LAND USE ACT, 1978: A REALITY OR A FICTION?

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INTRODUCTION

A major development in Nigerian Land Law and Conveyance was the enactment of the land Use Act, 1978[1]; The Land Use Act of 1978 was promulgated into law on the 29th of March 1978. the law was revolutionary in essence and was meant to reassert and preserve the right of all Nigerians to the land of Nigeria[2]. The Preamble to the Land use Decree (now Act) Succinctly states that:

Whereas it is in the public interest that the rights of all Nigerians to the land of Nigeria be asserted and preserved by law;

> *"And whereas it is also in public interest that the rights of all Nigerians to use and enjoy land in Nigeria and the natural fruits thereof in sufficient quantity to enable them to provide for the sustenance of themselves and their families should be assured, protected and preserved" etc.*

The whole essence of the Act was to make land readily available to all Nigerians. The followings are therefore the principal objectives of the Act.

(a) To remove the bitter controversies, resulting at times in loss of lives and limbs which land is known to be generating.

(b) To streamline and simplify the management and ownership of land in the country.

(c) To assist the citizenry irrespective of his social status to realize his ambition and aspiration of owing the place where he and his family live a secured and peaceful life.

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[1] Promulgated as Decree no 6 of 1978, and re-designated as an Act by Virtue of Adaptation Law (Re-designated of Decrees. Edicts) order No. 13 of 1980.

[2] See the Land Use Act: A Time for Review by Emeka

(d) To enable government to bring under control the use to which land can be put in all parts of the country and thus facilitate planning programmes for particular uses[3].

The land Use Act was one of the existing laws entrenched in the 1979 Constitution (now 1999 constitution) by the Obasanjo – led Military Administration. Since the promulgation of the Act in 1978 a lot of controversies were generated by its implementation[4]. While some people regard the Act as a blessing to Nigerians, others have contrary view. To the latter, the Act is a curse and its. There is therefore the need for a critical appraisal of the Act. This paper aims at doing this exactly. However, before doing this, we would take a brief look at the situation before the enactment of the land use Act, 1978.

LAND ADMINISTRATION IN BOTH LAGOS AND SOUTHERN NIGERIA BEFORE 1978

Before the enactment of the Land Use Act. 1978, statutory intervention in land administration in Southern Nigeria had been in the areas of ownership of land, planning control, control of dispositions, and reforms of customary law.

In the area of public ownership of land, some of the earliest legislation introduced by the colonial administration dealt with the acquisition of land for public purposes. The first of such legislation was the Public Lands Ordinance of 1876. It was a legislation of the Gold Coast Colony. By then, Lagos was part of the Gold Coast Colony. The 1876 Act was re-enacted with modification as the Public Lands Acquisition Act of 1917[5]. This Act later became a Regional (and later State) law following the introduction of the Federal Structure. This legislation empowered the government to acquire land compulsorily for public subject to the payment of compensation to the expropriated owners.

The power to acquire land compulsory was also given by some other status such as the Town and Country Planning Laws, which allowed the compulsory acquisition for schemes of development. The usefulness of the

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[3] See the address to the press by the Military Governor of lagos State, Commander G.N. Kanu on the Lagos Land Use law delivered on 25th of May 1978.

[4] Other existing laws entrenched in the Constitution, by the Military Administration Were: The National Youth Service Corps Decree 1993, the Public Complaints Commission Act and the National Securityy Agencies Act.

[5] Cap. 167 Laws of the Federation of Nigeria – Lagos, 1958

power of compulsory acquisition was that it enables government to gain access to land undeterred by conflicting claims to the land[6]. The State Land Act or laws empowered the government to grant leases of State land to Private Individuals.

On planning control, a restriction on land use for town planning purpose was seriously attempted for the first time in Nigeria when the Lagos Town Planning Ordinance 1928 was passed. It established the Lagos Executive Development board (L.E.D.B) and charged it with the responsibility of developing town-planning schemes with the general object of securing proper sanitary conditions, amenity and convenience within the town area of Lagos[7]. In 1946, the first countrywide town and country planning status was enacted[8]. Under the Nigeria Town and country Planning Ordinance of 1946, the governor-General was constituted the General Planning Authority for the country. He was charged with the responsibility for securing controlled development through the preparation of planning schemes all over the country[9]. Following the introduction of the Federal Structure, the Act became a Regional law, (later State).

