions is not evidenced by the signature of the holder or is evidenced by the signature only or, in the case of a

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<sup>637</sup> *ibid*

<sup>638</sup> *ibid*

<sup>639</sup> Sections 5 (1)(c) and 17(1) of the Land Use Act. See also *Felix Chinda and 6 Ors v. Chief Appolos .N. Amadi* (2002) 7 NWLR (Pt. 767) 505 at 522

<sup>640</sup> Section 14, Land Use Act CAP. L5 L.F.N. 2010

<sup>641</sup> Land Use Act 1978 CAP. L5 L.F.N. 2010

<sup>642</sup> Adewale, T., *The Nigerian Land Law*, (Ibadan: Ababa Press Limited: 2011). p 238

<sup>643</sup> *ibid*

corporation, is evidenced by the signature only of some person purporting to accept on behalf of the corporation

A certificate of occupancy as introduced by the Land Use Act of 1978 was first introduced in Northern Nigeria by Land Tenure Law, 1962.<sup>644</sup> Although a certificate of occupancy is defined in the Act, however, it is clear that it is expected to serve the purpose which was served by a deed of conveyance prior to the enactment of the Act.<sup>645</sup> Taiwo Adewale<sup>646</sup> submitted that in terms of the provisions of section 9 of the Act, right of occupancy is to be issued by the Governor in evidence of a right which already exists as such no right may be granted by means of a certificate of occupancy. This distinguishes a certificate of occupancy from a conveyance which is defined as “an instrument that transfers property from one person to another.” Omotola<sup>647</sup> distinguished the two thus: a conveyance is the means whereby a right in land arises while a certificate is merely an evidence of a right which is in existence.

Adewale Taiwo<sup>648</sup> further submitted that in terms of the provisions of Section 9(1), section 34(3) and section 36(3) of the Act, the Governor is required to satisfy himself that the applicant for a certificate is entitled to a right of occupancy in the land before issuing a certificate in evidence of that right. A certificate of occupancy is prima facie evidence of exclusive possession of land to which it relates and the onus of proof is on the person who asserts the contrary.<sup>649</sup> By virtue of section 9 of the Act, the Governor is empowered to give the certificate of occupancy to a holder of a land situate in an urban area<sup>650</sup>. This is based upon application to the statutory right of occupancy as evidenced with the applicant enjoined to pay the prescribed fees charged and reviewed by or on behalf of the Governor.<sup>651</sup>

In *Agboola v. UBA PLC*<sup>652</sup> it was held that a certificate of occupancy regularly issued by competent authority raises the presumption that the holder is the owner in exclusive possession of the land in respect thereof. The certificate further raises the presumption that at the time of issuance, there was not in existence a customary owner whose title has not been revoked,<sup>653</sup> and the certificate must contain an accurate description of the land or a plan of the land attached thereto.<sup>654</sup> That land has to be clearly described and defined in the certificate of occupancy was

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<sup>644</sup> Adewale, T., *The Nigerian Land Law*, (Ibadan: Ababa Press Limited: 2011). p 215

<sup>645</sup> *ibid*

<sup>646</sup> *ibid*

<sup>647</sup> Omotola, J.A., ‘‘Land Use Act 1978 and the Lagos State Land Registry Practice’’ N.J.C.L. Vol. 13

<sup>648</sup> *ibid*

<sup>649</sup> *ibid*

<sup>650</sup> Alubo, O. A., *Contemporary Nigerian Land Law*, (Jos: Innovative Communications: 2012). p 118

<sup>651</sup> *ibid*

<sup>652</sup> (2011) All FWLR (Pt. 574) 74

<sup>653</sup> *ibid*

<sup>654</sup> *Mail v. Shanono* (2007) All FWLR (Pt. 345) 324

upheld in the case of *Madu v. Madu*.<sup>655</sup> The certificate of occupancy raises a presumption of exclusive ownership.<sup>656</sup> The Supreme Court has remarked that a Certificate of Occupancy is prima facie evidence and raises a presumption that the holder has a right of occupancy over the land in dispute.<sup>657</sup>

The certificate of occupancy however is not conclusive proof and may be displaced. Where it is shown in evidence that another person has better title to the land before the issuance of the certificate of occupancy, then it can be revoked by the court<sup>658</sup> as held in the case of *Adesina v. BAC Electric Company Ltd.*<sup>659</sup> In *Sunmonu Olhude v. Professor Adegaju*,<sup>660</sup> the court held that possession of the certificate of occupancy is not conclusive proof of right, interest or title but only prima facie evidence of it. That it is defective or issued erroneously where it was granted to a claimant who has provided better title than his opponent, the certificate of occupancy can thus be declared invalid or the court can have it discontinued.

