

TOPIC: OWNING IN A CHANGING ENVIRONMENT

INTRODUCTION

Among nature's gifts to humanity, land holds the most central place. It provides food, shelters mineral resources, sustains infrastructure, and serves as the foundation of wealth and capital formation. Beyond its economic value, land embodies identity, heritage, and social status, making it both an asset and a symbol of belonging. Inevitably, competing interests in its acquisition often lead to disputes and conflicts.

In Nigeria, the history of land ownership reflects an intricate interplay between customary traditions, colonial ordinances, post-independence statutes, constitutional provisions, and global influences. Land has always been more than a physical commodity, it is tied to ancestry, culture, and security, yet its legal regulation has evolved significantly. The introduction of the Land Use Act of 1978 marked a radical shift, centralizing control in the hands of state governors while coexisting with constitutional guarantees of property rights.

Today, ownership exists in a changing environment where statutory provisions challenge customary norms, gender equality reshapes inheritance practices, and rising urbanization intensifies land disputes. As such, this paper examines the evolution of property ownership in Nigeria, the categories of persons entitled to hold land, and the procedures for acquisition, while highlighting challenges of administration, conveyancing, and probate. It concludes by proposing reforms to enhance transparency, equity, and efficiency.

THE CONCEPT OF OWNERSHIP

Ownership is the most comprehensive right that a person can have over property. It includes the right to possess, use, enjoy, exclude others from, and dispose of the

property. **Professor Nwabueze, SAN**, (of blessed memory), in his book entitled, *Nigerian Land Law* (1972) at pages 7 and 8, defined ownership as follows:

"Ownership is the most comprehensive and complete relation that can exist in respect of anything. It implies the fullest amplitude of rights of enjoyment, management and disposal over property. To put it the other way round, it implies that the owner's title to these rights is superior and paramount over any other rights that may exist in the land in favour of other persons."

According to **Salmond**, *"Ownership in its most comprehensive sense denotes the relation between a person and an object forming the subject-matter of his ownership, which consists in the right to use and enjoy it to the exclusion of all others."*

In Nigerian law, ownership is both a legal and a social construct. Legal because it is enforceable through statutory and judicial mechanisms, and social because it is influenced by culture, custom, and communal relationships.

HISTORICAL EVOLUTION OF LAND AND PROPERTY OWNERSHIP IN NIGERIA

The history of land ownership in Nigeria predates colonialism and reflects the traditions and customs of diverse ethnic groups.

a. Pre-Colonial Land Tenure Systems

In the pre-colonial era, land was seen as a communal heritage belonging not only to the living but also to ancestors and future generations. Ownership was vested in the family, village, or community as a collective unit, while individuals only held derivative interests. These were usually usufructuary rights, the right to use and enjoy land without absolute authority to alienate or sell it. Transfers outside the community were rare and required collective consent.

Customary land tenure before colonial rule generally fell into four categories: communal lands managed collectively, stool or chieftaincy lands under the control of traditional rulers, family lands administered by extended families, and individual property, though personal ownership was less dominant (Dosumu, 1977; Aniyom, 1978). These arrangements emphasized communal responsibility and continuity, with land functioning as both an economic and cultural anchor.

b. Colonial Transformation of Land Tenure

The arrival of British colonial administration marked a significant shift, introducing English legal principles that commodified land and transformed tenure structures. Driven by the need for agricultural production, resource exploitation, and infrastructural development, the colonial authorities sought to impose a system of formal contracts, registration, and surveys. This development led to a dual legal system: one where customary laws coexisted with English land law, and one where customary tenure governed rural landholding, while statutory English principles applied in urban and Crown-controlled areas.

Several ordinances formalized these changes. The **Crown Lands Ordinance of 1902** marked the beginning of statutory regulation, declaring lands acquired by the colonial government as Crown property. This was followed by the **Public Lands Acquisition Ordinance of 1903 (later amended in 1918)**, which empowered the government to acquire land compulsorily for public use. The most significant development of this era was the **Land and Native Rights Ordinance of 1916**, which vested all lands in Northern Nigeria in the Governor, to be held in trust for the natives, while granting rights of occupancy for limited terms. This ordinance institutionalized the trustee role of government over land, signaling the gradual erosion of absolute communal ownership. Similarly, the **Native Lands Acquisition Ordinance of 1917** prohibited foreigners from acquiring native land without

government approval. Occupants were granted certificates of occupancy, embedding principles that foreshadowed the modern Land Use Act.

Alongside these ordinances, English common law and equity introduced concepts such as fee simple, leasehold, and trusts, incorporated into Nigeria through reception clauses in the **Supreme Court Ordinance of 1876** and the **Interpretation Ordinance of 1914**. The **Town and Country Planning Ordinance of 1946** also introduced zoning and planning regulations. The dual system legacy of customary and statutory systems laid the foundation for the complex land administration challenges Nigeria continues to face.