The policy of control through dispositions of land dates back to 1900. under the native Lands Acquisition Law enacted by the legislature of the protectorate of Southern Nigeria, an alien was prohibited from acquiring an interest in land from a native or from a fellow alien except under an instrument, which was approved by the Governor. This method of control was not applicable to the colony of Lagos. The Lagos State government by an edict in 1971 (The Acquisition of Land by Aliens Edict) introduced similar policy.

The status on reform of customary law include the Kola Tenancy Act of 1935[10] and the communal land Rights vesting in Trustee Law of Western Nigeria[11]. The Kola Tenancy Act, 1935 tried to reform the customary law

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[6] C. O. Olawoye, "Statutory Shaping of Land Law and Land Administration Unto the Land Use Act" in J. A. Omotola ed., m The Land Use Act: Report of a National workshop (Lagos: Lagos University Press 1982) P. 15

[7] Section 16 to 42 of the Ordinance.

[8] This was known as the Nigeria Town and Country Planning Ordinance of 1946.

[9] See Section 4 of the Ordinance. In each of the regions, the powers of the Governor-General were exercised on his behalf by the Minister responsible for planning matters.

[10] Cap. 98, Laws of Nigeria 1948. The Government of Eastern Nigeria adopted the same legislation in Cap 69, Laws of Eastern Nigeria, 1963.

[11] Cap. 24, Laws of Western Nigeria, 1959.

with regard to Kola tenancies prevent in Onitsha and its environs. The Communal Land Rights Vesting in Trustee law had the aim of reconciling the customary law relating to the management of communal land with the realities of modern times in order to curb the abuses by traditional rulers who were building empires for themselves out of dispositions of communal land.

In Northern Nigeria, the shaping of land policy was a result of a number of historical events. Firstly, the activities of the Royal Niger Company which rules the Northern Nigeria before 1900 under a Charter. This company had during the period of its hegemony acquired vast areas of land along both sides of the River Benue. On the declaration of the protectorate in 1900, the government decided to take over land and thus became Crown land[12]. Secondly, British jurisdiction was extended over most areas ruled by the Fulani Emirs by conquest[13]. The Government claimed as successors to the conquered or taken over from the emirs was classified as public land[14].

In 1908, the Land and Native Rights proclamation was enacted and later re-enacted with amendment as the Land and native Rights Ordinance of 1916. This ordinance vested the whole land in the Northern Protectorate in the Government in trust for the natives. The Land Tenure Law of 1962 re-enacted the land and Native Rights Ordinance of 1916. The interest, which an individual could hold under the 1962 Law, was a right of occupancy, statutory or customary.

BACKGROUND TO THE LAND USE ACT, 1978

The difficulties associated with land acquisition for development projects and individual ownership of land coupled with speculation in urban land were highlighted by the Military Administration of Obasanjo in the Third national Development Plan 1975 – 1980[15]. In urban areas, acquisition of land both for government projects and non-government building purposes became virtually impossible. In addition, there was the problem of insecurity of title under customary law. The poor performance of the economy, the inability of the country to feed itself, the inability of both the public and the private sectors to provide sufficient shelter for the people and

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[12] Similar Step were taken in the case of Southern Nigeria under the Niger Lands Transfer Ordinance (later Law) No. 2 pf 1916.

[13] Crown Lands Proclamation 1902

[14] Public lands Proclamation 1902

[15] See the Third National Development Plan 1975 – 1980. volume 1, p. 398.

even the inflationary trends in the economy were blamed largely on the system of land tenure. It was against the above background that in 1977, the Federal Military Government set p an eleven man Land Use Panel with the following terms of reference:

(a) To undertake an in-depth study of the various land tenure, land use, and land conservation practices in the country and recommend steps to be taken to streamline them;

(b) To study and analyse all the implications of a uniform land policy for the country.