A certificate of occupancy is only valid when there is non-existence of another person with legal interest in the land at the time it was issued because if a certificate which was wrongly issued is challenged successfully, It can be nullified.<sup>661</sup> In *Nig. Engineering Works Ltd v. Dena*,<sup>662</sup> it was held that the grant of the statutory right of occupancy or certificate of occupancy has the effect of extinguishing all rights over land covered by it except another statutory certificate of occupancy subsisting over the land; thus in *Ilona v. Idakwe*,<sup>663</sup> the Supreme Court held that a document of title such as a certificate of occupancy is prima facie evidence of title but it will give way to a better title and that a statutory right of occupancy over the land in dispute was invalid because there was already a subsisting statutory right of occupancy over which had not been revoked. A certificate of occupancy confer certain advantages such as the avoidance of fraud. It can be used as a pledge and as a security to obtain loan.

#### **1.4.5 Power of the Governor to Determine the Rights of Occupancy**

A right of occupancy may be terminated by effluxion of time, surrender, forfeiture or revocation.<sup>664</sup> By effluxion of time, a right of occupancy granted for a definite term terminates automatically upon the expiration of the period granted. Section 8 of the Act<sup>665</sup> provides that

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<sup>655</sup> (2008) All FWLR (Pt. 414) 1604

<sup>656</sup> Alubo, O. A., *Contemporary Nigerian Land Law*, (Jos: Innovative Communications: 2012). p 119

<sup>657</sup> *ibid*

<sup>658</sup> *ibid*

<sup>659</sup> (2007) All FWLR (Pt. 369) 1329

<sup>660</sup> (2000) 6 S.C.N.J 470

<sup>661</sup> *Total (Nig Plc v. Ajayi (2004) 3 NWLR (Pt. 860) 298*

<sup>662</sup> (2001) 12 S.C.N.J. 25

<sup>663</sup> (2003) 5 S.C.N.J. 330

<sup>664</sup> Adewale, T., *The Nigerian Land Law*, (Ibadan: Ababa Press Limited: 2011). p 238

<sup>665</sup> Land Use Act 1978 CAP. L5 L.F.N.

statutory right of occupancy granted shall be for a definite term and may be granted subject to the terms of any contract which may be made by the Governor. While a right of occupancy may be granted for a definite term as provided for in section 8 of the Act, in practice, the right of occupancy under the Act is normally granted for a term of ninety-nine (99) years.<sup>666</sup> In *Osho v. Foreign Finance Corporation*,<sup>667</sup> Per Ademola JCA stated that a right of occupancy supported by a certificate of occupancy is a lease, an interest for a definite period of time. Also, in terms of section 27 of the Act, a holder of statutory right of occupancy may surrender or yield up his interest on the land and the Governor may accept the surrender on such terms and conditions as he may think proper, and if a holder of right of occupancy breaches any covenant or condition, express or implied, in any certificate of occupancy granted, the right may be forfeited to the Governor.<sup>668</sup>

#### **1.4.6 Power of the Governor to Enter and Inspect Land and Improvements**

The Governor or any public officer duly authorized by the Governor in that behalf, shall have the power to enter upon and inspect the land comprised in any statutory right of occupancy or any improvements effected thereon, at any reasonable hours in the day time and the occupier shall permit and give free access to the Governor or any such officer to enter and inspect.<sup>669</sup> The Governor is empowered to enter upon and inspect any land in an urban area which is subject to any statutory right of occupancy or any improvements effected on such land within reasonable hours in the day time. The occupier is enjoined to give free access to the Governor to enter and inspect, and refusal to give such access to the Governor at such reasonable hours of the day would constitute a violation of the provisions of the Act.<sup>670</sup>

Although no penalty is prescribed by the section, section 26 of the Act<sup>671</sup> provides that any transaction or any instrument which purports to confer or vest in any person any interest or right over land other than in accordance with the provisions of this Act shall be null and void, hence the Governor can mandamus the occupier to grant him access.<sup>672</sup>

#### **1.4.7 Power of Governor on Revocation of Rights of Occupancy**

Section 28<sup>673</sup> provides for the power of the Governor to revoke a right of occupancy for overriding public interest. This power is exercisable and reserved for in respect of either

