



## Due diligence and title verification in Nigeria land transactions: Legal principles and practical guidance

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### Abstract

Land transactions in Nigeria are shaped by a dual tenure system, statutory and customary, that often creates complexity in ownership and transfer. Secure acquisition requires navigating statutory instruments such as the Land Use Act, state-specific land laws, and judicial precedents, alongside customary practices that govern communal land sales. Despite the existence of legal safeguards, many land transactions in Nigeria remain vulnerable to defective titles, fraudulent dealings, and protracted litigation. The lack of adequate due diligence and title verification continues to expose stakeholders, law students, legal practitioners, property developers, and prospective landowners to significant risks. This article seeks to provide a comprehensive and practice-oriented analysis of land transactions in Nigeria, with a particular focus on due diligence and title verification. It aims to bridge the gap between doctrinal property law and practical application, thereby equipping stakeholders with the tools to ensure secure and legally sound land acquisition. The study adopts a doctrinal and practice-based approach. It draws on statutory instruments, judicial precedents, and state-specific land laws, while integrating practical checklists, survey verification techniques, litigation checks, and retrospective consent procedures. By combining legal analysis with procedural safeguards, the work offers a structured framework for evaluating land transactions. The study finds that effective due diligence, covering survey verification, government acquisition checks, litigation history, and communal land sales, is critical to mitigating risks in land transactions. It concludes that legal literacy, procedural compliance, and contextual awareness are indispensable for stakeholders. The article recommends strengthening institutional transparency, harmonising statutory and customary practices, and promoting accountability in land governance. Ultimately, it contributes to the development of a more transparent, accountable, and legally sound framework for property transactions in Nigeria, serving both as reference material and a reformist tool.

**Keywords:** Customary and statutory land tenure, defective title risks, due diligence, land governance, title verification

### Introduction

Land occupies a central role in Nigeria's socio-economic development. It is the foundation of agriculture, housing, commerce, and industrial expansion. For many Nigerians, land ownership is not only a source of wealth but also a symbol of social status and ancestral legacy. Yet, despite its importance, land transactions are often fraught with legal uncertainty, disputes and fraud. <sup>[1]</sup> The prevalence of litigation over land ownership, coupled with the lack of centralised land records and the coexistence of statutory and customary tenure systems, makes land acquisition a legally complex venture. As such, the need for thorough due diligence and legal literacy in land transactions cannot be overstated.

Nigeria operates a dual system of land tenure, statutory and customary, each with distinct legal implications. Under the statutory tenure system, the Land Use Act, <sup>[2]</sup> vests all land in each state in the Governor, who holds it in trust for the people. Rights to land are granted through statutory or customary certificates of occupancy. All transfers of interest in land under this regime require the Governor's consent. <sup>[3]</sup>

Conversely, the customary tenure system is governed by indigenous norms and practices. Land is held communally or by families, and transactions are often oral. Valid sale of family or communal land requires the consent of the head of family and principal members, as affirmed in *Ngara v Otaji* <sup>[4]</sup> and *Awodi v. Ajagbe*. <sup>[5]</sup> While customary tenure is recognised under Nigerian law, it presents challenges in terms of proof, enforceability, and integration with statutory requirements.

This article interrogates the legal and practical dimensions of due diligence and title verification in Nigerian land transactions, drawing from statutory provisions, judicial authorities, and administrative practices. By bridging doctrinal land law with transactional realities, the study provides a structured and practice-oriented framework for securing valid title, mitigating risks, and promoting certainty in land acquisition. It ultimately advances the discourse on land governance by emphasising diligence, procedural compliance and institutional accountability as indispensable pillars of sustainable property transactions in Nigeria.

As the Supreme Court aptly noted in *Imana v. Robinson*, <sup>[6]</sup> "A purchaser cannot look at the bare ground or either a bare bush or a developed property and discover whether or not the vendor's title to it is defective." A recourse must be had to the title documents which the vendor possesses or in the case of native grants, the history of the founder of the land. This article is a response to that judicial wisdom, a guide to uncovering what lies beneath the surface of land transactions.

### Legal Framework Governing Land Transactions

#### a. The Land Use Act 1978

The legal foundation of land ownership and administration in Nigeria is the Land Use Act 1978, which radically transformed the country's land tenure system. The Act vests all land in each state (excluding land vested in the Federal Government or its agencies) in the Governor of the State, who holds it in trust for the benefit of all Nigerians. <sup>[7]</sup> This statutory vesting extinguished the concept of absolute

ownership and replaced it with rights of occupancy. Under the Act, individuals may acquire land through either a statutory right of occupancy, granted by the Governor, or a customary right of occupancy, granted by the Local Government.<sup>[8]</sup>

However, any transfer, assignment, mortgage, or sub-lease of land under a statutory right of occupancy requires the Governor's consent. A failure to obtain such consent renders the transaction null and void, regardless of the parties' intentions or good faith.<sup>[9]</sup> The Act also empowers the Governor to revoke rights of occupancy for overriding public interest.<sup>[10]</sup> While this power is broad, it is not absolute. Revocation must follow due process, and where applicable, compensation must be paid to the holder of the right. The courts have consistently held that arbitrary revocation without adherence to statutory safeguards is unlawful.<sup>[11]</sup>

### **b. State-Specific Land Laws**

Although the Land Use Act is a federal legislation, individual states have enacted complementary laws to regulate land registration, documentation, and administrative procedures. These state laws are crucial for the perfection of title and the formalisation of land transactions.