(c) To examine the feasibility of a uniform land policy for the entire country, make necessary recommendations, and propose guidelines for implementation; and

(d) To examine steps necessary for controlling future land use and also opening and developing new land for the needs of Government and Nigeria growing population in both urban and rural areas and make appropriate recommendations[16].

In its 300 page report, the panel recommended against nationalization of land in Nigeria. Only one member of the panel, Prof. R. K. Udo supported the idea. All these development above discussed culminated in the promulgation of the Land Use Act, 1978.

The Act is based on the land Tenure Law which was in operation in the Northern States of Nigeria since 1962 and which nationalized practically all lands in the part of the country[17].

THE EFFECTS OF THE LAND USE ACT 1978

The effect of the Act was to nationalize all the land within a state and turn all landowners into tenants[18]. This was emphasized in **Nkwocha V. Governor of Anambra State & ors**[19] where kayoed Eso J.S.C. who delivered the lead judgement held inter alia that:

The tenor of the Act as a single piece of legislation is the nationalization of all lands, in the country by the vesting of its ownership in the state leaving

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[16] See the Federal Government white paper on the Report and Recommendations of the Land Use panel published by the Federal Ministry of Information, Lagos, P. 1

[17] Sections 48 and 49 of the Law.

[18] S. A. Oretuyi "Title to land in Nigeria: Past and Present" Inaugural Lecture Series 100 (Ile-Ife: O.A.U. Press Lts., 1996) P15 (The Lecture was actually delivered on 11 1991).

[19] (984) I.S.C.N.L.R. 634,

the individual with an interest in land which is a mere right of occupancy, and which is the only right protected in his favour by law after the promulgation of the Act[20].

It is clear from the provision of section 1 of the Act that the Governor of each state is the man in charge of the land in his state with the exception of the Federation land that falls within his state.

THE LEGAL STATUS OF THE ACT

The Land Use Act was one of the four Acts incorporated into the 1979 Constitution and subsequently into the 1999 Constitution by the military administration[21]. The Act was very unpopular at its inception and there were threats by politicians during the 1978 political campaigns to abrogate it. This was the major rationale for its entrenchment in the Constitution[22].

Section 315(5) of the 1999 constitution provides:

> "Nothing in this Constitution shall invalidate the Following enactments that is to say:-
> (a) The National Youth Service Corps Decree 1993
> (b) The Public Complaints commission Act;
> (c) The National Security Agency Act,
> (d) The land Use Act

And the provisions of those enactments have full effect in accordance with their tenor and to the Like extent as any other provisions forming part of this Constitution and shall not be altered or Repealed except in accordance with the provisions of section 9(2) of this Constitution".

The Supreme Court had held in **Nkwocha v. Governor of Anambra State & ors**[23] that the Land Use Act is not an integral part of the Constitution and that is subject to section 1(3) of the constitution.

AN APPRAISAL OF THE ACT, 1978

[20] Ibid at 652
[21] See Section 274(5) of the 1979 Constitution and Section 315(5) of the 1999 Constitution.
[22] See S. A. Oretuyi, Op. Cit. P.15 – 16.
[23] See A. A. Utuama, Nigerian law of Real Property (Ibadan Shaneson C. I. Ltd., 1989), p. 145.

The Land use Act was enacted as "a Decree" and came into effect on the 29th of March 1978. By the Adaptation of Law (Re-Designation of Decrees etc) order 1980, it assumed the appellation of an Act. The title suggests land use and thus a planning status. This is generally misleading. The Act is basically a land tenure which lays down conditions for grant and specified interest in land in favour of the State[24].

When the Act was promulgated in 1978, it looked good and promising. It was like the dawn of a new era, an epoch in the history of land law in Nigeria. The preamble to the Act eloquently expresses this sentiment. However, it has been observed that the and the to land appears to be more now than it ever was[25]. This disappointment is attributed more to the implementation of the Act than its structure and intendment. The position today is that land is less available to the ordinary Nigerians than it was prior to the Act, thus holding most citizens to the unenviable state of perpetual tenants. According to Hon. Justice Augustine Nnamani, who as the Attorney General was responsible for the drafting of the Act and its incorporation into the Constitution.