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<sup>666</sup> Adewale, T., *The Nigerian Land Law*, (Ibadan: Ababa Press Limited: 2011). p 238

<sup>667</sup> (1991) 4 NWLR (Pt. 187) 157

<sup>668</sup> Adewale, T., *The Nigerian Land Law*, (Ibadan: Ababa Press Limited: 2011). p 238

<sup>669</sup> Section 11, Land Use Act 1978 CAP. L5 L.F.N. 2010

<sup>670</sup> *ibid*

<sup>671</sup> *ibid*

<sup>672</sup> *ibid*

<sup>673</sup> Land Use Act 1978 CAP. L5 L.F.N. 2010

statutory right of occupancy or customary right of occupancy.<sup>674</sup> The power of revocation is also exercisable in respect of right of occupancy granted or deemed granted by the Governor.<sup>675</sup> The power to revoke rights of occupancy is the greatest instrument of control available to the Governor under the Act.<sup>676</sup> Section 28 of the Act provides:

(1) It shall be lawful for the Governor to revoke a right of occupancy for overriding public interest.

(2) Overriding public interest in the case of a statutory right of occupancy means-

(a) the alienation by the occupier by assignment, mortgage, transfer of possession, sublease, or otherwise of any right of occupancy or part thereof contrary to the provisions of this Act or of any regulations made thereunder;

(b) the requirement of the land by the Government of the State or by a Local Government in the State, in either case for public purposes within the State, or the requirement of the land by the Government of the Federation for public purposes of the Federation.

(c) the requirement of the land for mining purposes or oil pipelines or for any purpose connected therewith;

(4) The Governor shall revoke a right of occupancy in the event of the issue of a notice by or on behalf of the Federal Government if such notice declares such land to be required by the Government for public purposes.

(5) The Governor may revoke a statutory right of occupancy on the ground of:

(a) a breach of any of the provisions which a certificate of occupancy is by section 10, deemed to contain;

(b) a breach of any term contained in the certificate of occupancy or in any special contract made under section 8 of this Act;

(c) a refusal or neglect to accept and pay for a certificate which was issued in evidence of a right of occupancy but has been cancelled by the Governor under subsection (3) of section 9 of this Act.

(6) The revocation of a right of occupancy shall be signified under the hand of a public officer duly authorized in that behalf by the Governor and notice thereof shall be given to the holder.

(7) The title of the holder of a right of occupancy shall be extinguished on receipt by him of a notice given under subsection (6) of this section or on such later date as may be stated in the notice.

A major power conferred by the Land Use Act on the Governor is the power to revoke a right of occupancy. The Act in many certain instances gives the Governor the power to revoke

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<sup>674</sup> Section 38, Land Use Act 1978 CAP. L5 L.F.N. 2010

<sup>675</sup> *Lagos State Development and Property Corporation and Ors v Foreign Finance Corporation* (1987) 1 NWLR (Pt. 50 ) 564

<sup>676</sup> Egwummuo, J.N., *Principles and Practice of Land Law*, (Enugu: Onye Ventures Production: 1999). p 415

such right of occupancy in fulfillment thereof of the statutory provisions in the Act. Section 28 of the land Use Act makes detailed provisions regarding revocation, however such revocation is subject to the fulfillment of conditions and constituting overriding public interest. In the case of Statutory Right of Occupancy, overriding public interest means:

1. The alienation of the right of occupancy by assignment, mortgage, transfer, gift, sublease etc contrary to the provisions of sections 21, 22 and 23 of the Act or other relevant laws. This borders on refusal to obtain Governor's requisite consent or approval or such other appropriate authority as appointed by him.<sup>677</sup>

2. The requirement of the land by the Federal, State or Local Governments for public purposes or for mining purposes or oil pipeline or for any purpose connected therewith.<sup>678</sup> The Act provides in detail what constitutes public purpose. Section 51<sup>679</sup> defines public purpose to include:

- (a) Exclusive Government use or for general public use;
- (b) For use by anybody corporate directly established by law or by any body corporate registered under the Companies and Allied matters Act, 2004 as respect, which the government owns shares, stocks or debentures;
- (c) For or in connection with sanitary improvement of any kind;
- (d) For obtaining control over land contiguous to any part or over land the value of which will be enhanced by the construction of any railway, road or other public work or convenience about to be undertaken or provided by Government;
- (e) For obtaining control over land required for or in connection with development of telecommunications or provision of electricity;
- (f) For obtaining control over land required for or in connection with mining purposes.
- (g) For obtaining control over land required for or in connection with planned urban or rural development or settlement;
- (h) For obtaining control over land required for or in connection with economic, industrial or agricultural development;
- (i) For educational and other social services.

