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Effects of Informal Land Right on Land Market Transactions in Nasarawa, Nigeria

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Abstract

Land has been said to be the basis of all wealth, but no matter how indispensable land resources is in the process of economic development, it will only achieve little out of its economic potential without adequate and well defined title. This study investigated the the effect of informal land right on land transaction in Nasarawa Town, Nasarawa State. Using 390 respondents as sample size, tables and weighted mean score to analyse result and Analysis of Variance to test the hypothesis. The study revealed that informal land right did have any effect on land market transactions; a considerable number of land owners did not have formal title to their land; and those without formal land right were unwilling to apply for formalisation. It was recommended that government should streamline and simplify the process of title formalization as well engage in awareness campaign concerning the benefit of formal land title.

Keyword: Land, informal land right, land market, transaction

1.0. Introduction

The acquisition and reallocation of real estate resources is often a resource-intensive activity and can signal significant ongoing adjustment issues facing economic operators. The ever growing attention about the reallocation of land resources can not be ignored both on the part of state actors and non-state actors. More so, the desire to invest in landed property either as a residential apartment, commercial properties or any of the classes of property for owner occupation or purely on commercial basis, is

ever increasing as population is equally increasing. Hence, the buying and selling of real estate will continue to be a topic of interest to real estate owners, agents, mortgage lenders, and prospective buyers. In all these, rights to land are germane to the realization of an effective land market because they are very important in the process of economic development and the documented evidence of these rights is title.

It is a universal knowledge that land is the main productive asset for agricultural, residential, industrial, and commercial

activities, and due to its unique characteristics of immobility, durability and relative indestructibility (Galiani and Schagrodsky, 2010), it has the natural characteristics to be used as wealth and collateral. However, Lawal, (2014) argued that before its potentials could be fully harnessed, it must possess a valid title; because what is being traded is the right subsisting in the land as land is immobile.

As explained by Kim (2004), the backing and enforcement of the state enjoyed by property right was what helped transform land into a bankable factor of production and commodity. The dual forms of recognised land rights (formal and informal) existing in Nigeria pose a conflicting scenario for land operators in decision making on land matters. The studies of Bako, *et al.*, (2010) and Ukeajiafor (2009) accentuated the under utilisation of the full potentials of land resources due to informal land rights.

Fundamentally, security of tenure is intended to prevent unjust eviction; in Nigeria, informal land right holders or untitled land owners are safeguarded from eviction without compensation for unexpired improvements on their land. What is the basis for De Soto's contention that informal title or untitled land rights are not protected? In addition, Afeikhena (2002), explained that some analysts regard the customary tenure system as an economically inferior arrangement that serves as a static constraint on agricultural investment. It is to this end that this research seeks to investigate if informal land rights have any effect on land market transaction in Nasarawa.

2.0. Literature

Land rights, according to Galiani and Schagrodsky, (2010), are important because they enhance resource allocation and investments in a society by limiting expropriation and facilitating market transaction because it gives the holder multiple rights. These rights include the right to use, occupy, to exclude others from using it, to transfer this right and persist in these rights. This demonstrates that without adequate or well defined land right, conveyancing, either through sale or mortgage, may be hampered. Though there is no land without ownership, evidence of these rights is known as title; nonetheless, the right of ownership must be documented in a statutorily recognised instrument, such as the Certificate of Occupancy in Nigeria.

Land rights in Nigeria, like in most African countries, are divided into two categories (Kim, 2004): formal and informal. The question is whether the distinction between formal and informal markets is correct, or if there is one market with varying degrees of legal conformance and/or numerous types of tenure coexisting.

However, the question is whether the dichotomy between the formal and informal is correct or whether instead there is one market with shades of conformity to the law and/or multiple forms of tenure co-existing.

The promulgation of the Land Use Decree of 1978 now Cap L5 LFN, 2004, purportedly unified the land tenure system in Nigeria and made Statutory Right of Occupancy the highest form of title to land in Nigeria. But the lacuna provided by the

Act makes formal and informal land rights co-exist. Sections 34 and 35 provide that any land acquired before the promulgation of the Decree shall continue to be held as a deemed Right of Occupancy, therefore land owners without titled land right relied on that to manage their lands without recourse to governor's consent thereby rendering such transferred land rights illegal.