For example, Lagos State operates under the Land Registration Law, which governs the registration of title documents and the issuance of Governor's consent.<sup>[12]</sup> Lagos also implements a Retrospective Registration (Double Consent) policy, which allows purchasers to regularise past transfers that were made without proper consent.<sup>[13]</sup> This mechanism is particularly useful in curing historical defects in title and ensuring compliance with statutory requirements.

Other states, such as Rivers and the Federal Capital Territory (FCT), have their own land administration frameworks. These may include local registries, survey departments, and land allocation committees.<sup>[14]</sup> Purchasers must familiarise themselves with these state-specific procedures to avoid delays and legal complications.

### **c. Limitation Laws and Their Implications**

Limitation laws impose statutory time limits within which actions for recovery of land must be initiated. These laws are designed to promote legal certainty, prevent stale claims, and encourage diligent enforcement of rights. In Lagos State, the Limitation Law of Lagos State provides that actions for recovery of land must be brought within twelve (12) years for private individuals and twenty (20) years for actions initiated by the State<sup>[15]</sup>. In the Federal Capital Territory, the Limitation Act prescribes a twelve (12) year limitation period for recovery of land.<sup>[16]</sup>

Once the limitation period expires, the right to recover land is extinguished, even if the claimant has a valid cause of action. This principle has been affirmed by Nigerian courts, which have held that limitation statutes operate as a bar to both legal and equitable claims.<sup>[17]</sup> Purchasers must therefore investigate the history of the land to ensure that no adverse claims exist that may be revived within the limitation period.

The legal framework governing land transactions in Nigeria is a complex interplay of federal statutes, state laws, and customary practices. The Land Use Act remains the bedrock of land regulation, but state-specific laws and limitation

statutes play a critical role in shaping the rights and obligations of parties. A sound understanding of these legal instruments is essential for conducting due diligence, verifying title, and securing lawful ownership.

### **Title Investigation and Due Diligence**

Title investigation is the legal and factual process of verifying the vendor's claim to ownership of land and uncovering any defects, encumbrances, or competing interests that may affect the property. It is a critical step in land acquisition, as it determines whether the vendor has a valid and transferable interest in the land. The purchaser is expected to exercise due diligence by inspecting the land, reviewing documents, and making enquiries that would reveal any inconsistencies or adverse claims.

The Court of Appeal in *Njimogu v Okpe* emphasised that failure to provide credible evidence of title renders both parties in a land dispute without legal remedy.<sup>[18]</sup> In this case, a dispute arose over ownership of a parcel of land. Both the appellant and the respondent laid claim to the same property, each asserting that they had valid title. The appellant relied on documents and acts of possession to establish ownership, while the respondent also presented evidence of purchase and occupation.

At trial, the central issue was whether either party had provided credible and sufficient evidence to prove title to the land. The matter eventually reached the Court of Appeal, where the Justices carefully examined the evidence presented by both sides. The Court observed that neither party had produced convincing proof of ownership. In particular, the documents and testimonies relied upon were either inconsistent, unreliable, or failed to establish the identity of the land with certainty.

The Court of Appeal emphasised that in land disputes, the burden of proof lies squarely on the party asserting ownership. Where neither party is able to discharge this burden by presenting credible evidence of title, such as valid documents, clear acts of possession, or a properly authenticated survey plan, the court cannot grant relief to either side. In this case, the failure of both parties to prove their claims left them without a legal remedy, and the appeal was dismissed.

Similarly, the Supreme Court in *Imana v Robinson* held that defects in title are not easily discoverable by mere physical inspection, and that a purchaser must examine the title documents or trace the history of ownership.<sup>[19]</sup> In this case, a dispute arose when Robinson purchased a parcel of land and later discovered that the title he acquired was defective. He had relied solely on physical inspection of the property and the representations of the vendor, without conducting a thorough investigation into the title documents or tracing the history of ownership.