For the purpose of section 28 of the Act, overriding public interest includes the alienation by the occupier of any right of occupancy or part thereof contrary to the provisions of the Act or any regulations made thereunder; requirement of the land by the government for public purpose; requirement of the land for mining purposes or oil pipelines or for any purpose connected

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<sup>677</sup> Section 28 (2)(a), Land Use Act 1978 CAP. L5 L.F.N. 2010. See also Alubo, O. A., *Contemporary Nigerian Land Law*, (Jos: Innovative Communications: 2012). p 159

<sup>678</sup> Section 28(2) (b)(c) *ibid*

<sup>679</sup> Land Use Act 1978 CAP. L5 L.F.N. 2010

therewith, and requirement of the land for the extraction of building materials, in the case of customary rights of occupancy.<sup>680</sup>

#### **1.4.8 Power of the Governor to Compensate upon Revocation of Rights of Occupancy**

The right to compensation is a fundamental right provided for in the 1999 Constitution of the Federal Republic of Nigeria as amended 2011 and guaranteed under Section 44 (1) of the Constitution subject however to certain exceptions. No moveable property or any interest in an immovable property shall be taken possession of compulsorily and no right over or interest in any such property shall be acquired compulsorily in any part of Nigeria except in the manner and for the purposes prescribed by a law that, among other things requires the prompt payment of compensation to the holder or occupier and gives to any person claiming such a compensation right of access for the determination of his interest in the property and the amount of compensation to a court of law or tribunal or body having jurisdiction in that part of Nigeria<sup>681</sup>

Compensation for revocation of rights of occupancy is also provided for in the Land Use Act. Upon the revocation of a right of occupancy, the holder and the occupier shall be entitled to compensation for the value at the date of revocation of their unexhausted improvement.<sup>682</sup> If a right of occupancy is revoked the requirement of the land for mining purposes or oil pipelines or such other purpose connected therewith, the holder and the occupier shall be entitled to compensation under the appropriate provisions of the Minerals Act or the Mineral Oils Act or any legislation replacing the same.<sup>683</sup> Compensation is to be paid to the Community, Chief or Leader where the holder or the occupier entitled to compensation is a community, for the benefit of that community.<sup>684</sup>

Where the right of occupancy is revoked in respect of any developed land on which residential building has been erected, the government may offer, in lieu of pecuniary compensation, resettlement in any other place by way of a reasonable alternative accommodation where the circumstances permit.<sup>685</sup> In terms of the provision of section 30 of the Act,<sup>686</sup> any dispute as to the amount of compensation calculated in accordance with the Act shall be referred to the appropriate Land Use and Allocation Committee. Where revocation is properly done and compensation paid, it will displace the right to argue that there was

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<sup>680</sup> Adewale, T., *The Nigerian Land Law*, (Ibadan: Ababa Press Limited: 2011). P. 239

<sup>681</sup> Section 44 (1) (a) and (b) Constitution of the Federal Republic of Nigeria 1999 as amended 2011

<sup>682</sup> Section 29 (1) Land Use Act 1978 CAP. L5 L.F.N. 2010

<sup>683</sup> Section 29 (2) *ibid*

<sup>684</sup> Section 29 (3) *ibid*

<sup>685</sup> Section 33 Land Use Act 1978 CAP. L5 L.F.N. 2010

<sup>686</sup> Land Use Act 1978 CAP. L5 L.F.N. 2010

encroachment on Section 44 of the Constitution.<sup>687</sup> The Supreme Court has held in *Amale v. Sokoto Local Government*<sup>688</sup> as follows:

By virtue of section 28(1), (2)(b), (6) and (7) and section 29 of the Land Use Act, Cap 202, Laws of the Federation of Nigeria, 1990, the Governor of a state has power to revoke a persons right of occupancy for overriding public interest and the duty to pay compensation for such revocation. In the instant case, the revocation of the appellants right of occupancy for the purpose of expanding Kara Market, Sokoto was permitted by the Land Use Act which was intra vires the 1979 Constitution. Furthermore, the appellant was offered compensation for the acquired land but he refused to collect it. In the circumstance, the Court of Appeal was right when it stated below that the revocation of the appellants statutory right of occupancy was legal, and could not constitute encroachment on his fundamental right.