Building on this foundation, the **Land Tenure Law of Northern Nigeria, 1962**, further consolidated state control over land. The law declared all land in Northern Nigeria as *Native Lands*, vesting it in the Minister to be held in trust for the benefit of the indigenous population. It effectively abolished freehold interests, except those recognized under native law and custom, which could only be transferred with ministerial consent. Under this law, natives could obtain rights of occupancy for up to **99 years**, while non-natives were restricted to a maximum of **40 years**. This statutory scheme reinforced the notion that land was not an absolute private asset but rather a resource held in trust for communal benefit. The 1962 framework would later serve as a **precursor to the Land Use Act 1978**, providing the philosophical and legal foundation for nationwide land reform.

c. Post-Independence Land Tenure Reforms and The Land Use Act 1978

Following independence in 1960, this duality persisted. Customary tenure continued in rural areas, particularly in the South, while state governments attempted to regulate land through varied statutes. However, the lack of uniformity created

inconsistencies and legal uncertainties, complicating transactions and creating fertile ground for disputes.

The most transformative intervention came with the enactment of the **Land Use Act of 1978**, now embedded in the Constitution (**Section 315(5) CFRN 1999** as amended). The Act vested all land in each state in the Governor, to be held in trust for the people. Urban land was placed under the direct control of state governors, while local governments were empowered to manage rural land. Under **Section 5(1)**, governors may grant statutory rights of occupancy for up to 99 years, evidenced by a Certificate of Occupancy (C of O). Also, **Section 5(2)** of the Act provides that *“Upon the grant of a statutory right of occupancy under the provisions of sub-section (1) of this section, all existing rights to the use and occupation of the land which is the subject of the statutory right of occupancy shall be extinguished.”* Thus, the Certificate of Occupancy (C of O) is the most recognizable form of land title in Nigeria today, which is legal evidence of a holder’s statutory right of occupancy over a parcel of land granted by a Governor. This document was designed to streamline land management and reduce conflicting claims. It effectively substitutes previous ownership systems and extinguishes prior legal and equitable interests. However, it does not necessarily confer absolute ownership, but rather a leasehold interest subject to state regulation. In *Shell Petroleum v. Abedi*, the court emphasized that the issuance of a C of O does not automatically extinguish existing rights (customary tenants) unless proper procedures of revocation and compensation are followed.

In *Nkwocha v Governor of Anambra State 1 SCNLR 634* at 652, the first case on the **Act** to reach the Nigerian Supreme Court, **Eso JSC** observed that the tenor of the **Act** was *“the nationalization of all lands in the country by the vesting of its ownership in the State leaving the private individual with an interest in land which is a mere right of occupancy”*.

Importantly, **Sections 21 and 22** prohibit alienation, transfer, mortgage, or lease of land without the Governor's consent. Failure to obtain consent renders the transaction void. The wording of Section 22 of the Land Use Act provides that the Governor's consent "*shall*" be "*first had and obtained*." It therefore means that it is mandatory to seek and obtain the consent before alienation, as affirmed in *Savannah Bank v. Ajilo*. In *International Textiles Industries Nigeria Ltd. v. Aderemi*, the Supreme Court held that in accordance with the *Savannah Bank v. Ajilo*'s case, that by virtue of Section 22 of the Land Use Act, the holder of a right of occupancy alienating or transferring his right of occupancy must obtain the consent of the Governor to make the transaction valid. If he fails, then the transaction is null and void under Section 26 of the Act. Though designed to ensure orderly development, this requirement has become a major bottleneck due to bureaucracy and opportunities for rent-seeking. Some states, like Lagos and Kaduna, have adopted digital consent platforms, but challenges of opacity and delay remain.

The Act distinguishes between statutory and customary rights of occupancy. Statutory rights are granted by governors, while customary rights are issued by local governments in line with indigenous practices. **Under Section 28**, governors retain the power to revoke occupancy rights for overriding public interest, though compensation must be paid for unexhausted improvements.

The Land Use Act was enacted with clear objectives: to unify Nigeria's disparate tenure systems, to facilitate equitable access to land for economic development, to prevent speculative hoarding, and to establish effective state control over land allocation. While it succeeded in centralizing authority, it also introduced new tensions by restricting absolute ownership and complicating land transactions.

d. The 1999 Constitution and The Right to Own Property

Constitutionally, the right to property is enshrined in **Section 43** of the 1999 Constitution, which guarantees every citizen the right to acquire and own immovable property anywhere in Nigeria. **Section 44** prohibits compulsory acquisition without prompt and fair compensation. Yet, this right is circumscribed by the Land Use Act, which regulates how property is acquired and managed. **Section 315(5)** of the Constitution explicitly preserves the Act, making it part of the Constitution and immune from alteration except by the special amendment procedure under **Section 9(2)**.

Thus, the evolution of land ownership in Nigeria illustrates a gradual transition from communal systems rooted in culture and heritage to a centralized statutory framework dominated by state control. While the Constitution guarantees property rights, the Land Use Act continues to shape and often restrict the modalities of land ownership, creating a dynamic and sometimes conflicting legal environment that reflects Nigeria's broader struggle to balance tradition, modernity, and development.