"The lofty hope in the second stanza of the preamble – that the rights of all Nigerians to use and enjoy land in Nigeria and the natural fruits thereof in sufficient quantity to enable them provide for the sustenance of themselves and their families be assured, protected and preserved or in section 1 of the Act that all land be held in trust and administered for the use and common benefit of all Nigerian – has been nothing but a forlom hope, a pipe dream[26]

SOME GRAY AREAS OF THE LAND USE ACT 1978

The following are some of the gray areas of the Land Use Act, 1978 that need urgent review.

1. The limit of the land allowed by section 34(5) and (6) of the Act has been totally ignored. The allocation policies of the various governments (both military and civilian) have been scandalous. The land use and Allocation committees, which are supposed to make recommendations on these matters, are no more than appendages of the Governors and merely endorse lists approved

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[24] Supra

[25] See S. A. Oretuyi, Op. Cit. P. 29

[26] See "Land Use Act – 11 years After" being an address presented to the N.B.A. Ikeja Branch by Hon. Justice Augustine Nnamani on 3rd March 1989.

by them. The Committees have been rendered impotent and their functions taken over by the Governors. Allocation of land has largely been to friends, relatives and party faithful. Indeed, land has become an item of patronage. Allocation is hardly made to low-income earners. Most State Governments have not earmarked a percentage of land available for allocation to this category of Nigerians as a deliberate policy. The combination of factors arising from the zeal attending the generation of internal revenue by state governments have put land beyond the reach of the ordinary Nigerian.

2. Similarly, the implementation of the Act has brought untold hardship on Nigerians. Examples are provisions relating to the issue of certificate of occupancy and grant of consent to alienate. Both can take years and the applicant is subjected to the vagaries of bureaucratic action with demands for survey plans, interminable fees, documents etc. The import of section 22 of the Act is that the consent of the Governor is required before any legal transaction in land can be entered into. This is perhaps a major impediment created by the Act. In practical terms, it is nearly impossible to comply with the provisions of this clause. Consent is quite expensive to obtain. Also, it takes a long time to obtain. The entire process of obtaining Governor's consent is very frustrating.

3. Similarly, it is generally believed that the consent provision in section 22 of the Act is a clog in the wheel of economic progress and also a veritable avenue for corruption. Against this background, Obaseki J. S. C. in **Savannah Bank Ltd. Ajilo**[27] inter alia, declared that:

"It is consent clauses in the Act bound to have a suffocating effect on the commercial life of the land and house owing class of the society who use their properties to raise loans and advances from banks. I have no doubt that it will take the working hours of a State Governor to sign consent papers without going Half way if these clauses are to be implemented. These areas of the Land Use Act need urgent review to remove their problem nature"[28].

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[27] (1989) I.S.C.N.J. 169) 1 N.W.L.R.) p. 197) 305.
[28] Ibid

Another problem of the Act is the misuse or abuse of section 28 of the Act, which deals with the power of governor to revoke rights of occupancy. For instance, commercial banks are uncertain as to the value of certificate of occupancy, which they are being asked to take as security for loans bearing in mind that these certificates can be revoked at the whims and caprices of the Governors. Similarly, the Act appears to hinder economic progress because of the unwillingness of and inability of banks and other financial institutions to give out loans on mortgage. This is because is a right of occupancy is revoked, a mortgagee has no right to the compensation payable, as the definition of "holder" or "occupier" in section 51 of the Act does not include a mortgage.

Again, certain provisions of the Act contradict the provisions of the 1999 constitution. For example, the Act purports to exclude payment of compensation for empty undeveloped land. While the Act recognizes existing right in land including rights in undeveloped land, it limits the compensation for such land when compulsorily acquired[29]. It is posited that the provisions of Sections, 28 and 29 of the land use Act, 1978 do not conform to the doctrine of prompt payment of compensation provided for in section 44 of the 1999 constitution. They also do not recognize the interest of third parties in government allocation land. The importance of land and the injustice associated with taking over undeveloped land without compensation has been highlighted by Adedapo Adeniran as follows:

ms unfair that government should take over without compensation invested in land ownership when capital invested in other fields for e government loans, bonds, companies, shares industries or rcial businesses are left untouched[30].