Due to this scenario, Galal and Razzaz (2001) concluded that land and landed assets were substantially underutilised as inputs in production and vehicles for resource saving or leveraging in most African countries. Because most developing countries perceive land and landed assets as consumption products that can be directly cultivated, built, or sold without regard for its collateral value. In Egypt, for example, untitled or informal real estate accounted for 92% of urban dwelling houses, (De Soto, 2000), whereas in Nigeria, it is believed to be between 65% and 70%, (Enhancing Financial Innovation and Access & Finmark Trust, 2010). De Soto (2000) referred to untitled land holdings as dead assets/capital, estimating that they are worth more than a trillion dollars in developing economies.

To a great extent, the formality or otherwise of rights to land is a function of the mode of land acquisition. Land rights acquired through the informal market, unless the right is formalised or perfected through applying for certificate of occupancy and registering same in the land registry, will automatically become informal land right. The study of Bako, *et al.*, conducted in 2010 found that 82% of land owners acquired their lands through the informal land market, that is,

through unregistered transactions that were done without the consent and knowledge of the governor as stipulated by law, while only 15% accessed their lands formally. This view was corroborated by Ukaejiofor (2009) who found that only three percent of Nigeria land mass was mapped, titled and registered thereby rendering substantial portion of Nigeria land mass economically underutilised.

However, the value of land and its full economic potentials are dependent on adequate and well-defined rights proven by valid title to the land. In other words, it entails owning titled land rights. In developing economies, land rights are frequently ambiguous or loosely defined, leaving the majority of landed assets economically underutilised. According to Galiani and Schagrodsky (2010), the fragility of property rights is a crucial hindrance to economic development.

There are conflicting assertions about the relationship between the nature of land rights and investment in most emerging economies around the world. Among these are De Soto's (2000) research, which indicated that the greatest impediment to development in developing countries is the way in which their assets are held in defective form, making them unable to transform into capital when needed. He referred to these assets as dead assets or capital. This viewpoint supported the findings of Alston (1999), Field and Torrero (2006), and Bellemare (2012). They contended that having a secured property right evidenced by registerable title and easy accessibility to land would increase land

investment, ultimately boosting the nation's economic growth and vibrancy. Nonetheless, a number of researchers, such as Boucher, *et al.*, (2002), Brasselle, *et al.* (2002), and Payne, *et al.* (2007), criticised the notion for lacking adequate empirical evidence to support it.

No single piece of land in Nigeria is not owned; if not private property, it is state land; given that the Land Use Act vests all land within a State's boundaries in the governor and Local Government (as the case may be). The Land Use Act purports to empower the governor to assume ownership, management, and administration of land in the states in order to create a unified legal basis for a complete national land tenure system. With the promulgation of the Act, any transfer of land rights must be done with the governor's consent, otherwise, the transaction will be held void. Since the Act grants deemed right of occupancy to all lands acquired before to the promulgation of the Decree, most landowners in this category, as well as practically all landowners with customary right of occupancy, took advantage of the option to transfer their land without the governor's consent. The purchaser is now responsible for formalising and perfecting the title to the land. In principle, practically all landowners have de facto tenure security over their property if ownership is not disputed.

A number of studies on the effects of titled land rights on investment in Africa and other emerging nations worldwide has focused on agriculture. Among these researchers were Feder and Fereny (1991), Migot-Adhola, *et al.*, (1994), Bellemare (2012), and others.

They investigated the effects of titled and untitled land rights on agricultural productivity. Some studies concluded that titled land rights boosted agricultural productivity, while others found no link between land titles and productivity. Bellemare (2012) claimed that titled land alone does not boost productivity unless combined with rich soil.