WHO CAN OWN PROPERTY IN NIGERIA

In Nigeria, the right to own property is not an exclusive privilege but a constitutional guarantee available to all citizens, though subject to statutory restrictions and qualifications. The concept of "who" may own property has evolved from customary practices rooted in patriarchy to constitutional and judicial recognition of equality. Today, ownership rights reflect a complex interplay of custom, statutory laws, religion, and judicial decisions.

1. Men and Property Ownership

Traditionally, men dominated landholding in most Nigerian societies. In patrilineal groups such as the Igbo and Hausa, property passed from father to sons, while

women accessed land only through male relatives. This structure made men the principal landholders and custodians of wealth and influence.

Statutory law, however, abolished gender-based exclusion. Section 43 of the 1999 Constitution entitles every citizen, male or female to acquire and own immovable property. Despite this legal equality, men continue to hold the majority of property, largely because of cultural patterns and historical privilege in inheritance systems.

2. Women and Property Ownership

Women's struggle for recognition in property ownership has been long and uneven. Under Igbo custom, for example, the notorious "Oli-ekpe" tradition excluded daughters and widows from inheritance, transferring property instead to male relatives. In Yoruba communities, women could inherit movable assets but land was usually reserved for male heirs. In the predominantly Muslim north, women had more clearly defined rights under Sharia law, which grants them an inheritance share, though typically half that of a male in the same category, as provided in **Surah An-Nisa 4:11**. These practices reinforced economic dependence, limited women's access to credit, and left widows vulnerable to eviction.

The colonial introduction of the **Married Women's Property Act 1882** marked a turning point by recognizing the right of married women to hold property in their own names. Yet, in rural areas, customary law continued to dominate, leaving many women disadvantaged.

The 1999 Constitution was more decisive: **Section 42** prohibits discrimination based on sex, while **Section 43** guarantees the right to property. Judicial pronouncements reinforced these rights. In *Mojekwu v. Mojekwu* (1997), the Court of Appeal invalidated the "Oli-ekpe" custom as discriminatory. *Per TOBI, J.C.A* "Nigeria is an egalitarian society where the civilised sociology does not discriminate against

women... The "Oli-ekpe" custom, which permits the son of the brother of a deceased person to inherit his property to the exclusion of his female child, is discriminatory and therefore inconsistent with the doctrine of equity.pp 304-305. paras. H-B) Per TOBI, J.C.A. at Page 305, paras. B-C:

Similarly, in ***Ukeje v. Ukeje (2014)***, the Supreme Court struck down Igbo customs that excluded daughters from inheriting their fathers' estates, affirming that female children cannot be denied property rights. Per **RHODES-VIVOUR, J.S.C.** "No matter the circumstances of the birth of a female child, such a child is entitled to an inheritance from her late father's estate. Consequently, the Igbo customary law which disentitles a female child from partaking in the sharing of her deceased father's estate is in breach of section 42(1) and (2) of the Constitution, a fundamental rights provision guaranteed to every Nigerian. The said discriminatory customary law is void as it conflicts with section 42(1) and (2) of the Constitution."

In ***Anekwe v. Nweke (2014)***, the Court condemned Awka customs that disinherited widows, describing them as "punitive, uncivilized, and repugnant to natural justice." Per **OGUNBIYI, J.S.C. at pages 421-422, paras.F-E:** "I hasten to add at this point that the custom and practices of Awka people upon which the appellants have relied for their counter claim is hereby outrightly condemned in very strong terms. In other words, a custom of this nature in the 21st century societal setting will only tend to depict the absence of the realities of human civilization. It is punitive, uncivilized and only intended to protect the selfish perpetration of male dominance which is aimed at suppressing the right of the womenfolk in the given society..."

Collectively, these rulings signaled a constitutional rejection of discriminatory customs, affirming women's equal rights to property. Still, cultural resistance and weak enforcement continue to hinder full realization. Compared to other African states like Ghana and Kenya, which have expressly guaranteed women's inheritance

rights in their constitutions, Nigeria has made significant progress but requires cultural and institutional reform to cement equality.

3. Minors and Property Ownership

Minors under eighteen can legally own property in Nigeria, though they lack contractual capacity to personally transact in land. Instead, such ownership is held in trust, managed by guardians or trustees until the minor reaches majority. Property may pass to minors through inheritance, gifts, or transfers, with guardians ensuring proper management until they are legally competent.

4. Foreigners and Property Ownership

Foreign ownership of property is more restricted. The Land Use Act does not explicitly bar foreigners from acquiring rights of occupancy, but in practice, restrictions apply. Most foreign investments in real estate are structured through companies incorporated in Nigeria, as corporate entities enjoy legal personality under Section 37 of the Companies and Allied Matters Act. Foreigners are typically granted long-term leaseholds, often up to 99 years, rather than absolute ownership. States such as Lagos impose additional conditions, requiring the Governor's consent before foreign entities may acquire land. This framework balances the need to attract investment with the desire to retain sovereign control over land resources.

5. Corporate Entities and Property Ownership

Companies incorporated under Nigerian law are recognized as legal persons capable of acquiring, holding, and disposing of property. Section 37 of the Companies and Allied Matters Act affirms this right, though acquisitions are subject to the Land Use Act. In particular, Section 22 of the Act requires Governor's consent for any alienation of statutory rights of occupancy. For foreign investors, incorporation

provides a practical route into Nigerian real estate, offering legal certainty while complying with regulatory requirements.