When the matter came before the courts, the central issue was whether Robinson could rely on his ignorance of the defects in title as a defence. The Supreme Court held that defects in title are not easily discoverable by mere physical inspection of land. A prudent purchaser must go beyond surface appearances by examining the title documents and tracing the chain of ownership to ensure that the vendor has a valid and transferable interest. The Court emphasised that the responsibility lies with the purchaser to conduct proper due diligence before acquiring land. Failure to do so exposes the buyer to the risk of losing the property if the title later proves defective. In this case, Robinson's reliance

on physical inspection alone was insufficient, and the Court ruled against him.

Under Nigerian law, a purchaser is deemed to have constructive notice of all facts that would have been discovered had proper investigation been conducted. This includes enquiries into possession, occupation, and any visible signs of third-party interest. If a purchaser sees tenants on the property or evidence of farming, they are expected to inquire into the nature of the occupier's rights. Failure to do so may result in the purchaser being bound by those rights. As Smith notes, "occupation of the premises by a person whose presence is inconsistent with the vendor's title places any purchaser on inquiry as to the occupier's rights".<sup>[20]</sup> This principle is rooted in equity and protects those in possession from being displaced by negligent purchasers.

Beyond documentary review, physical inspection of the property is essential. A purchaser who fails to inspect the land assumes the risk of all visible or patent defects. During inspection, boundary neighbours should be interviewed to confirm the legitimacy of the vendor's claim, the number of owners, and whether all necessary consents have been obtained. If the vendor is married, spousal consent may be required. If the vendor is deceased, the authority of the estate must be verified. Where the property belongs to a minor, legal emancipation must be established.

Environmental due diligence is equally important. If the land was previously used for industrial or commercial purposes, there may be latent contamination. Under the principle of successor liability, the purchaser may be held responsible for environmental damage caused by prior occupants. This liability can arise even where the purchaser had no direct involvement in the contamination.

A thorough investigation requires tracing the chain of title from the current vendor to the original founder or allottee. Most deeds of conveyance merely state that the vendor is the "absolute" or "beneficial" owner, without disclosing prior owners. This scanty recital is insufficient. The purchaser must examine historical transfers, confirm that there are no breaks in title, and ensure that all consents for past transactions were properly obtained.

Title investigation is not a mere procedural step; it is the legal backbone of any land transaction. A purchaser who fails to conduct proper due diligence exposes themselves to litigation, financial loss and invalidation of title. Nigerian case law and statutory provisions consistently affirm that the law protects the diligent, not the negligent. By inspecting the land, reviewing documents, tracing ownership history, and verifying consents, a purchaser can acquire land with confidence and legal certainty.

### **Registered vs. Unregistered Titles**

In Nigerian property law, the distinction between registered and unregistered titles is foundational to the process of verifying ownership and determining the legal strength of a purchaser's claim. A registered title refers to land whose ownership and interests have been formally recorded in the Land Registry, while an unregistered title typically involves customary land or land held under informal arrangements, often without documentation lodged with government authorities.

The legal consequences of this distinction are significant. Where title is registered, the purchaser benefits from a centralised record of ownership, encumbrances and prior

transfers. Conversely, where title is unregistered, the purchaser must rely on physical inspection, oral history, and customary practices to verify ownership.

#### **a. Investigation of Registered Title**

Registered titles simplify the process of investigation. A purchaser may conduct a search at the Land Registry to confirm the nature of the grant, the description of the property, the identity of the registered owner, and any existing encumbrances such as mortgages, pledges, or government acquisitions.<sup>[21]</sup> However, this convenience does not eliminate the need for caution.

Experience has shown that some registered titles are fraudulent or forged, often by land speculators or agents who manipulate documentation. In *Segun v Amah*, the Court of Appeal overturned a lower court decision that had affirmed the respondent's title, holding that the respondent failed to establish a valid claim despite having a registered interest.<sup>[22]</sup> This case underscores the principle that registration alone does not confer legitimacy; the underlying ownership must be valid and defensible.

To mitigate risk, purchasers must verify that the survey plan matches the physical boundaries of the land, confirm that the coordinates are accurate, and ensure that the land is not under government committed acquisition. It is advisable to engage a licensed surveyor who physically visits the site and conducts proper measurements. In some cases, a provisional survey may be lodged for charting before payment is made, allowing the purchaser to confirm the status of the land before committing financially.

#### **b. Investigation of Unregistered Title**

Where title is unregistered, the burden of investigation is heavier. The purchaser must trace the chain of ownership from the current vendor to the original founder or allottee. This may involve interviewing family heads, reviewing customary documents, and verifying oral history. The purchaser is bound by all legal interests, except where the interest is registrable as a land charge and has not been registered.<sup>[23]</sup> Additionally, the purchaser is bound by all equitable interests of which they have notice, unless the interest is overreachable and has been overreached.<sup>[24]</sup>

In *Owakah v Rivers State Housing and Property Development Authority*, the Supreme Court upheld the title of a bona fide purchaser for value without notice, despite allegations of fraud against the transferor.<sup>[25]</sup> The Court held that the purchaser had complied with all public conditions and had no notice of prior interests, thereby acquiring a superior title. This case illustrates the protective shield afforded to purchasers who act in good faith and conduct reasonable inquiry.