The compensation provided for in section 29 and 35 of the Act is grossly inadequate, and concerned persons are never enthusiastic about yielding to the process. The method of assessing the compensation payable to the holders or occupiers for the value,

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:neral sections 28 and 29 of the Land Use Act, 1978.

ıdedapo "The futty of the land Use Decree. 1978" cited by S. A. Pretuyi in his ıral Lecture titled" Title to Land in Nigeria; Past and Present"

at the date of revocation of their unexhausted improvements lacks the peoples' confidence as government appointees under section 2 (2) (c), who cannot afford to be neutral, are the assessors. The abuses relating to the revocation of rights of occupancy would have been considerably minimized if the Act, had provided an effective procedure for the payment of prompt compensation in the event of revocation of rights of occupancy.

7. The act further complicated the matter by excluding the courts from entertaining cases relating to compensations under the Act[31]. Section 4(8) of the 1999 constitution provides that the legislature "shall not enact any law that ousts or purports to oust the jurisdiction of a court of law or of a judicial tribunal established bylaw".

8. Another area of contradiction is the provision of section 41 of the Land Use Act, which deals with the jurisdiction of area or customary courts in respect of proceedings in respect of a customary right of occupancy granted by local government under the Act. Section 41 of the Act confers on customary or Area court jurisdiction in respect of proceeding subject of customary right of occupancy granted by Local Government. The question is: can the High Court of a State equally entertain similar proceedings apart from the ones mentioned in section 39 of the Act over which it has exclusive original jurisdiction? In the case of ***Alhaji Abubakar Sadikwu v. Alhaji Abba Dalori***[32] the supreme Court held that the maiduguri High Court lacked original jurisdiction to entertain the suit or occupancy. Similar decision was reached by the Supreme Court in ***Abraham Oyeniran & others v. James Egbetola & Another***[33].

It must be noted that Sadikwu's case was filed before the 1979 Constitution came into force while Egbetola's case was decided after the commencement of the 1979 constitution. The latter judgement was given in contravention of the provision of section 236 of the 1979 constitution (section 272 of the 1999 constitution). Which gave unlimited jurisdiction to the State High Court in respect of civil and criminal proceedings. In 2000, the Supreme

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[31] See section 47(2) of the Land Use act.
[32] (1996) 4 S.C.N.J. 20; (1996) 5 N.W.L.R. (part 447) 151.
[33] (1997) 50 L.R.C.N. 1376

Court in ***Alhaji Karimu Adisa v. Emmanuel Oyinwola***[34] overruled itself by holding that its judgement in Egbetola's case was given per incursion as it was delivered in contravention of section 236 of the 1979 Constitution (section 272 of the 1999 Constitution). In 2004, the supreme court re-affirmed its judgement in Oyinwola's case in the case of ***Ezukwu v. Peter Ukachukwu***[35]. The military regime of General Obasanjo, which enacted the Land Use Decree, complicated the matter from inception by entrenching the Act into the 1979 constitution, and subsequently into the 1999 constitution by yet another military regime of General Abdulsalami Abbakar, without any debate or approval by the constituent Assembly[36]. However, in ***Nkwocha v. Governor of Anabra State and others***[37] the Supreme Court held that the Land Use Act is not an integral part of the Constitution. It is an ordinary statute, which became extra-ordinary by virtue of its entrenchment in the constitution. The provisions of the Act are therefore to be construed subject to the Constitution.