6. Trusts and Collective Ownership

Property may also be held in trust, either formally or informally. Under customary law, family land is managed by family heads for the collective benefit of all members, while community land is administered by traditional councils or designated trustees. Statutory trusts allow trustees to hold property on behalf of beneficiaries, ensuring transparent and accountable management of assets. This collective ownership system remains important in rural areas, where land continues to serve as a communal resource.

7. Public Institutions and Government Ownership

The government at federal, state, and local levels holds vast tracts of land under the Land Use Act. Section 28 empowers governors to revoke rights of occupancy for overriding public interest, provided compensation is paid for unexhausted improvements as required by Section 44 of the Constitution. Such compulsory acquisitions are often employed for infrastructure, housing, and other public projects. While designed to serve development needs, the practice is frequently criticized for inadequate compensation and abuse of discretion.

Property ownership in Nigeria has undergone significant transformation, moving from male-dominated customary systems to constitutional and statutory recognition of universal rights. Men continue to dominate in practice, but women's property rights are now constitutionally and judicially affirmed, minors can own property through trustees, foreigners participate primarily through leaseholds or incorporation, and corporations and trusts hold land as legal persons. The state

remains the ultimate trustee of land under the Land Use Act, balancing private rights with public interests.

Despite legal progress, cultural resistance, bureaucratic bottlenecks, and weak enforcement undermine full realization of these rights. For Nigeria to achieve equity and efficiency in land ownership, reforms must focus on streamlining administration, enforcing constitutional guarantees, and harmonizing customary practices with modern law.

COMPARATIVE INSIGHTS

The Nigerian framework for property ownership can be contrasted with systems in other jurisdictions.

1. **United Kingdom:** Any adult, regardless of gender or nationality, can own property, though foreign purchases/acquisition may face tax and registration scrutiny.
2. **Ghana:** In Ghana, foreigners are barred from owning freehold interests in land and are restricted to leaseholds not exceeding fifty years.
3. **Kenya:** The Constitution restricts non-citizens to leasehold interests of up to 99 years.

These comparative examples highlight the global diversity of land ownership regimes and the balance each country seeks between protecting national land resources and attracting foreign investment.

MODERN TRENDS, COMPARATIVE PERSPECTIVES, AND THE CHANGING LANDSCAPE OF PROPERTY OWNERSHIP

In contemporary Nigeria, property ownership has been shaped by both historical traditions and statutory reforms. The adoption of the **Land Use Act in 1978** marked

a defining moment by vesting all land in each state in the Governor, to be held in trust for the people. This shift sought to make land more accessible, curb speculation, and establish a uniform system of administration. However, in practice, the Act has generated challenges, particularly where it intersects with constitutional guarantees and customary practices.

Under **Section 1** of the Act, all land in each state is vested in the Governor, who grants statutory rights of occupancy for urban land, while local governments issue customary rights for rural land. This statutory regime operates alongside **Section 43 of the 1999 Constitution**, which guarantees every citizen the right to acquire and own property anywhere in Nigeria, underscoring the delicate balance between statutory control and constitutional freedoms. Yet, bureaucracy, political influence, and customary practices continue to shape access to land. Courts have frequently had to balance the Land Use Act with constitutional protections, highlighting the tension between state control, bureaucratic procedures, and entrenched customary norms still dominant in rural areas.

Property acquisition today may occur through allocation, purchase, inheritance, gifts, or long possession under adverse possession. Documentation such as deeds of assignment, leases, gift deeds, and court vesting orders provide evidence of ownership. In cities, government allocations and C of O dominate, whereas rural land remains governed by communal allocations, albeit increasingly documented for statutory recognition. Inheritance continues to generate disputes, especially where customary and Islamic law exclude or limit women's rights despite constitutional equality and judicial rulings against discriminatory practices.

Nigeria's rapid urbanization has intensified competition for land, fueling disputes and exposing weaknesses in administration. Conflicts often arise from multiple sales, defective titles, hidden encumbrances or government acquisitions. Due

diligence and registration have therefore become essential safeguards. Buyers are expected to conduct proper searches at land registries, inspect survey plans, confirmation of community consent in customary contexts are vital, and verify Governor's consent where applicable. Failure to secure Governor's consent, as required under **Section 22 of the Land Use Act**, renders transactions void, and exposes owners to litigation and the risk of losing property.

a) Technology and Land Administration

The rise of **digital land management systems** marks a significant modern trend. States increasingly employ **Geographic Information Systems (GIS)** to capture, store, and analyze land data, improving transparency and planning. In Abuja, the **Abuja Geographic Information System (AGIS)** was introduced in 2004 to digitize land records and curb racketeering. While it improved record-keeping, allegations of selective revocation, processing delays, and overlapping institutional mandates undermine efficiency.

