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THE STATUS OF CADASTRAL SURVEYS AND LAND
REGISTRATION SERVICES IN NIGERIA

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THE STATUS OF CADASTRAL SURVEYS AND LAND REGISTRATION SERVICES IN NIGERIA

by

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Introduction

Land is the mother of all development. In Nigeria today in spite of the phenomenal progress which has been made since independence, there is an ever increasing demand for industrial and commercial development, agricultural development, and improvement in living standards. Government and Statutory corporations agencies are for ever being pressed for active policies on agriculture, forestry, technology and housing etc., for each of these items of development, availability of land is an important pre-requisite. The need for accurate information about land cannot therefore be over-emphasized.

Nigeria is rather a vast country extending over an area of land of approximately 356,670 square miles. It consists of the old Federal Territory of Lagos now part of the Lagos State, and the following administrative units: Western State, Mid-Western State, East Central State, South Eastern State, and Rivers State forming the old Protectorate of Southern Nigeria, the North Central State, North Western State, North Eastern State, Benue Plateau State, Kano State, and Kwara State, forming the old Protectorate of Northern Nigeria. Each of these administrative States corresponds in many cases to different groups of tribes in the country, with diverse customary laws and traditions. There has been no study to the best of my knowledge of detailed land tenure types which may be found among each tribe in the country. Such a venture will be an expensive and time-consuming one to carry out. There have been studies however, of the customs in Yoruba land and in certain sections of the Iboland and the North. Therefore one can only say in general terms or broad outlines, what would appear to be the types of land tenure in the Country.

The notion of individual ownership of land is a foreign and imported one. Generally, land belongs to the community, village or family. It does not belong to an individual. All members of the community, village or family have an equal right to the land but in general, the Chief or Headman of the village, or the head of the family has responsibility for the land and is considered as the owner. He exercises control over the land and any member of the family wishing to make use of portions of the land for purposes of building or cultivation goes up to him for it. This family member cannot dispose of his interests in the land without the consent of the head of the family or the Chief of the community to which he belongs, and such consent must be granted before a disposition of an interest to strangers. On his death, the land reverts to his family. Elias in his Nigerian Land Law writes "My experience in Lagos leads to the conclusion that except where land has been bought by the present owner, there are few natives who are individual owners of land". The basic unit of land-holding is therefore the family. Land-holding by the village and the community is an extension of this unit. It is the family rather than the community or village which indeed exercises acts of land ownership.

Procedures for transactions in land vary from one section of the country to another and depend upon local laws and customs. In Northern Nigeria all land is governed by the Land Tenure Law Cap. 59 which declares all land to be "native lands" to be held and administered for the use and common benefit of the natives. "Natives" are defined as persons whose parents are members of any tribe or tribes indigenous to the North, and the descendants of such persons. Thus all land here is vested in the government and no right to the use of such lands by non-natives is valid without the authority of the arm of government responsible for land administration. Within this structure are recognized the customary title of the family, village or community, the statutory title granted by the arm of the government responsible for land administration. In the South, the position is not the same. Land remains strictly as family, village or community holdings and is vested in the Head of the family, village or community who exercises a right of control over land as a trustee and from whom permission to use portions of the land have to be obtained, by members of the family or strangers.

Land Registration Systems in Nigeria

Under the native law and custom, the grant of land and in general land transactions required that there should be witnesses to the occasion. This is then followed by ceremonies which in the absence of recording facilities serve as a mark by which the occasion would be remembered long after it might have taken place. As long as land transactions were few, such remembered history by the elders of the family, village or community might prove adequate for the preservation of the interests and rights on lands. Times, however, keep on changing, and we participate in the change too. The impact of foreign influence and socio-economic development on us results in varied and multifarious interests or rights in land. Land transactions then take place with such rapidity that it is not possible to remember them all. In addition, the elders who keep in their memories land transactions die on old age, and much of what has been stored in memory is then lost. It is therefore necessary that the Government of the country should take action to introduce systems of recording interests or rights in land in order to prevent a chaotic situation.