#### **c. Risks and Safeguards**

Whether dealing with registered or unregistered title, the purchaser must exercise vigilance. For registered titles, the risk lies in forged documentation, inaccurate surveys, and undisclosed encumbrances.<sup>[26]</sup> For unregistered titles, the danger is in defective customary transfers, lack of consent from family members, and hidden equitable interests.

To safeguard against these risks, the purchaser should conduct a search at the Land Registry for registered titles, engage a trusted surveyor to verify coordinates and boundaries, interview family heads and principal members for customary land, confirm that all consents including

(spousal, governmental, and corporate), have been properly obtained and investigate the physical state of the land, including signs of occupation, encroachment, or environmental contamination.

The distinction between registered and unregistered titles is not merely procedural; it is substantive. While registered titles offer convenience, they are not immune to fraud. Unregistered titles, though rooted in tradition, require rigorous enquiry. Nigerian law protects the diligent purchaser, not the passive one. Whether the title is registered or not, the purchaser must trace ownership, verify documentation, and ensure that the transaction is legally sound.

### **Communal and Family Land Transactions**

In Nigeria, a significant portion of land is held under customary tenure, particularly in rural and peri-urban areas. This system is rooted in indigenous traditions and recognises land as a communal or family asset, passed down through generations. [27] Unlike statutory land, which is governed by formal documentation and registration, communal land is regulated by customary law, which emphasises collective ownership, ancestral lineage, and the authority of family heads and principal members.

Purchasing communal or family land requires more than financial readiness; it demands cultural sensitivity, legal awareness, and procedural diligence. The failure to engage with the rightful custodians of such land can result in voidable transactions, litigation, and loss of investment. [28]

#### **a. Customary Law Requirements for Valid Sale**

Under customary law, land is held in trust by the head of the family or community leaders, who act on behalf of the collective. A valid sale of communal land must be authorised by the head and principal members of the family or community. The Supreme Court has consistently held that a sale conducted without the consent of these representatives is invalid and unenforceable. [29] The case of *Ekpendu v. Erika* is a landmark decision of the Supreme Court of Nigeria on the alienation of family land under customary law. The dispute arose when the appellant, Ekpendu, purchased a parcel of family land from an individual member of the family. The respondent, Erika the family head, challenged the validity of the sale, arguing that the transaction was conducted without the consent of the family head and principal members, which is a requirement under customary law.

At trial, the central issue was whether the sale of family land by a single member of the family, without the approval of the family head and principal members, could confer valid title on the purchaser. The Supreme Court held that such a transaction was voidable. The Court emphasised that family land is communal property, and its alienation must be sanctioned by the family head and principal members to protect the collective interest of the family. The Court further explained that while a purchaser may acquire possession through such a defective transaction, the family retains the right to challenge and set aside the sale. Thus, the purchaser's title is precarious and cannot withstand a challenge from the family. The case established the principle that a sale of family land by principal members without the family head's consent is void from the beginning, while a sale by the head without principal members' consent is voidable. Non-consenting members

must act quickly to challenge voidable sales as delay can lead to acquiescence, validating the sale.

In *Ngara v Otaji*, the claimants, descendants of Chief Worlu Ngara of Rebisi Community, successfully challenged the sale of their ancestral property at 90A Abba Street, Port Harcourt. The Court of Appeal affirmed the trial court's decision, holding that the respondent had purchased the land from a wrong source, without the consent of the rightful family representatives. [30] This case illustrates the importance of verifying the identity and authority of those purporting to sell communal land.

Similarly, in *Awodi v Ajagbe*, the Supreme Court emphasised that where all branches or gates of a family are not consulted in a land transaction, the sale is susceptible to challenge. [31] Purchasers must therefore ensure that all relevant family members, including those from collateral lines, are involved in the negotiation and execution of the sale.

#### **b. Due Diligence in Communal Land Transactions**

Due diligence in communal land transactions involves a multi-layered inquiry into the history, structure, and authority of the family or community. The purchaser must:

1. Interview the head and principal members of the family to confirm the founder of the land, the mode of acquisition, and the lineage of ownership.
2. Ascertain whether the vendor has the authority to sell, especially where the land is jointly owned or held in trust.
3. Verify whether the vendor is married, and if so, whether spousal consent is required under customary or statutory law.
4. Confirm whether the owners are alive, and if deceased, whether the estate has the legal capacity to sell.
5. Investigate whether the land is subject to long-term encroachments, rights of way, or easements that may affect the purchaser's enjoyment of the property.

These enquiries are not merely procedural; they are substantive. [32] They determine whether the transaction is legally valid and socially acceptable within the community.