Lagos, Nigeria's commercial hub, has introduced digitized platforms under its Land Registration Law, but the process remains cumbersome, costly, and vulnerable to corruption. Registration typically requires a survey, Governor's consent, and final recording at the Lands Bureau. In northern states such as Kano and Kaduna, disputes arise from the coexistence of statutory, customary, and Islamic inheritance systems, often leaving women disadvantaged despite Sharia's limited inheritance rights.

Although GIS offers efficiency, challenges remain: data manipulation, hacking, lack of technical capacity, infrastructural deficits, and bureaucratic resistance. Without robust safeguards, digitization alone cannot guarantee transparency.

b) Conveyancing, Probate, and Registration

Conveyancing and probate services should provide certainty in property transfers but are hindered by delays, high costs, and weak institutional frameworks. Probate bottlenecks often leave families unable to access estates for years, while Governor's consent requirements prolong transactions. Yet, registration remains critical, as registered documents constitute notice to the world and take priority over unregistered claims. Proper perfection of title is therefore indispensable to secure legal protection.

c) Comparative Insights

Other African countries provide useful models. **Rwanda** operates one of the most efficient property registration systems, with costs as low as 0.2% of property value. **Kenya's 2010 Constitution** guarantees gender equality in land rights and its digitized registries have curbed fraud and delays. **Ghana** recognizes stool and skin lands in its constitution, harmonizing statutory and customary tenure, while restricting foreign ownership to leaseholds. Compared to these examples, Nigeria's system remains expensive, opaque, and prone to corruption.

d) Expanding Notions of Property

Modern realities also extend ownership beyond land. Assets such as **intellectual property, digital assets, and company shares** now form part of wealth and are legally recognized forms of property. Corporate entities, under **Section 37 of the Companies and Allied Matters Act**, may acquire land, and this has become the preferred channel for foreign investors, since direct freehold ownership by foreigners is restricted. While this facilitates foreign capital inflows, it raises concerns about speculative hoarding and reduced access for citizens.

The landscape of property ownership in Nigeria is one of **constant negotiation** between customary traditions, statutory frameworks, constitutional guarantees, and

global economic pressures. With land scarcity intensifying, transparent and equitable land administration is more critical than ever. Reforms such as full digitization, harmonization of customary and statutory laws, simplification of procedures, and stronger institutional accountability are urgently needed. Unless systemic weaknesses are addressed, disputes will persist, undermining investment and development.

Property ownership is no longer defined by physical land alone. The future will demand a more inclusive, technologically driven, and globally aligned framework to ensure that ownership rights serve as a foundation for national growth, equity, and sustainable development.

e) The Emergence of Estate or Mass Housing Development Vis-À-Vis Property Ownership

Mass housing or estate development has become a defining trend in Nigeria's real estate sector. Land registries across states are increasingly inundated with applications for such projects, reflecting their growing popularity as a response to the country's housing deficit. The origins of mass housing can be traced to the pre-independence era, particularly the Bodija Housing Estate in Ibadan constructed in 1959 by the Western Regional Government. However, the real acceleration came with the creation of the Federal Mortgage Bank and subsequent formulation of a national housing policy, which opened the sector to significant private sector participation. This market-oriented approach triggered a surge in estate developments, intended to meet citizens' housing needs but also accompanied by significant legal and administrative challenges.

Challenges: Despite the proliferation of estate developments nationwide, Nigeria lacks a specific legislative framework governing mass housing. In practice, land

registries have devised ad hoc administrative mechanisms to cope with the demand. A unique dimension of ownership has also emerged: the estate developer typically retains overriding title to the estate and allocates plots or units to subscribers under contractual terms. Subscribers, while not tenants, are equally not legally regarded as landlords because the Certificate of Occupancy (C of O) usually vests in the developer. This has created the category of “subscriber ownership,” a hybrid form of interest that does not neatly fit within traditional property law doctrines.

To manage this, some registries have introduced the concept of “part-surrender.” Borrowed from leasehold practice, where a tenant gives back part of leased land, part-surrender in estate developments allows a developer to formally subdivide and transfer ownership of portions of the estate to subscribers through instruments like deeds of assignment. Once registered, the allottee may then apply for a C of O in their own name. Though lacking authoritative judicial backing, this pragmatic solution has gained traction as a species of ownership awaiting full recognition.

f) Statutory and Judicial Influence on Ownership

The statutory framework has long reshaped ownership. Section 1 of the Land Use Act vests all land in each state in the Governor, while constitutional provisions, particularly Section 44 of the 1999 Constitution, empower government to compulsorily acquire land for public purposes subject to compensation. Judicial pronouncements have further refined these principles.

In **AG Lagos State v. AG Federation (2003) LPELR-620(SC)**, the Supreme Court, per Niki Tobi JSC, emphasized that title to land represents the highest form of ownership, conferring complete rights of use and disposal. Yet, ownership has been tempered by the state’s power of compulsory acquisition. In **Provost Lagos State College of Education v. Edun (2004) LPELR-2929(SC)**, the Court reaffirmed

government's constitutional authority to acquire land for public purposes upon payment of compensation.