Two systems of registering interests in land have been operated in Nigeria; one which is of wider application is the Registration of Instruments. This is operated universally in all the twelve States of the Federation and it was also in operation in parts of the former Federal Territory of Lagos until 1964 when it was replaced by registration of title following the provisions for adjudication under the Registered Land Act 1964. The other system is the Registration of Title which is in operation in the former Federal Territory of Lagos.

The earliest attempt at keeping records of land transactions was made in 1863 by the enactment in that year of Ordinance No. 9 providing for the appointment of three Commissioners for the purpose of investigating into the titles by which all lands within the settlement of Lagos were held and of determining the rights and titles to such lands granting certificates of title to those with valid claims and rejecting invalid claims. The position of the Commissioners was first in 1865 and late in 1869 strengthened, by the enactment of two other Ordinances which respectively invested the Commission with powers and provided for the Officer administering the Government of Lagos to be Administrator charged with the duties of determining claims to lands within the settlement of Lagos and its territories. All grants were to be dated, numbered, and registered in the Secretary's office in Lagos upon payment of necessary fees.

Registration of Instruments

Background

Compulsory registration of instruments began in Nigeria in 1883 by the enactment in that year of the Ordinance No. 8 (as amended by No. 12 of 1883) entitled the Registration Ordinance 1883. This Ordinance was to provide for the Registration of Instruments affecting land on the Gold Coast from where the Colony of Lagos was then administered, and on the separation of establishment of Lagos as an independent Colony was made applicable to Lagos by another Ordinance No. 2 of 1894. The Lands Registry Proclamation No. 16 of 1900 was the first enactment to provide for registration of instruments in what was then known as the Protectorate of Southern Nigeria. Similar legislation namely Lands Registry Proclamation No. 10 of 1901 was then enacted to provide for registration of Instruments in the Protectorate of Northern Nigeria. The next phase of the establishment of registration of instrument was the enactment in 1907 of the Land Registration Ordinance. This had the effect of consolidating the legislation applying to the Colony of Lagos and the Southern Protectorate and uniting them under uniform Registration rules. The last and final phase was a further consolidation in 1915 under the Land Registration Ordinance No. 12 of that year, of existing legislations, to unite the Colony and the two Protectorates under uniform rules for the purposes of registration of instruments. This Ordinance together with amending Ordinances No. 29 of 1915, No. 12 of 1918 and No. 15 of 1920 which were consolidated with it formed the basis of the Law Registration Ordinance No. 36 of 1924 the provisions of which still apply almost throughout the Federation.

Features

The first important feature of the provisions for the Registration of Instruments is the establishment of a General Registry. The Registration Ordinance 1883 established a Registry Office in Lagos and vested the Governor with power to establish others elsewhere as and when considered necessary. Thus in the early part of the century, the offices of the Registrars of the Supreme Court at Asaba and old Calabar were constituted Registries of Instruments. When the Colony and the Protectorate of Southern Nigeria were united under uniform rules of Registration of Instruments in 1907, Registry offices were established in Lagos, Calabar, Warri, and such other places or place as the Governor might appoint. A Land Registry for the whole country was established under Section 3 (1) of the 1924 Ordinance (as amended by No. 15 of 1948) with an office at Lagos and offices at such other places in the Protectorate as the Governor might direct. There were thus main Land Registries at the offices of the Land Department at Lagos, Kaduna, as well as at Ibadan, Calabar and Warri. In later years more offices were established in the Regional Capitals like Enugu and Benin.

Early enactment made provisions for the keeping of Record Books, otherwise known as registers by the Registries of all registered instruments and the certificates place thereon. The Registrar was to record serially and alphabetically the instruments and certificates as regards the names of parties to instruments other than wills. He was empowered to issue certificates in all approved registration, such certificates being conclusive proof of the particulars of such registration.

All enactments defined the objects of registration namely instrument, crown-grant etc. "Instrument" was defined as document affecting land in Nigeria whereby one party herein called the grantor confers, transfers, limits, charges or extinguished in favour of another party (herein after called the grantee) any right or title to interest in land in Nigeria and includes a certificate of purchase and a power of attorney under which any instrument may be executed, but does not include a will.