2.1. Formalization of land title in Nigeria

The studies of Bako, *et al* (2010) found that over 82% of private land acquisition was done through informal land market in Lagos and this agrees with the findings of Ukaejiofor (2009) who explained that only three percent of the developed land in Nigeria was mapped, titled and registered. Bearing this in mind, there is need for formalization or perfection of untitled land right to enhance optimum economic productivity. Land title formalization is defined as the allocation of property rights or the process of delivering property right to untitled land owners (Galiani *et al*, 2010). It is the process of converting land right titles that are not backed or sanctioned by the state to the one that is recognized and backed by the State and in Nigeria it is evidenced by the issuance of Certificate of Occupancy. Formalization of land rights in Nasarawa according to Vilo, (2011) involves two stages which include:

- i. Change of ownership and land clearance from the Chairman, Land Allocation Advisory Committee and
- ii. Application for Right of Occupancy to the Governor through the Ministry of Lands and Survey.

The application will be accompanied with a copy of the receipt for the payment of the appropriate fees and the following: the duly completed form; completed change of ownership and clearance forms; 2 passport photographs; Site plan (3 copies); payment of processing fees and inspection report.

2.3. Land Rights and Real Estate Transactions

Real estate market is localised in character unlike normal commodity market where buyers and sellers bring their goods for exchange in an organised place. What is actually traded in real estate transaction is the right over the land (Kim, 2004). Advocates of active real estate markets see them as a means through which land owners could trade their rights thereby improving their economic and social status (Payne *et al* 2007). The evidence regarding the effect of property title on land market activity is mixed. Some studies have concluded that robust property right evidenced by title increases land transactions and prices (Durand-Lasserve *et al*, 2007). Research in Ecuador, the Dominican Republic and Cambodia found that delivery of title to land had a positive effect on the numbers of transactions in sale and rental markets (Durrand-Lasserve *et al*, 2007).

A number of researchers have, however, challenged the notion that untitled property rights have a negative impact on the land market. A study of informal transactions in Ghana, for example, discovered that most land transactions were carried out informally due to a prevailing environment where the formal system is riddled with excessive bureaucracy and cost, resulting in formal land rights commanding limited value (Antwi & Adam 2003). According to Ward

(2004), informal land markets are dynamic and free of monopolies. He believes that it is precisely the informality and poor serviced status that made housing in informal settlements inexpensive in the first place. Ward also said that housing is firmly entrenched as a commodity within the market place in informal settlements, albeit one that is less controlled. Kim (2004) provides evidence from Vietnam that the property market functions very well even with imperfect legal property rights.

Similarly, Afeikhen (2002) cited Gilbert's study in Bogota, which indicated an active market for plots despite the lack of legal titles. In fact, the research revealed that formalising titles in Bogota's informal settlement reduced market activity by raising the costs. Thus, Ward (2004) contends that it is not simply De Soto's legality and secure property title that influence property market activity, but regulations and restrictions can, and do significantly limit market activity. In terms of the former, legislative ambiguity, administrative complexity, and prohibitive costs associated with securing titles that legalize ownership of urban land have driven the urban land market to develop in an informal or illegal manner (McAuslan and Fekade, 2000). The key issue here is that specific assumptions should not be made based on conceptions of formality.

According to Afeikheina (2002), the important distinction is not whether property rights are titled or untitled, but whether they are transferable. Thus, stronger rights that are not transferable may make it difficult to do transactions. On the other hand, as demonstrated by evidence from Vietnam (Kim, 2004), real estate markets can function well even with imperfect legal

property rights. This emphasizes the significance of conducting empirical study to get answers.

Another factor that may explain the impact of title on market activity is that the impoverished and illiterate may not regard real estate as a marketable commodity like any other investment asset (Kim, 2004). According to Payne et al. (2007), the newly titled continue to see their properties primarily as a home, the foundation of family and communal life, and an asset to pass down to their children, rather than investment products, and some forbid their landed assets from being sold.

The preceding assessment of the empirical literature demonstrates that we are still unable to unequivocally establish whether property rights boost market activity. It is obvious that, in some circumstances, title has had a favourable impact on market activity. However, in many other cases, the expected benefits have not materialised. The varied impacts of title on market activity are most likely due to disparities in institutional contexts and arrangements.