What is notable in more recent jurisprudence is the expansion of “public purpose” beyond direct governmental use. In **FGN v. Akinde (2013) LPELR-19959(CA)**, the Court of Appeal held that acquisition for housing schemes could remain valid even if the eventual beneficiaries were private individuals, provided the scheme served a broader public utility. The court reasoned that where land is acquired, subdivided, and reallocated under government-backed housing schemes, the benefit to individuals is incidental to the overarching public purpose.

The emergence of mass housing has introduced new forms of ownership, particularly subscriber-based interests and part-surrender arrangements. While these reflect practical adaptations to Nigeria's housing needs, they expose the absence of a clear legislative framework for estate development. Judicial activism, especially in broadening the definition of public purpose, demonstrates the law's evolving role in balancing private rights with public utility. However, until formal legislation addresses these gaps, mass housing ownership will remain governed by a patchwork of administrative practices and judicial interpretation.

PROOF OF OWNERSHIP, POWER OF ATTORNEY, DEED OF ASSIGNMENT, AND THE LAND INSTRUMENTS LAW IN NIGERIA

Ownership of land remains one of the most contested issues in Nigerian property law, with disputes often turning on the strength of a claimant's title. The Supreme Court's decision in **Idundun v. Okumagba (1976) 9–10 SC 227** remains the authoritative guide, identifying five methods of proving land title: (i) traditional evidence; (ii) production of valid title documents; (iii) acts of ownership exercised over time; (iv) long possession and enjoyment; and (v) ownership of adjacent land

under circumstances suggesting ownership of the land in dispute. A claimant is not required to prove all five successfully establishing one is sufficient. Of these, documentary evidence such as a **deed of assignment** or **certificate of occupancy (C of O)** is most commonly relied upon in modern practice.

i. Deed of Assignment

A **deed of assignment** is a principal instrument for transferring legal interests in land. It is executed between the assignor (vendor) and the assignee (purchaser) and requires the **Governor's consent** under Section 22 of the **Land Use Act** to be valid. Upon registration under the applicable Land Instruments Registration Law, the purchaser's interest is secured and public notice is given, preventing competing claims. A registered deed constitutes strong evidence of ownership and is readily admissible in court.

ii. Power of Attorney

A **power of attorney** is another mechanism for dealing with land, through which a donor authorizes a donee to act on their behalf selling, leasing, mortgaging, or otherwise managing property. Although not itself a transfer of title, it creates legal authority to transact. The **Land Registration Act of 1924 (Act No. 36)** established the framework for registering such instruments nationwide, with states later adopting similar laws. Registrable instruments under this framework include deeds of assignment, mortgages, leases, powers of attorney, and certificates of purchase, but not wills.

iii. Land Instruments Registration Law (LIRL)

The **Land Instruments Registration Law (LIRL)**, applicable in most states, requires registration of conveyancing documents to give them effect against third parties. Section 15 provides that failure to register renders such instruments

inadmissible for proving title, although courts have admitted them for collateral purposes such as proving the existence of a transaction or the authority of an agent. For instance, in **Okoye v. Dumez (1985) 1 NWLR (Pt. 4) 783**, the Supreme Court allowed an unregistered instrument to be admitted to show a transaction occurred, while in **Ogunbambi v. Abowab (1951) 13 WACA 222**, it was held that an unregistered instrument cannot prove title but may evidence possession or payment.

iv. The Turning Point: Benjamin v. Kalio

The strict stance on admissibility was revisited in **Benjamin v. Kalio (2018) All FWLR (Pt. 920) 1**. The Supreme Court considered whether Section 20 of the Rivers State Land Instruments Law, which barred admissibility of unregistered registrable instruments, was constitutional. The Court, per Eko JSC, held that since “evidence” is on the **Exclusive Legislative List** under the 1999 Constitution, only the National Assembly can legislate on admissibility. Accordingly, any state provision excluding unregistered instruments from evidence was unconstitutional. This landmark ruling effectively allowed such documents to be admitted under the **Evidence Act**, even if not registered, thereby reshaping Nigerian property jurisprudence.

The ruling had far-reaching consequences: while it relieved parties struggling with bureaucratic delays in registration, it risked discouraging registration altogether since courts could admit unregistered instruments. Critics argued this undermined land administration and security of title.

v. Return to Orthodoxy: Abdullahi v. Adetutu

The Supreme Court soon clarified the scope of Benjamin v. Kalio in **Abdullahi v. Adetutu (2020) 3 NWLR (Pt. 1711) 338**. The Court stressed that admissibility of an unregistered registrable instrument depends on **purpose**. If tendered to prove title, it remains inadmissible under Section 15 of the LIRL. However, it may be admitted

to show the fact of a transaction or the authority of a party. As Nweze JSC explained, an unregistered registrable document is “amorphous” and cannot establish title, but it may serve collateral evidential purposes. This decision restored balance by reaffirming the importance of registration while recognizing the contractual validity of unregistered instruments between parties.

The law on proof of land ownership in Nigeria reflects a delicate balance between documentary certainty and equitable recognition of transactions. Deeds of assignment and powers of attorney remain key instruments, with registration under the Land Instruments Law securing enforceability against third parties. While **Benjamin v. Kalio** briefly opened the door to wider admissibility of unregistered instruments, **Abdullahi v. Adetutu** reasserted that only registered instruments can conclusively prove title. Thus, although unregistered documents may establish transactions or agency, indefeasible ownership in Nigerian law still rests on proper registration.