Crown-grant includes a certificate of occupancy under the Land and Native Rights Ordinance, and a mining lease, mining right, water right, or exclusive prospecting licence granted under the Minerals Ordinance, and a timber licence granted under the Forestry Ordinance and every other grant, conveyance, lease or mortgage by or on behalf of Government.

All instruments executed after 1st January, 1925, the commencement of the Ordinance No. 36 of 1924 and all those executed before that date but which were not yet registered must be registered.

The enactment also provides for the conditions which must be met before instruments are registered. For instruments which are intended for registration by grantors, one or more of whom is illiterate, execution must be witnessed and duly attested by a Magistrate. All instruments executed outside Nigeria but within a British Dominion or Protectorate must be duly certified or attested by a Judge, Police Magistrate, etc. In addition, apart from a power of attorney, all instruments intended for registration must contain a "proper description" of the land affected and have attached to them a plan signed by a licensed Surveyor. In the case of instruments involving crown-grant, the plan, if executed after 1st June, 1918, must be signed by a licensed Surveyor and countersigned by the Surveyor-General.

Procedure

The procedure for the registration of instruments is that the original document having been stamped in accordance with the provisions of the Stamp Duties Act is presented to the Registrar of the Land Registry of the State in which the land is situated together with a properly stamped duplicate. The prescribed fees are then paid. The Registrar then examines the instrument and verifies that it contains a proper description of the land and satisfies himself that it also has been properly executed. He then compares the original document and its duplicate and if satisfied with their propriety, proceeds to register the instrument by certifying that the copy is the true copy, and causing the certified true copy to be pasted or bound in one of the Registers while endorsing an appropriate Certificate of Registration on the original which will then be returned upon application to the person who submitted it for registration. Failure to apply for its return within twelve months after the date of registration may result in its destruction by the Registrar. The same fate will befall any properly rejected instrument not claimed within the same period.

Consequence of Registering Instruments

Instruments which are registered may be tendered in evidence. Failure to register renders an instrument void, inadmissible in evidence, and makes them lose priority as against registered instruments affecting the same land. The

Registers and other books and files kept at a Registry are regarded as being in legal custody and are receivable in evidence. These records are open to inspection by the public on payment of prescribed fees. They consist of an intelligent plan upon which the particulars of all survey plans attached to registered instruments are noted, a card index and filing room in which the duplicate copies of registered instruments are filled. It is therefore possible for a prospective purchaser or his lawyer to obtain information about every registered instrument affecting the land in which he is interested.

Criticisms of Registration of Instruments

There are very many disadvantages in the system of registration of instruments. The principal disadvantage is that only documents are being registered, notwithstanding that the instrument may be defective. Thus registration of instruments allows defective instruments to be registered. Registrars do accept documents for registration even though they are obviously inconsistent with previously registered documents. The important thing is to register the documents and not to endorse them as to refer to such inconsistency.

A second disadvantage of the system is the administration of the system by the Registries themselves. No arrangement is made to relate the instrument to plots. There is therefore the problem of having many documents to affect the same plots of land without linking these documents together.

Another criticism of the system of registering instruments is that it lends itself readily to fraudulent practice. As had been stated earlier, it is the practice of Registrars to register all documents notwithstanding defects which raise doubts as to their validity. A Registrar has no power to refuse registration on the ground of such defects or inconsistency. There is nothing to stop a fraudulent land agent, from registering false documents which thereby give the impression that they have been given official recognition of being genuine.

The last but not the least disadvantage of the system concerns the provisions that the Registrar shall upon request and payment of the prescribed fee give a certified copy of any filed document and that every such certified copy shall be admissible in evidence without any further proof. This provision has been grossly abused by fraudulent operators who having obtained certified copies of their registered documents have found it possible to deal either on sale or mortgage with their interests several times over by the deposits of such copies.