9. Another problem associated with the Act is that its administration has been choked by bureaucratic bottlenecks and obstacles. Layouts are very limited and the process of applying and securing land in the government layouts has become a Herculean task. To even apply for certificate of occupancy for land already in one's possession is not easy[38]. The "Nigerian factor" has reared its head again. Land touts are fully back, making a lot of money by "pushing" applications through the system. In the same vein, the Land Use Act has not had any appreciable impact on access to land. Most applications for certificates of occupancy are in respect of land acquired through private sales, Nigerians still find it extremely difficult to acquire land through the official channels particularly in states other than their own state of origin. In fact, if one is not an indigence of a

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[34] (2000) F.W.L.R. (part 8) p1349

[35] (2004) 121, L.R.C.N. 4880

[36] See B. O. Okere, "The Constitutionality of incorporating Certain Decrees into the 1222 Nigeria Constitution" Nigeria Bar Journal, 1980 vol. 16 p44.

[37] (1984) 4 N.W.L.R. (pt35) 361.

[38] For an account of the procedure, see U. J. Osimiri "Application for Certificate of Occupancy - Practice and Procedure" (1991) Justice, Vol. 2, No. 4. p11.

state it is futile to make a demand for the allocation of land[39]. It is therefore, suggested that land should be vested in the Federal Government rather than in the state governors. It is ironical that the land is not always available even to Government because it is not every land that the Government can acquire[40]. Equitable distribution of land, which was one of the main reasons for the enactment of the Act, is yet to be achieved.

The act also fail to specify how development made on land would be treated when the land reverts to the state. The life of a right of occupancy in most cases is 99 years. The effect of this is that every allottee of state or indeed owner of a property covered by a certificate of occupancy is deemed to be a tenant of the state.

Also, the act, in section 6(1) provides that Local Government can grant customary right of occupancy even though title is never vested in that authority by the Act or any other enactment. This is wrong in law except it can be shown that this is an exception to the common law rule of nemo dat quod non habet. This lacuna has resulted in the inability of various Land Advisory Committees to discharge their functions creditably[41].

(i) Apart from the above, the Land Use act has abolished freedom title to land, before the Act came into force, there were holders title to land, before the Act came into force, there were holders of freehold titles to land in Nigeria. The Act has now limited the title that can be granted under it to leasehold interest not exceeding nine-nine years as the case may be.

As said above, every allotee of state land, or, indeed, owner of a property covered by a certificate of occupancy is deemed to be a tenant of the state[42]. Section 34(2) and 5 (a) of the Act required separate mention here. Section 34(2) states inter alia:

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[39] Ikechukwu O. Odeomelam "Governor's Consent Under the Land Use Act: 20 years After" Modus International Law and Business Quarterly, March 1999, vol. 1, P. 49 at p 51.

[40] P. A. Oluyede "A Decade of a Statutory Monster, The land Use Act" In M. A. Ajomo (ed), New Dimension in Nigeria law (Lagos: 1989), pp 134, 135.

[41] See. G. A. Ikpara "Land ownership: which way Nigeria?" Modern Practice Journal of Finance and investment Law, January/April 2004, vol. 8, No. 1 – 2 pp. 231 – 247.

[42] See Emeka D. Eleh, "The Land Use Act: A Time for Review, volume 6 of The Economy of June 2001 at page 31.

"Where the land is developed the land continue to be held by the person in whom it was vested immediately before the commencement of this Decree as if the holder of the land was the holder of a statutory right of occupancy issued by the Military Governor under this Decree".
Section 34(5)a states:

"Where on commencement of this Decree the land is undeveloped the one plot or portion of land not exceeding half hectare in area shall subject to subsection (6) below, continue to be held by the person in whom the land was so vested as if the holder of the land was the holder of a statutory right of occupancy granted by the Military Governor in respect of the plot or portion as aforesaid..."the import of the above provisions is to confer something akin to a freehold title under English land law to beneficiaries. This is however not achieved because for the following reasons.

1. The holders were supposed to pay ground rent to the
2. The only current evidence of title that a holder could have is that upon application, the government will grant him a Statutory Right of Occupancy which of cause amounts to a conversion of freehold title provided for the Decree.
3. If a holder desires to do any transaction on the land, he will be required to obtain the consent of the Governor for the transaction to be legally binding which in effect defeats the presumed freehold title, which he is supposed to hold.