#### **c. Risks of Purchasing Without Proper Consent**

Purchasing communal land without proper consent exposes the buyer to litigation, eviction, and reputational damage. The courts have held that such transactions are voidable at the instance of the rightful owners, who may seek to reclaim the land or challenge the purchaser's title. Moreover, customary land disputes often involve emotional and historical claims, making resolution complex and protracted. [33] The purchaser may find themselves entangled in family feuds, community resistance, and legal battles that could have been avoided through proper investigation.

Communal and family land transactions are governed by principles of collective ownership, ancestral authority, and customary consent. The law protects the rights of families and communities against unauthorized sales, and purchasers must tread carefully. By engaging with the rightful custodians, verifying lineage, and obtaining full consent, the purchaser can secure a valid title and avoid the pitfalls of defective transactions.

#### **Survey Plans and Government Acquisition**

In land transactions, the survey plan is a critical document that defines the physical boundaries, coordinates, and

location of the property. It serves as the spatial identity of the land and is essential for verifying ownership, conducting charting, and detecting encumbrances.<sup>[34]</sup> However, the mere possession of a survey plan does not guarantee the security of title. Purchasers must ensure that the survey is accurate, properly lodged, and free from government acquisition.

In Nigeria, particularly in urban areas like Lagos and Abuja, the risk of purchasing land under government compulsory acquisition is high. This occurs when land has been earmarked for public use, such as roads, schools or housing schemes, but is fraudulently sold to unsuspecting buyers. The consequences are severe: the purchaser may lose the land without compensation, regardless of good faith.

#### **a. The Role and Verification of Survey Plans**

A valid survey plan must be prepared by a licensed surveyor, who physically visits the site, takes measurements, and prepares a plan that reflects the true boundaries of the land.<sup>[35]</sup> Unfortunately, many survey plans in circulation are prepared by agents or unlicensed individuals who never visit the land, resulting in false coordinates and misrepresentation of location.<sup>[36]</sup>

To verify a survey plan, the purchaser must ensure the surveyor is licensed by the Surveyors Council of Nigeria (SURCON), confirm that the surveyor has physically inspected the land, cross-check the coordinates with the Ministry of Lands through a process known as charting and confirm that the land is not within a committed acquisition zone or government layout. In some cases, it is advisable to conduct a provisional survey and lodge it for charting before making any financial commitment. This allows the purchaser to determine the status of the land and avoid buying into government-acquired territory.

#### **b. Physical Inspection and Boundary Confirmation**

Beyond charting, the purchaser must conduct a physical inspection of the land to confirm that the survey plan matches the actual boundaries. This includes verifying the limits of the property, the adjacent properties and their ownership and whether the description in the survey plan aligns with the title deed.

Boundary disputes often arise when the survey plan is inconsistent with the physical layout of the land. Such discrepancies can lead to litigation, encroachment claims, and invalidation of title.<sup>[37]</sup> In *Dada v Dosunmu*,<sup>[38]</sup> the Court held that where a survey plan is inconsistent with the actual land, the claim will not succeed. The brief facts of this case are as follows: the dispute arose over ownership of a parcel of land in Lagos. The appellant, Dada, claimed title to the land and sought a declaration of ownership. To support his claim, he tendered a survey plan purporting to identify the land in dispute. The respondent, Dosunmu, contested the claim, arguing that the survey plan relied upon by the appellant did not correspond with the actual physical land in contention.

At trial, the central issue was whether the appellant had properly established the identity of the land he claimed. The matter eventually reached the Supreme Court, which emphasised the settled principle that in land disputes, the claimant must prove the identity of the land with certainty. A survey plan is often the key evidence for such identification, but it must align with the physical features and boundaries of the land. The Court found that the survey

plan tendered by Dada was inconsistent with the actual land in dispute. Because of this discrepancy, the appellant failed to discharge the burden of proof required to establish ownership. The Supreme Court therefore held that where a survey plan does not tally with the physical land, the claim cannot succeed, and the appellant's case was dismissed.

#### **c. Government Acquisition and Legal Implications.**

Land under government acquisition is land that has been formally designated for public use. Once acquired, the land vests in the government, and any private transaction involving such land is void. The Land Use Act empowers the Governor to revoke rights of occupancy for overriding public interest.<sup>[39]</sup> However, such revocation must follow due process and be accompanied by compensation where applicable.<sup>[40]</sup>

Purchasers must be wary of land speculators who sell land within government layouts or committed acquisition zones. Even where the land appears vacant and undeveloped, it may have been earmarked for future projects. The courts have held that ignorance of acquisition status is not a defence.<sup>[41]</sup> In the case of *Attorney-General of Lagos State v. Ajayi*, the dispute revolved around land ownership and the effect of government acquisition on private claims to land. The respondent, Ajayi, had purchased a parcel of land and sought to assert ownership rights over it. However, the land in question had already been compulsorily acquired by the Lagos State Government under statutory authority. Despite this acquisition, Ajayi continued to lay claim to the property, arguing that he was unaware of the government's acquisition status at the time of purchase.