Registration of Titles

Background

The system of registration of title to land was first introduced in Lagos in 1935 by the enactment in that year of the Registration of Titles Ordinance No. 13. The inadequacies of registration of instrument had been well known. On the other hand, registration of titles was already in operation in other countries and it was seen that it had a cure for the shortcomings of the system of the registration of instruments. The Lagos Act was modelled on the Tanganyikan Land Registration Ordinance No. 15 of 1923, which was a condensed form of Torrens system of registration. This Act and all subsequent amending Acts have never

been applied to any land in the former Federal Territory of Lagos notwithstanding that there is provision for it to be applied by the Orders of the Governors of the Eastern and Western Regions to such of the areas within their jurisdiction as they might consider fit and for the establishment of Land Registries. In fact, in Lagos, the Act operated by successive Orders in just a few areas while in the others, the Registered Land Act 1924 was in force.

Features of the 1935 Act

- (a) The Register is divided into three parts-namely - Property Register, the Proprietorship Register and the Charges Register, and is kept on a loose leaf system following the pattern of the Land Register in London;
- (b) The administration and procedure of the Registry were modelled on Her Majesty's Land Registry in London. Similar land and charge certificates and forms to those employed in the London Registry were in use;
- (c) In areas subject to compulsory registration, registration would take place only when a dealing involving a sale or lease took place. Voluntary registration was permitted in areas declared subject to compulsory registration and not in any other part of the territory;
- (d) Excluding first registration, all States grants and leases were to be registered by the Chief Federal Lands Officer. In the case of first registration all land dealings involving family land or subject to native law and custom were not admissible for registration. Thus, only interests which were free from the incidents of family land were allowed for registration;
- (e) Transfers of registered interest were carried out using transfer deeds. A purchaser of a registered interest with the consent of the owner of the interest could search the Land Registry records, and could only acquire registered interest subject to all interests protected in the Register by means of certain legal restrictions;
- (f) The records in the Land Register apart from the Register included a general map showing the extent of registered land, index of the names of all registered owners showing the registered numbers of their titles and an index pending applications for first registration;
- (g) The procedure for registration required the Registrar to advertise the registration application in the Official Gazette and if considered appropriate in the National Press. The Registrar was also to serve notice of the application on each owner and occupier of the adjoining land. If there were no objections the Registrar would register the land, the subject of the application.

Criticisms of the 1935 Act

The first and most disturbing shortcoming of the Act is the little progress which has been made towards producing a complete register of titles to land in

the Federal Territory. P.G. Willoughby in his article on "Land Registration in Nigeria, Past, Present and Future", stated as follows:

"In a city where the population is estimated at 675,000 there are only approximately 10,000 titles on the Register after 30 years of operation of a system of registration of titles. Although the average annual rate of first registration (including both freehold and leasehold registration) for the last ten years has increased from a little under 300 to just 1,000 it is evident that it would take very many years to complete a register."

The reasons for this unsatisfactory progress are obvious. All family land or land subject to native laws and customs are virtually excluded from the Register since the Act does not allow the first registration of such lands unless with the consent of the family representatives. In fact in cases where a family land has been purchased according to native laws and customs thus rendering it free from incidents of family ownership, there is still likely to be a host of strong objections which may require to be settled by the Registrar and if necessary, by the High Court or the Supreme Court. This is a time consuming affair. Another reason is the process whereby the Act has been applied to different areas by successive Orders of the Minister responsible for land. This has meant that in the areas not covered by the Act, the Land Registration Act 1924 which is essentially a provision for the system of registration of instruments is in operation. Thus, two systems were in operation at the same time.

A second and no less important criticism of the 1935 Act is that the Act would not appear to guarantee title to the owner. The principle behind registration of titles is that the State investigates the title to any land once and for all times and registers the interests of the owner. It should then be possible for dealing in such land to take place without further investigation similar to that carried out by the State, and for a transfer to be affected by completing a simple document which is to be forwarded to the Land Registry with an application for a change of ownership. The provisions of the Act dealing with the "Estate conferred by Registration" guarantee titles as far as date of registration is concerned but not title prior to the date of registration. Thus there is no guarantee for absolute title as under the Land Registration Act of 1925 in England.