In summary, untitled and unregistered land rights lead to competing and unrecorded ownership claims, multiple sales of the same property, and costs associated with property rights instability. According to the literature, some of the problems with untitled land holding include high transaction and formalisation costs, numerous disputes arising due to a lack of documentation and poor boundary definition (Fakede, 2000), and ill defined property rights (Galliani et al, 2010). According to the literature, untitled land acquired in the informal land market generally command lower value than titled

land obtained through the formal land market. (Kironde, 2000).

3.0. Methodology

The study is restricted to, Nasarawa town in Nasarawa local government area of Nasarawa State. The population of this study consisted of property owners, practising firms of estate surveyors and valuers and freelance agents, land officers at Ministry of Lands and Survey and Local Government. All the three estate surveying and valuation firms in Nasarawa were interviewed, while structured questionnaires were administered on 435 property owners. Simple random sampling technique was adopted in obtaining sample of respondents. Both quantitative and qualitative data analysis technique were adopted. Descriptive statistics and weighted mean score were used for the analysis while ANOVA was used to test the hypothesis.

According to National Population Commission (2006), the population of Nasarawa town was 56,122. Based on 2.8% estimated annual growth of population as projected by the National Population Commission, the estimated current population is approximately 87,155. Using the work of Dauda and Osita (2003) in Yacim, (2010), that an average household in Nigeria comprised of seven persons, therefore the total population of study is 9,727. In determining sample size, the formula advanced by Kothari (2004) was employed. Kothari formula of determining sample size is given as:

$$n = \frac{z^2 \cdot p \cdot q \cdot N}{e^2 (N-1) + Z^2 \cdot p \cdot q}$$

Using the above formula, the sample size is 435

4.0. Discussion

A total number of 435 questionnaires were administered and 390 representing 89.7% were correctly completed and returned while 45 representing 10.3% were wrongly filled and some not returned. Having 89.7% of the questionnaires returned is seen as adequate for the analysis.

Table 1: Medium of land acquisition

Variables	Frequency	Percentage
Inheritance	34	8.72%
Gift	18	4.62%
Purchase by private treaty	263	67.44
Government allocation	75	19.23
Mortgage	0	0%
Total	390	100%

Source: Field survey, 2022

Table 1 shows that 263 of the respondents representing 67.44% acquired their land through purchase by private treaty, and this was followed by acquisition through government allocation which had 75 respondents representing 19.23%. Thirty four respondents representing 8.72% acquired their land through inheritance and 18 respondents representing 4.62% got their lands through gift while no respondent secure his land through mortgage.

Table 2: Mode of acquisition

Variables	Frequency	Percentage
Formal	96	24.62%
Informal	294	75.38%
Total	390	100%

Source: Field survey, 2022

From the table 2 computation, 294 respondents representing 75.38% of the respondents acquired their land through informal mode while 96 respondents representing 24.62% acquired theirs through formal mode. This finding reinforced the view of Odebode et al (2010) and Ukaejiofor (2009) that most properties in Nigeria were acquired and held in an informal form.

Table 3: Documents possessed

Document	Frequency	Percentage
Unregistered Purchase agreement	239	61.28%
Deed of assignment	51	17.59%
C of O	45	19.49%
No document	55	11.54%
Total	390	100%

Source: Field survey, 2022

From table 3, it is observed that 239 respondents representing 61.28% of the respondents possessed purchase agreement/ payment acknowledgement as the document for the land they have. Fifty one respondents representing 17.59% had Deed of Assignment, 45 respondents representing 19.49% had Certificate of Statutory/Customary Right of Occupancy while 45 respondents representing 11.54% had no document whatsoever to back their ownership claim. This further shows that only about 11 of the respondents that acquired their land through informal private treaty have formalised their titles.

Table 4: Status of land rights possessed

Title	Frequency	Percentage
Titled land right	107	27.44 %

Untitled land right	283	72.56%
Total	390	100%

Source: Field survey, 2022

Table 4 above shows that 107 respondents representing 27.44% possessed titled land rights while 283 respondents representing 72.56 of the respondents interviewed during field survey possessed untitled land rights and this agrees with the work of De Soto (2000) and Ukaejiofor (2009).