The Attorney-General of Lagos State challenged Ajayi's claim, contending that once land has been validly acquired by the government, any subsequent transaction or purported transfer of title in respect of that land is null and void. The matter proceeded to the courts, where the central issue was whether ignorance of the acquisition status could serve as a defence for a purchaser who had acquired land already vested in the government.

The Supreme Court held that ignorance of the acquisition status is not a defence. The Court emphasised that prospective purchasers of land have a duty to conduct proper investigations, including charting and verification with the Surveyor-General's office, to determine whether the land is free from government acquisition or encumbrances. Since Ajayi failed to do so, his claim to ownership was invalidated. The Court reinforced the principle that once land is compulsorily acquired, it vests in the government, and any subsequent dealings with such land are legally ineffective. This case underscores the importance of due diligence in land transactions. Buyers must verify the acquisition status of land before purchase, as ignorance will not shield them from the legal consequences of acquiring government-owned property.

#### **d. Consent and Retrospective Registration**

Where the land has changed hands multiple times, the purchaser must verify whether consent was obtained for each transfer. This includes Governor's consent for statutory land, spousal consent where applicable and consent from co-owners or trustees in corporate or family transactions. In Lagos State, where prior consent was not obtained, the purchaser must seek retrospective registration, also known as double consent, to regularise the title.<sup>[42]</sup> This process

involves disclosing the history of past transfers, paying applicable fees, and obtaining formal approval from the Lands Registry.

Survey plans are indispensable in land transactions, but they must be verified with precision and care. Purchasers must engage licensed surveyors, conduct charting, inspect the land, and confirm that the property is not under government acquisition. Consent for past transfers must be substantiated, and where necessary, retrospective registration must be pursued. The law protects those who investigate, not those who assume. In the complex terrain of Nigerian land law, diligence is the key to security.

### **Litigation Checks and Court Records**

In the context of land transactions, one of the most overlooked but essential aspects of due diligence is the investigation of litigation history and court records relating to the property. A purchaser who fails to ascertain whether the land is subject to ongoing or past litigation risks acquiring a defective title or becoming embroiled in legal disputes that could have been avoided through preliminary enquiry. The principle of caveat emptor applies with equal force to the legal status of land as it does to its physical condition.

Land disputes are among the most common forms of litigation in Nigeria, often arising from overlapping claims, fraudulent sales, inheritance conflicts, and government acquisitions.<sup>[43]</sup> In many cases, parties who are already in trouble or facing adverse judgements attempt to dispose of the land quickly to unsuspecting purchasers. Such transactions are not only unethical but legally precarious. The courts have held that a purchaser who acquires land that is the subject of litigation may be bound by the outcome of that litigation, even if they were not a party to the original suit. This is particularly true where the purchaser had actual or constructive notice of the dispute.

To avoid such risks, a prudent purchaser must conduct a thorough search of court cause lists, judgements, and orders. This may involve visiting the registry of the High Court or Magistrate Court in the jurisdiction where the land is located, consulting legal practitioners familiar with the area, and reviewing online databases where available. The objective is to determine whether the property is the subject of any pending litigation, whether there are existing judgements affecting the title, and whether any injunctive orders have been issued that restrict transfer or development.<sup>[44]</sup>

In addition to litigation checks, the purchaser must verify the survey plan provided by the vendor. This involves charting the coordinates of the plan at the Ministry of Lands to ensure that the land is not under government acquisition. It has been observed that many survey plans are prepared by agents who do not physically visit the land, resulting in inaccurate measurements and false representations. Such negligence has led to cases where purchasers unknowingly acquire land that has been committed for public use or is part of a government layout. The consequences are severe, as the government is not obliged to compensate for land acquired through fraudulent or mistaken transactions.

To mitigate this risk, the purchaser should engage a licensed and trusted surveyor who will physically inspect the land, take accurate measurements, and lodge the survey for charting. It is advisable that the purchaser accompany the surveyor and agent to the site to ensure transparency.

Alternatively, a provisional survey may be conducted and lodged for charting before any payment is made. This allows the purchaser to confirm the status of the land and avoid financial commitment to a defective transaction.

Furthermore, the purchaser must confirm the property limits as indicated in the survey plan. It is essential to ascertain where the property begins and ends, and whether the description in the survey plan matches the title deed. Discrepancies in property boundaries can lead to encroachment disputes, invalidation of title, and loss of possession. The courts have held that a purchaser who fails to verify the physical and documentary boundaries of land cannot rely on ignorance as a defence.