The Registered Land Act 1964

The next stage in the development of the registration of land in Nigeria is the enactment in 1964 of the Registered Land Act 1964 No. III. The shortcomings of the 1935 Act have already been discussed. The Registered Land Act 1964, No. III was set out to remove the anomalies in the earlier Act. Thus the intention of the Act was to provide for:

- (a) A system of compulsory registration, under which all titles and other interests in land must be recorded on a land register;
- (b) The systematic adjudication of all titles and other interests in land in the Federal Territory, and the entry on the land register of the results of such adjudication; and
- (c) Means whereby dealing with registered interest (including transmissions upon death or bankruptcy) may be transacted and recorded with facility.

The 1964 Act was repealed by the Land Registration Act No. IV of 1965. The 1965 Act contains few changes and in general embodies all the provisions of the 1964 Act. Since these Acts have the same intention and cover essentially the same grounds, it will be appropriate to consider now the 1965 Act which is the latest legislation to be operated in the Federal Territory.

The Land Registration Act 1965

There are in all 167 sections divided into thirteen Parts and one Schedule listing the enactment affected by the Act. The essential features of this Act are in many respects similar to those of the system operated under the 1933 Act. Thus Part II of the Act provides:

- (a) For a register which will be divided into three parts: the Property Section, the Proprietorship Section and Encumbrance Section;
- (b) A map to be known as the Land Registry Map;
- (c) Parcel files containing the instruments which support subsisting entries in the register and any filed plans and documents;
- (d) A book in the prescribed form to be known as the presentation book in which shall be recorded all applications numbered consecutively in the order in which they are presented to the Land Registry;
- (e) A record to be known as the mutation record;
- (f) A nominal index recording in alphabetical order the names of all registered proprietors of land, leases and charges of any such description with such information as to the parcels affected;
- (g) A register of power of attorney.

The Act provides for that all interests must be normally entered on the register to be effectively protected. The interest of absolute owners where the term is not less than 5 years must be recorded. Mortgages referred to as charges are recorded in the Encumbrance Section as also are easement restriction, covenant, profit à prendre and release thereof. In principle all registered land is subject to "overriding interest". Consequently, "overriding" interests are not required to be registered. "Overriding interest" here being defined as:

- (a) Rights of way, water or easement or profit à prendre subsisting at the time of first registration;
- (b) Rights of entry search and user;
- (c) Leases or agreement for leases for any term less than 5 years where there is actual occupation under the lease or agreement;
- (d) Any tax or rate for the time being declared by the law to be a charge on land or buildings thereon;
- (e) Rights acquired or in process of being acquired by virtue of any enactment relating to the limitation of actions or by prescriptions;

- (f) Rights of every person in possession or actual occupation of the land to which he may be entitled in the right of such possession or occupation save where enquiry is made of such person and the rights are not disclosed.

Part IX of the Act makes provision for persons claiming a right or interest in or to have presented a petition against a proprietor of any registered land-lease or charge to, if the right is one not immediately capable of registration lodge a Caveat in the prescribed form with the Registrar. This has the same effect as of a Caution under the 1935 Act, namely that no dealing with the registered interest may take place without notice being first given to the cautioner.

Apart from these similarities, there are certain other features in the 1965 Act which distinguish it from the earlier Act. These concern provisions in the Act for:

- (i) Adjudication
- (ii) Security of tenure
- (iii) Compulsory registration
- (iv) Dealings in registered land.

1. Adjudication

The Act provides for a systematic and compulsory adjudication of all interests in land in the former Federal Territory. Part I of the Act empowers the Minister responsible for lands to declare the whole of the Federal Territory or parts thereof of an adjudication area for the purpose of registration of titles. The Adjudication Officer who shall be an officer of the High Court is invested with powers of a Judge of the High Court and will exercise control over all adjudications. He is empowered to enquire into and adjudicate upon claims to land and interests or rights in land within the adjudication area for which he is appointed. To assist him in this task there is the provision for the appointment of Demarcation Officer who will normally be a surveyor as defined under the Survey Act, and Registration Officers.