The issue of Federal and State control over the land is not properly addressed by the Act. Section 1 of the Act clearly vests all land within the territory of each state in the State Governor. The import of this provision is that the Federal Government is also a tenant in each state where it has properties. It also means that the Federal Government must ask the state for land, if it wants land for development purposes. This provision was grossly abused during the third Republic when some State Governments refused to release land for political reasons. An attempt by the Babangida's administration to backdate a decree to acquire properties like the Oshome layout in Lagos State was pronounced illegal by the court of law.

The amendment of the Act is made complex by its entrenchment in the constitution. The provision of section 315 (5) No of the 1999 Constitution makes it a near impossibility to expect a reform of the Act from a civilian government. This is due to the rigorous procedure for the amendment of the

constitution under 9 (2) of the same constitution. Against this background, professor Omotola found his lamentation on the Act irresistible when he declared:

"..... This is a rather strange procedure for amending a statute that touches on the daily life of all citizens, a statute that was hurriedly prepared and containing a host of absurb provisions which appear unworkable. Meanwhile, the society is faced with an impasse and only God knows when it will end[43].

The courts have tried to water down some of the excesses committed under the Act. Judiciary action is however not enough. The courts can only insist that revoking authorities comply strictly with the procedure for the revocation of a right of occupancy. Once the revoking authority has complied with the procedural requirements under the Act, the courts are powerless. The hapless land occupier is left with no remedy, save the token compensation payable under the Act[44].

In view of the foregoing, the following reforms among others are recommended in respect of the Act.

RECOMMENDATIONS:

Having discussed the above, the writer now proceed to make the following recommendations:-

1. First, there is the need to remove the Act from the Constitution so that amendments to it can easily be effected.
2. Secondly, the courts should be conferred with unfettered jurisdiction, to inquire into the questions pertaining to the amount or adequacy of compensation in order to protect the ordinary citizens from arbitrary, punitive and capricious use of power by the government or its agencies, officials or representatives. Section 47 of the Act, which purports to oust the jurisdiction of the court, should be repealed as this section is inconsistent with Sections 1(1), 8(3), and 6(6) (b) of the 1999 Constitution.

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[43] See J.A. Omotola, "Compensation Provisions of the land Use Decree" Nigerian Bar Journal, 1980, Vol. Xvi, p37

[44] See A. A. Oba "The land Use Act and Economic Development" in Modus International Law & Business Quarterly. December 2001, vol. 6. no. 4 pp. 36 – 47.

3. Thirdly, the consent clauses in sections 21 and 22 of the Act should be amended. Only grants actually made by the Governor or the Local Government should require prior consent before alienation. Owners of deemed grants should be able to alienate without consent and such alienation should be notified to the Governor' office or the appropriate Local Government for information and record purposes only.
4. Fourthly, It is recommended that while continued efforts are being made to effect a review of the Act, State Government who implement the Act should address some of the issues raised above by streamlining and shortening the processes involved. Honourable Sunday Alalade, the then Oyo State commissioner for Land and Housing had maintained that the Land Use Act is not a hindrance in whatever form. According to him, it is the people who have identified the loopholes in the Act that are using it to the disadvantage of Nigerians. He referred to these people as land speculators and land agents[45].

CONCLUSION

The Land Use Act, which attempts to revolutionalise title to land in Nigeria is no doubt a complex legislation. It is in the interest of stability of Nigeria and security of title to land that some land reforms similar to the ones embodied in the Act should introduced in the country.

Nevertheless, it seems that the uncertainty regarding land is still with us, the Act notwithstanding. The expropriator and confiscatory nature of the Act cannot be denied. The Act has divested individuals, families and communities of their ownership of land and has left them with a bare right of occupancy. This can only be justifiable if the generality of the people have practicable benefits in return. In general terms, the Act has not succeeded in making land readily available to Nigerians. Rather, it is one of the impediments to home ownership in Nigeria. The Act is therefore, much more a fiction than a reality.

[45] See Nigerian Tribune of Monday, 15th of August 2005 at page 26.