Another critical aspect of due diligence is the verification of consents for past transfers. Under Nigerian law, certain transfers require the consent of government authorities, commissioners of lands, spouses, co-owners, or trustees. In Lagos State, where prior consent was not obtained, the purchaser must seek double consent on the recent transaction through retrospective registration. This process involves disclosing the history of past transfers, paying applicable fees, and obtaining formal approval from the Lands Registry. Failure to regularise such transfers may render the title defective and unenforceable.

Litigation checks and verification of survey plans are indispensable components of due diligence in land transactions. The purchaser must investigate the legal status of the property, confirm its physical boundaries, and ensure that all necessary consents have been obtained. The law protects those who act diligently and punishes those who proceed carelessly. In the complex terrain of Nigerian land law, legal literacy and procedural vigilance are the keys to secure ownership.

### **Retrospective Consent and Double Registration**

The requirement for obtaining consent in land transactions is a statutory imperative under Nigerian law. Section 22 of the Land Use Act provides that any alienation of a statutory right of occupancy must be approved by the Governor of the State in which the land is situated. Failure to obtain such consent renders the transaction null and void, regardless of the parties' intentions or the consideration exchanged.<sup>[45]</sup> This provision is not merely procedural; it is substantive, and its breach has far-reaching consequences for the validity of title.

In practice, however, many land transactions are conducted without obtaining the requisite consent, particularly in informal or customary settings. These lapses often arise from ignorance of the law, administrative delays, or deliberate evasion of statutory requirements. The result is a proliferation of defective titles that cannot be perfected or enforced without remedial action. To address this challenge, some states, most notably Lagos State, have introduced the mechanism of retrospective registration, commonly referred to as "double consent."

Retrospective consent is a legal process by which a purchaser seeks to regularise a transaction that was previously conducted without obtaining the Governor's consent. It involves submitting the current transaction for approval while disclosing the history of prior transfers that were not properly consented to. The Lands Registry then assesses the transaction, imposes applicable penalties, and issues formal consent to validate the title. This process is particularly relevant in cases where land has changed hands

multiple times without any of the parties seeking consent at the time of transfer. <sup>[46]</sup>

The rationale behind retrospective registration is both legal and pragmatic. On the one hand, it ensures compliance with the Land Use Act and restores the integrity of the title. On the other hand, it provides a pathway for purchasers to cure defects in title without resorting to litigation or forfeiture. The Lagos State Lands Registry has developed internal guidelines for processing such applications, including requirements for documentation, affidavits of disclosure, and payment of consent fees and penalties. <sup>[47]</sup>

It is important to note that retrospective consent does not operate automatically. The purchaser must demonstrate good faith, provide full disclosure of the transaction history, and satisfy all administrative requirements. Where the Registry suspects fraud, misrepresentation, or concealment, the application may be rejected, and the title rendered void. The courts have affirmed that consent obtained through fraudulent means is invalid and cannot confer legal title. <sup>[48]</sup> Moreover, retrospective registration is not a substitute for proper due diligence. Purchasers must still verify the identity of the vendor, confirm the legitimacy of prior transfers, and ensure that the land is not subject to encumbrances, litigation, or government acquisition. Retrospective consent merely cures the procedural defect of non-consent; it does not validate a transaction that is substantively flawed.

In *Savannah Bank v Ajilo*, the Supreme Court held that failure to obtain the Governor's consent rendered the mortgage transaction null and void, notwithstanding the fact that the parties had acted in good faith. <sup>[49]</sup> This decision underscores the strict nature of the consent requirement and the need for purchasers to regularise their title through appropriate channels.

Retrospective consent and double registration offer a remedial pathway for curing defective land titles in Nigeria. While the process is legally recognised and administratively supported, it requires transparency, diligence, and compliance with statutory and regulatory frameworks. Purchasers must not rely on retrospective consent as a safety net for negligent transactions. Instead, they must approach land acquisition with the seriousness and precision that the law demands.

### **Practical Checklist for Purchasers**

The acquisition of land in Nigeria is a legally and financially significant undertaking. Given the prevalence of fraudulent transactions, defective titles, and encumbered properties, purchasers must approach land acquisition with a methodical and legally informed strategy. While the law provides remedies for aggrieved parties, it is far more prudent to prevent disputes through rigorous due diligence. This section outlines the practical steps that a purchaser must take to ensure that the land being acquired is legally sound, physically verifiable, and free from encumbrances.