The Demarcation Officer is charged with the duties of:

- (a) Seeing that the boundaries of each separate parcel of privately owned land and of public roads, right of ways & water, and of grave-yards (if not already demarcated by a physical feature) are properly demarcated or indicated;
- (b) To submit to the Adjudication Officer, boundary disputes which he is unable to resolve;
- (c) To demarcate the boundaries of all waste and unoccupied land.
- (d) To prepare in respect of every adjudication section a plan (in the Act referred to "adjudication Plan") showing thereon every parcel of land however, owned, and marked so as to identify the parcel by means of distinguishing number of each parcel;

- (e) To show on the demarcation plan by means of a distinct colour or otherwise however every parcel the title to which is registered under the Registration of Titles Act.

To enable him to carry out these duties effectively, he is invested with powers:

- (a) To re-align the boundary and where necessary to adjust the rights;
- (b) To demarcate any right of way for public access;
- (c) With the agreement of owners to group together in one or more parcels separate areas of land owned by such owner if grouping does not affect adversely the parcel of other persons.

The Registration Officer is charged with the responsibility of examining the deeds and instruments registered under the Land Registration Act 1924 affecting land in an adjudication area and compile lists of all those persons who appear to him to have interests in unregistered land, and the nature of the rights or interests to which any claims relate. If he is unable to resolve any dispute, such disputes are to be referred to the Adjudication Officer for settlement.

The powers conferred upon adjudication officers include those of entering upon land for the purposes of ascertaining the owners of rights in the land and the holding of public enquiries at which interested persons may attend or be represented by duly authorized agents. Adjudication officers for the purpose of such enquiries are empowered to administer oaths and issue summonses notices or orders requiring the attendance of persons or the production of documents. Failure by a person interested to attend a hearing does not prevent the adjudication from continuing the proceedings and reaching a decision in his absence. Provision is made for stay of actions in respect of titles to lands pending the completion of adjudication record and for actions already in court to be transferred to an Adjudication Officer for settlement. There is also the provision for the Adjudication Officer to allow a claim of title to land on the basis of adverse possession or prescription. In this case he will have to be guided by the provision in the Part X of the Act of the principle of acquiring ownership of land by peaceable overt and uninterrupted adverse procession against the State after a period of 20 years and in any other case after a period of 12 years.

The Act provides for the completion of a list of the titles registered under the Registration of Titles Act of 1935 which will eventually be transferred to the register to be maintained under the new Act. This is because existing registered titles are not likely to create difficulties as they would have been thoroughly tested under the 1935 Act.

Finally the Act provides for the registration of interests in family land which had hitherto been precluded from registration. This is done by either registering the members of the family as tenants in common or by the registration of not more than 20 properly elected family representatives who will possess all the powers of disposition of a full owner. This however would not absolve any such representative who is bound to act in the collective interest of the

family from consulting the other members before dealing with family land. A purchaser acting in good faith and for valuable consideration is adequately protected since it is provided that he shall not be concerned to inquire whether the family representative has consulted with the family before the sale of land to him was made. This is a welcome improvement upon the provision of the previous Act as the purchase of family land is now encouraged for development since there is now no fear that dispositions by members of a family are liable to be declared invalid in the future and the benefit of any developments made lost.

2. Security of Tenure

Part III of the Act shows that the registration of any person as the proprietor of any land shall not confer any right to minerals or mineral oils therein or thereunder but otherwise it vests in the person so registered the absolute ownership of that land together with all rights and proprietorships belonging thereto. The new Act ensures the removal of the fault in the 1935 Act which did not guarantee the title of first registered proprietor but only the subsequent dealings with a registered interest. The Act provides that "the right of a proprietor whether acquired in first registration or subsequently for valuable consideration or by an order of a High Court or any superior Court shall be right not liable to be defeated except as provided in this Act, and such rights shall be held by the proprietor together with all privileges and opportunities belonging thereto, free from all other interests and claims whatever including those of the State." Thus the interest of a registered proprietor is secured once and for all.