In *Governor of Ogun State v. Coke*,<sup>689</sup> the court held that revocation of a grant deprives the holder of his proprietary right. It is therefore incumbent upon the grantor to strictly comply with the terms and there must be strict construction of the provision of the applicable laws to wit the Land Use Act and State Lands Laws. The compensation is for the value at the date of revocation the improvements or unexhausted improvements in the land. Section 51<sup>690</sup> defines improvements or unexhausted improvements as anything of quality permanently attached to the Land, directly resulting from expenditure of capital or labour by an occupier or any person acting on his behalf, and increasing the productive capacity, the utility or the amenity thereof and include buildings, fencing, wells, road and irrigation or reclamation works, but does not include the result of ordinary cultivation other than growing produce. Unexhausted improvement includes buildings, plantations etc. There is no obligation on the part of Government to pay compensation when there are no unexhausted improvements.<sup>691</sup> A token is paid for land where unexhausted improvements are non-existent.<sup>692</sup>

## 1.5 Conclusion

The existence of man is fundamentally dependent on land and its resources, hence land is considered as the most essential and precious property that can be owned by man. Recognizing the role land plays in the survival of Nigerians, the Land Use Act was promulgated which consequently replaced the customary land tenure system that was operational prior to the promulgation of the Act. In appraisal of the powers of the State Governor, Provisions of the Act bordering on the powers of the State Governor were extensively discussed. The vesting of all

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<sup>687</sup> Constitution of the Federal Republic of Nigeria 1999 as amended 2011

<sup>688</sup> (2012) 5 NWLR (Pt. 1293) 201

<sup>689</sup> (2003) All FWLR (Pt. 408) 1900

<sup>690</sup> Land Use Act 1978 CAP. L5 L.F.N. 2010

<sup>691</sup> Alubo, O.A., *Contemporary Nigerian Land Law*, (Jos: Innovative Communications: 2012). p 179

<sup>692</sup> *ibid*

lands in the Governor of each State, the power of control and management of land in the State, the appointment of advisory bodies, the power to grant rights of occupancy and the power of revocation and the power to pay compensation were discussed. This research work observed the powers of the Governor has being too absolute in the control and management of land in the country.

The enactment of the Land Use Act was conceived to cure the defects of the customary land holding in fee simple and other method of land holding as introduced by customs and the colonial masters. It was to afford and give access to everyone to own land where he can build a house of his own. Many years after the promulgation of the Act, the problems and challenges it sought to remedy increases on a daily basis. Land are still owned by communities, families and individuals with the Act looking helpless. Those who implement the Land Use Act in most cases never does so in good faith. Situations abound where landed properties of private citizens are revoked and allocated to other private citizens against the spirit and letters of the Act. The major challenge of land racketeering and speculations are still prevalent. Exorbitant compensations are still being demanded by land owning communities whenever government needs land for development. Communities are even taking back from government land already acquired by government and not utilized.. The ineligible drafting of the Land Use Act which has received so much criticism from eminent scholars is unarguably evident with a careful perusal of the sections.

The consent provision enshrined in section 22 of the Land Use Act is an obvious ambiguity. Having granted a statutory right of occupancy to an individual over a particular parcel of land, he should be at liberty to enter into free lawful contract on the basis of such document. The consent provision no doubt has a suffocating influence on trade and commerce. What should be mandatory should be registration of dealing concerning such landed properties at the appropriate land Registry. It must be pointed out that alienation; transfer, assignment, mortgages etc. are contracts between the parties concerned. A citizen who has a certificate of statutory right of occupancy should be at liberty to enter into a lawful contract without asking for further permission unless he exceeds the tenure granted in the certificate of occupancy. The Land Use Act equally has customary tenure in mind but fails to give it adequate recognition and this has led to unavoidable conflicts and confusion in most places. The process of amending the Land Use Act is too cumbersome having being made a part of the constitution. To remove the Land Use Act from the constitution which is somewhat an alteration, section 9 subsection 2 has to be complied with This amendment is certainly not an easy task. This is probably the reason no amendment has been effected in the Land Use Act in spite of the criticisms repeatedly trailing its implementations. The Act did not make provision for adequate compensation of those whose landed properties are acquired and didn't set time limit for payment of compensation thereby making compensation to drag on for so many years until the court intervenes. In line with the

above observations, there is the need for a comprehensive amendment of the Land Use Act to realize its aims and objectives.