THE FUTURE OF PROPERTY OWNERSHIP IN NIGERIA: REFORMS, CHALLENGES, AND EMERGING TRENDS

The future of property ownership in Nigeria will be shaped by evolving laws, socio-economic realities, technological innovation, and the demand for equity and transparency in land administration. The **Land Use Act of 1978**, introduced as a reformist tool to curb uncontrolled land tenure and speculation, has over time revealed structural deficiencies requiring urgent review.

I. Challenges in the Current Framework

One of the greatest weaknesses of the Land Use Act is the **concentration of authority in state Governors** (or the Minister in the Federal Capital Territory). While intended to ensure orderly allocation of land, this centralized control has

created delays, excessive bureaucracy, and opportunities for corruption. The requirement for Governor's consent and Certificates of Occupancy has made land transactions cumbersome, costly, and time-consuming, sometimes stretching into years. This discourages both citizens and investors and stifles efficiency in land markets.

Another significant challenge is **poor land administration**. In most states, registries remain manual, with outdated record-keeping systems that encourage duplication of titles, loss of documents, and fraudulent claims. Even in jurisdictions where digital initiatives like **AGIS** (Abuja Geographic Information Systems) have been introduced, human interference, inefficiencies, and lapses undermine their effectiveness. Nigeria's land management future therefore depends on nationwide digitization, harmonisation, and transparent record systems.

II. Gender and Equity Issues

Property ownership in Nigeria continues to face the challenge of **gender discrimination**. Although courts have consistently affirmed women's rights to own and inherit land, customary practices often deny widows inheritance, exclude daughters, or subject women's rights to male approval. Such practices violate constitutional guarantees and perpetuate cycles of poverty. Thus, reforms must not only amend laws but also **educate communities** and dismantle discriminatory norms to make ownership inclusive.

III. Foreign Ownership Concerns

While non-citizens are restricted from owning land outright, the increasing use of **corporate structures** by foreigners to acquire property raises concerns about equitable access for Nigerians. Striking a balance between attracting foreign

investment and protecting national interest may require zoning restrictions, ownership quotas, or conditions tied to development goals.

IV. Expanding Scope of Property

Property ownership is no longer limited to land and physical assets. **Intellectual property, digital assets, carbon credits, and mineral rights** are emerging as valuable resources. Nigerian law must evolve to secure and regulate these non-traditional assets, ensuring that ownership frameworks remain relevant in a globalized economy.

V. Urbanisation, Housing, and Environmental Concerns

Rapid population growth and urbanisation are intensifying the **housing crisis**, pushing property values beyond the reach of many Nigerians. Informal settlements, lacking formal tenure, remain vulnerable to forced evictions. At the same time, **climate change** exposes properties in erosion- and flood-prone areas, highlighting the absence of environmental safeguards in current property laws.

International examples provide valuable lessons: Rwanda's land registration programme has enhanced clarity of title and boosted investment, while Kenya's constitutional reforms have strengthened women's property rights. Nigeria could adopt similar reforms to create a fairer and more transparent system.

VI. The Rise of Co-Living as a Housing Solution

“As Nigeria's urban population rises and affordable housing remains elusive, landlords and tenants are transforming family dwelling units into co-living spaces. This trend has led to breaches in building regulations, joint agreements for co-tenants, and increased service charges to reflect a higher occupancy rate, CHINEDUM UWAEBULAM reports.” The Guardian.

One of the most striking urban housing trends is the **growth of co-living arrangements**. With rents soaring, sometimes by over 100% in two years families and young professionals are increasingly converting traditional family homes into shared spaces. From Lagos to Abuja and Port Harcourt, large apartments are being partitioned into smaller rooms, with living rooms, balconies, and even garages converted into bedrooms.

For tenants, co-living is a survival strategy in an economy marked by inflation, shrinking wages, and inadequate affordable housing. For landlords, it is a way to **maximize rental income**. However, the trend has created challenges such as overcrowding, strained infrastructure, disputes over utilities, and breaches of tenancy agreements. In some cases, tenants have acted as “micro-landlords,” subletting properties without the knowledge or consent of owners.

This practice mirrors global co-living trends in cities like New York, Berlin, and Nairobi, but Nigeria’s version is largely **informal and unregulated**, often involving unsafe conversions and poor living conditions. Nonetheless, some landlords are beginning to **formalize co-living** by creating joint tenancy agreements, adjusting service charges, or renovating spaces for shared use.

As Nigeria’s housing demand continues to outpace supply, experts agreed that the government must act urgently by encouraging affordable housing development through public-private partnerships and providing rent-to-own schemes for young professionals.