3. Compulsory Registration

Another important fulfilment of the new Act is that all interests except overriding interests as outlined in Section 41(1) of the Act are subject to compulsory registration. This has the effect that registration of interests is not limited to those in areas declared to be compulsory registration areas. There is no room for voluntary registration, for Part V of the Act empowers the Registrar if he is satisfied that an instrument in registrable form is in existence but the person in whose control it is has wilfully failed to register it, to require by notice in writing such person to present the instrument for registration under the Act. There is also the provision that if any person who, one month after the date of service upon him of the notice fails to comply therewith, shall be guilty of an offence and liable on summary conviction to a fine of twenty pounds.

4. Dealings in Registered Land

Part V of the Act covers all land dealings which come under the term "Dispositions". There are in all in this Part, seven divisions devoted in addition to a general division, to:

- (i) Lease
- (ii) Charges
- (iii) Transfer
- (iv) Easement
- (v) Restriction Covenant and Profits à prendre
- (vi) Proprietorship and partitioning
- (vii) Testamentary dispositions.

It is not my intention to discuss these in details but merely to direct attention briefly to the distinguishing features of some of the sections of the Act providing for these.

Lease

The Act makes provision that lease for a term of five years or more should be presented in a purchase form which has been kept as simple and as brief as possible by providing for implied covenant. Thus the drafting of lease becomes more simplified. For leases of a term less than five years, the Act provides that implied agreement shall take effect as overriding interests and are not to be registered unless required by the Registrar.

Charges

The Act provides for the form and effect of charges to enable a proprietor of any land, lease or charge under the Act to secure a debt or other money or moneys worth or to secure the fulfilment of a condition. Second or subsequent charges may be created in the same manner as the first charge but a transaction under any power expressed or implied in any such charge must be subject to all prior subsisting charges. The Act provides for the registration of the charge created by companies on condition that these have been registered under the Companies Act 1922. There are provisions to facilitate agreement implied in charges, variation of charges and right of redemption.

Transfers

The mode of transfer by a proprietor of his land, lease or charge is by an instrument in the prescribed form. Transfer is then completed by the registration of the transfer as proprietor and by filing the instrument in the Land Registry. The length of transfer document has been considered reduced by the use of implied covenant.

Application of Registration of Title to Land in Urban Areas and Eventually to the whole of Nigeria

In spite of the enactment in 1965 of the Registered Land Act 1965 for the purpose of the registration of title to land in the Federal Territory of Lagos, it has not been possible to put into full effect the provisions of the Act. The situation in the country between January 1966 and the early part of 1970 has not favoured the arrangements of adjudication. There is no doubt however, that the 1965 Act if put into operation and enforced will go a long way to ensuring a reliable and up-to-date and simple registration of interest in land in Lagos.

In 1959, a Committee was appointed to look into the problem of introducing a system of Registration of titles in the then Western Nigeria. Similar interests in the arrangement for system of registration of title was shown by the old Eastern Nigeria in certain urban areas along the lines provided for in the 1965 Act in respect of Lagos. No action has been taken to consider the need for registration of titles in the North where land tenure problems are different from those in the South.

At a glance, the problems of introducing any form of registration in the States appear to be more complex than those in Lagos. The States cover a wide extent of land and adjudication of titles in each State would take a very long time to accomplish. In addition the costs would be prohibitive. It seems therefore that the solution to the problem is that whatever system is adopted it should start on a small scale and confined to the urban areas or major cities of each State and later extend to the sub-urban areas until each State is well brought under the system.

Cadastral Survey Services

Role of the Survey Department

Reference has been made in the earlier section of this paper to the Land Registry maps. In the system of registration of instrument there is among the records to be found in the various Land Registries, an intelligence plan upon which the particulars of all survey plans attached to registered documents are noted. Under the system of registration of titles to land, there is also the provision for keeping and maintaining among the records to be kept in the Land Registries a map to be known as the Land Registry Map. The map should show the boundaries of parcels of registered land, Section 30(1) of the Registered Land Act 1965 provides that "the map shall be drawn to such scale as the Registrar may approve and comprise as many sheets as the Registrar thinks necessary". The basis of the Land Registry map is the maps produced by the Cadastral Survey Organization in the country in this regard for the use of the Land Registration. It is therefore pertinent to direct attention to the development of Cadastral Survey Services in the country.