Table 5: Whether land title attracts benefit

Reaction	Frequency	Percentage
Yes	309	79.23%
No	81	20.77%
Total	390	100%

Source: Field survey, 2022

Table 5 shows that 309 respondents representing 79.23% agreed that there is immense benefit attached to the land title. While 81 respondents representing 20.77% did not agree or believe that there is any benefit attached to titled land right.

Table 6: Possible benefit of land title

Benefit	Frequency	Percentage
Secured tenure	12	3.08%
Loan accessibility	65	21.03%
Increased land value	91	29.49%
All of the above	139	44.87%
None of the above	2	0.51%
Total	309	100%

Source: Field survey, 2022

From table 6, 139 respondents representing 44.87% believed that secured tenure, loan accessibility and increased land value were all benefits derivable from titled land right while 12 respondents representing 3.08% believed that the only benefit of titled land right is secured tenure. 65 of the respondents representing 21.03% saw loan accessibility as the only benefit derivable from titled land right and 91 of the respondents representing 29.49 believed that the only benefit of titled land right is that it increases land value while two respondents representing 0.51% did not see any of the variables as benefit attached to titled land right. In essence, the result shows that titled land right is beneficial.

Though a negligible 0.51% did not believe in any of the stated benefits by choosing none of the above but still believe it is beneficial in a way. Finance is the backbone of investment, therefore with increased value, there will be more capital for investment, hence an incentive to investment.

4.1. Informal Land Right and Real Estate Transactions

In the analysis of the responses in this section, weighted mean was used which can be referred to as Likert analysis as the responses were coded using figures 5 to 1 in other to change the qualitative data to quantitative data for possible application of statistical technique. As part of the coding, strongly agree was tagged 5, agree as 4, undecided to be 3, disagree as 1 and strongly disagree as 1. The primary objective here is to determine the average response of the respondents. The computation is as follows:

Table 7: Effect of informal rights on variables land transaction

Label	Statement	S.A.(5)	A(4)	U(3)	D(2)	S.D(1)	Sum	WMS	Remark
A	Slows down sale	10	5	4	73	298	526	1.3487	Disagree
B	Reduces value	5	4	50	90	241	637	1.6333	Disagree
C	Scares buyer	20	22	70	81	197	757	1.9410	Disagree
D	Denial of bld by govt	16	25	70	49	230	706	1.8103	Disagree
	Encourages land fraud	60	50	57	164	59	958	2.4564	Disagree

Source: Field survey, 2022

Analysis from table 7 showed that respondents disagreed with all the statements.

Null Hypothesis: Informal land right does not significantly affect land transaction. Using ANOVA to test data from table 7, the following result was obtained

Table 8: Hypothesis Testing

ANOVA

	Sum of Squares	Df	Mean Square	F	Sig.
Between Groups	34105.500	4	8526.375	2.057	.138
Within Groups	62170.500	15	4144.700		
Total	96276.000	19			

Degree of significance taken at .05

Decision rule: accept null hypothesis if F value is less than P value and reject null hypothesis if F value is greater than P value.

The result shows that F value of 2.057 is greater than calculated value of .138, therefore the null hypothesis is rejected. That is informal land title does not negatively affect land transaction.

5.0. Conclusion

Conclusively,, the following inferences were drawn from the study; that a greater proportion of land owners possessed informal land right and did not equally made move to formalise their rights. It was further discovered that informal land right or unregistered land does not affect

transactions in land. Some were, however, of the view that informal land right can be a breeding platform for fraudulent transactions.

6.0 Recommendations

1. Land owners should endeavour to formalize their land title no matter the seeming constraints.
2. Government of Nasarawa State should streamline formalization of land title by creating zones that will attend to perfection of title to land. Endorsement of land sales agreement by local chiefs and Emir should be streamlined in such a way that such endorsement should not take more than two weeks.

3. Government should intensify its effort on awareness campaign as regard the importance and benefits of land title and titling programme.

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