Experts like urban planner, Mr. Ayo Adeniran warn of safety and infrastructure risks if the trend remains unregulated. *“Land is inelastic, and cities are organic in nature. They will grow whether we plan for them or not. The responsibility lies with the government to anticipate growth and provide adequate infrastructure. Housing must*

be seen not just in physical terms but also from its social and economic dimensions. Cities must be resilient and function as productive economic engines of the nation,” Adeniran stressed. Planners and housing professionals argue that **urban renewal policies** should integrate co-living into formal housing solutions. For instance, incorporating condominiums, low-income housing, and rent-to-own schemes could reduce dependence on improvised shared housing while maintaining affordability.

VII. Government Intervention: The MOFI Real Estate Investment Fund

In response to Nigeria’s growing housing crisis and the estimated 22-million-unit deficit, the Federal Government recently introduced a major policy initiative designed to expand access to affordable housing. In November 2024, the government approved a **₦250 billion Real Estate Investment Fund** under the Ministry of Finance Incorporated (MOFI), with a long-term plan to inject up to **₦1 trillion into the mortgage sector**. Of this amount, **₦150 billion has already been secured from government resources**, while an additional **₦100 billion is expected from private sector participation**.

The fund is structured to provide low-cost, long-term mortgages to Nigerians, significantly reducing the financial barriers to homeownership. Unlike prevailing commercial mortgage rates that often exceed 30%, the MOFI Fund aims to offer loans at **single-digit or low double-digit interest rates around 11–12% with repayment periods of up to 20 years or more**. Such terms represent a critical step toward making mortgages affordable and accessible to middle- and low-income earners.

Equally important is the program’s inclusion of **off-take guarantees for approved developers**, a mechanism intended to boost investor confidence, de-risk private sector involvement, and stimulate housing supply. By guaranteeing the purchase of

housing units from developers, the scheme ensures liquidity in the housing market, reducing risks of unsold stock and encouraging further investment in estate and mass housing development.

If effectively implemented, this initiative could be a **game-changer in Nigeria's real estate sector**, tackling the housing deficit while simultaneously driving job creation, stimulating private capital inflow, and fostering long-term economic growth. However, its success will depend on transparent administration, efficient allocation of funds, and careful monitoring to ensure that the benefits reach ordinary Nigerians rather than being captured by elites or speculative developers.

VIII. Proposed Reforms for the Future of Property Ownership

For Nigeria to have a secure, transparent, and equitable property ownership regime, a series of targeted reforms is required.

- A. **Amend the Land Use Act** to reduce bureaucratic bottlenecks and decentralize authority.
- B. **Digitize and harmonize land registries** nationwide to ensure transparency, reduce fraud, and to harmonize land records across states and the FCT, ensuring transparency and ease of verification. Digital platforms can help eliminate duplication, protect records from tampering, and enable faster verification of ownership.
- C. **Strengthen women's property rights** through legal reforms, awareness campaigns, and enforcement of judicial pronouncements. This includes ensuring that cultural and customary laws are harmonized with constitutional provisions guaranteeing gender equality.
- D. **Balance foreign ownership** with policies that protect citizens' access to land.

- E. **Expand legal frameworks** to cover emerging assets such as digital property and environmental rights.
- F. **Address housing shortages** through public-private partnerships, affordable housing schemes, and urban renewal policies.
- G. **Regulate and formalize co-living spaces** to ensure safety, improve planning, and create affordable urban housing options.
- H. Housing policy reforms must encourage affordable housing development, including public-private partnerships, revised building regulations to support high-density urban housing, and tenure security for residents of informal settlements.
- I. **Incorporate environmental safeguards** into all property laws and regulations, including environmental impact assessments before granting development rights in ecologically sensitive areas with stricter oversight and zoning restrictions in areas vulnerable to climate change impacts.
 - a. **Promote public legal awareness campaigns** to educate citizens on their rights, available legal remedies, and proper procedures for acquiring and protecting property.

CONCLUSION

The ownership of land and property in Nigeria is deeply rooted in the country's history, shaped by Indigenous customs, colonial legacies, and post-independence legal reforms. From the communal systems of pre-colonial societies, through the statutory frameworks introduced under colonial rule, to the sweeping changes brought by the Land Use Act of 1978, the story of property ownership in Nigeria reflects a constant negotiation between tradition, law, and socio-economic realities.

While the Land Use Act was a bold attempt to create order, equity, and economic accessibility in land administration, its rigid structure, centralized control, and slow bureaucratic processes have created new challenges. Cultural biases continue to undermine the constitutional guarantee of equality before the law. Similarly, the interplay between urbanization, environmental risks, and the affordability crisis has made property ownership a more complex and urgent issue than ever before.

In the face of these challenges, reform is not optional, it is essential. A forward-looking property ownership framework must be grounded in constitutional protections, supported by efficient administrative systems, and responsive to modern realities such as gender equality, technological advancement, foreign investment, environmental sustainability, and affordable housing needs.

The future of property ownership in Nigeria should be one where every citizen, regardless of gender, ethnicity, religion, or economic status can aspire to and achieve secure tenure over property. It should be a system where transparency replaces opacity, fairness replaces discrimination, and efficiency replaces bureaucratic delay.

Ultimately, property is not just a personal asset; it is a pillar of national development, social stability, and individual dignity. Ensuring that the legal and institutional framework for property ownership serves these ends is not merely a legislative or administrative task, it is a national responsibility.