Prior to regionalisation there was only one Survey Department in the country with branch offices in Lagos, Ibadan, Kaduna and Enugu. The responsibilities of the Department included the execution of geodetic, topographical and cadastral surveying throughout the country. Following regionalisation in 1951, the Survey Departments in Ibadan, Kaduna and Enugu became the Regional Survey Headquarters for the Western, Northern and Eastern Regions respectively, and they were then to provide essential cadastral survey services for the Regions in which they were situated. The Federal Survey Department was then charged with the responsibility of providing cadastral survey services for the Federal Territory of Lagos executing all geodetic and topographical survey in the country, and for the profession of surveying.

Cadastral Map Plans

Until the sixties the cadastral plans have been mainly of three scale series in the Regions, namely 1:1200, 1:2,400, 1:4,800 the last being compiled from either of the first two. In recent years, the basic scale has been changed to 1:1250 or 1:2,500 as appropriate; the 1:1250 being used for the major cities in the Region and the 1:2,500 or smaller scale for less important towns. In Lagos cadastral plans for the use of the Land Registry were at a scale of 1:1056 though there is provision for larger scale plans to be made namely 1:480, 1:240. For the outskirts of Lagos, smaller scale cadastral maps on the scale of 1:1200, 1:2400, and 1:4800 have been provided for.

At present in the area covering the former Federal Territory of Lagos, two map scales are being used for registration purposes. The old 88 ft. plans on mounted sheets and the 100 ft. sheet series which are on pagrafoil. The 88 ft. sheets are plans which were produced in the first half of the century, using conventional ground survey methods on a local origin and True North orientation. The more recent 100' sheets are produced on the national grid system using relatively faster air survey techniques. These plans have been gainfully employed and have made much easier the processes of searching in the Lagos Land Registry. They show all the planimetric details of the area which they cover and make it possible for charting thereon of survey plans, the subject of application under the Land Registration Act and other similar Acts.

With the enactment in 1965 of the Registered Land Act, Federal Surveys began the production of 1:80 plan series which were to be used as the basis of the Land Registry Map under the provisions of the Act. This series was to cover the former Federal Territory of Lagos in order to simplify the work of the Registration Officer, and upon which, it was the intention to show the boundaries of each parcel of registered land and such other information as the Registrar might require or direct. As soon as the provisions of the Act are put into effect, it is hoped that these series will start to be used.

Apart from the need of cadastral survey services for the purpose of registration of interests in land, there is the growing consciousness of the importance of cadastral surveys to the solution of problems connected with the collection of data for the planning at all levels of socio-economic development. At present, there are large scale cadastral plans covering a good number of the major cities and towns of Nigeria and efforts are still being geared to extend this coverage to other towns and villages. Each State Survey Department is aware of its responsibility to its State in this regard. With the creation of 12 States from the former 4 Regions, the status of Cadastral Survey services has been considerably raised as there are now 12 Survey Organizations which cater for cadastral survey services in the Federation.

References

1. Nigerian Land Law and Custom Dr. T.O. Elias
2. Land Registration in Nigeria Past, Present and Future P.C. Willoughby in the Nigerian Law Journal, Vol. I No. 2 December 1965.
3. Nigerian Law of Landlord & Tenants M. Gbunnene Onwuamnegbu
4. Modern Family Law in Southern Nigeria S.N. Chinwuba Obi
5. Family Property among the Yorubas G.B.A. Coker
6. The Canadian Surveyor Vol. XXIII, March, 1969, No. 1 Canadian Institute of Surveying, Canada
7. The Canadian Surveyor Vol. XXIII June, 1969, No. 2 Canadian Institute of Surveying, Canada
8. Lands Registration Act, Chap. 99
9. Registration of Titles, Chap. 181
10. Land Registration Act, 1924