The first step in any land transaction is to identify the vendor and verify their authority to sell. Where the land is held by an individual, the purchaser must confirm that the vendor is the registered owner or beneficial holder of the title. In cases involving family or communal land, the purchaser must engage with the head of the family and principal members to confirm that the sale has been duly authorised. The Supreme Court has held that failure to obtain the consent of all relevant family members renders

the transaction voidable at the instance of the rightful owners. <sup>[50]</sup>

Once the vendor's authority has been established, the purchaser must inspect the physical state of the property. This includes visiting the site, confirming the boundaries, and interviewing neighbouring landowners. The objective is to determine whether the land is occupied, encroached upon, or subject to any informal claims. The purchaser must also verify whether the property description in the survey plan matches the physical layout and the title deed. Discrepancies in boundaries or coordinates may indicate fraud or administrative error, both of which can invalidate the transaction. <sup>[51]</sup>

The survey plan itself must be prepared by a licensed surveyor who has physically inspected the land. The purchaser should accompany the surveyor to the site to ensure that the measurements are accurate and that the coordinates reflect the true location of the property. The survey plan must then be lodged for charting at the Ministry of Lands to determine whether the land falls within a government acquisition zone. Purchasing land under government acquisition is legally impermissible and exposes the purchaser to forfeiture without compensation. <sup>[52]</sup>

In addition to physical and documentary verification, the purchaser must conduct a search at the Land Registry to confirm the status of the title. This includes identifying any encumbrances such as mortgages, caveats, or pending litigation. A search of court records may also reveal whether the land is the subject of ongoing disputes or judicial orders. The courts have held that a purchaser who fails to investigate the legal status of the property may be bound by the outcome of litigation, even if they were not a party to the original suit. <sup>[53]</sup>

The purchaser must also verify whether all necessary consents have been obtained for past transfers. Under the Land Use Act, any alienation of a statutory right of occupancy requires the Governor's consent. <sup>[54]</sup> In Lagos State, where prior consent was not obtained, the purchaser must seek retrospective registration, also known as double consent, to regularise the title. <sup>[55]</sup> This process involves disclosing the transaction history, paying applicable fees, and obtaining formal approval from the Lands Registry.

Where the vendor is married, spousal consent may be required, particularly in jurisdictions that recognise matrimonial property regimes. The purchaser must also confirm whether the vendor is alive, and if deceased, whether the estate has the legal capacity to sell. In cases involving minors, the purchaser must ascertain whether the minor has been legally emancipated or whether the transaction is being conducted by a guardian with proper authority.

The purchaser must ensure that the land is not environmentally contaminated. If the property was previously used for industrial or commercial purposes, there may be latent environmental liabilities. Under the principle of successor liability, the purchaser may be held responsible for environmental damage caused by prior occupants. <sup>[56]</sup> An environmental assessment may be necessary to determine the suitability of the land for residential or commercial use. Land acquisition in Nigeria requires a comprehensive and legally grounded approach. The purchaser must verify the vendor's authority, inspect the property, confirm the accuracy of the survey plan, conduct registry and litigation

searches, and ensure that all consents have been obtained. Environmental due diligence must also be considered. The law favours the diligent and punishes the negligent. A well-informed purchaser is not only protected but empowered.

## Conclusion

The acquisition of land in Nigeria is a venture that demands not only financial commitment but also legal vigilance, procedural precision, and contextual awareness. As this article has demonstrated, the process of securing valid title to land is governed by a complex interplay of statutory provisions, customary practices, administrative procedures, and judicial precedents. The purchaser must navigate this terrain with diligence, guided by the principles of due process, informed consent, and legal compliance.

The Land Use Act remains the cornerstone of land regulation in Nigeria, vesting all land in the Governor of each state and requiring consent for any alienation of statutory rights of occupancy.<sup>[57]</sup> This statutory framework is complemented by state-specific laws, such as the Land Registration Law of Lagos State, which provide mechanisms for title perfection and retrospective registration.<sup>[58]</sup> The legal requirement for the Governor's consent, as affirmed in *Savannah Bank v Ajilo*, is not a mere technicality but a substantive condition for the validity of land transactions.<sup>[59]</sup>

Customary land transactions, which constitute a significant portion of land dealings in Nigeria, are governed by indigenous norms that emphasise collective ownership and ancestral authority. The courts have consistently held that failure to obtain the consent of family heads and principal members renders such transactions voidable.<sup>[60]</sup> Purchasers must therefore engage with the custodians of customary land and ensure that all relevant consents are obtained.<sup>[61]</sup>

Survey verification and charting are indispensable tools for confirming the physical and legal status of land. The risk of purchasing land under government acquisition is real and legally consequential. The purchaser must engage licensed surveyors, conduct charting at the Ministry of Lands, and verify that the coordinates match the physical boundaries of the property.<sup>[62]</sup> Environmental due diligence is equally important, particularly in cases involving prior industrial use, where the principle of successor liability may expose the purchaser to regulatory penalties<sup>[6]</sup>.

Litigation checks, registry searches, and verification of consents for past transfers are critical components of due diligence. The purchaser must investigate the legal history of the property, confirm that the title is free from encumbrances, and ensure that all statutory and equitable interests have been disclosed and resolved. Where prior consent was not obtained, retrospective registration offers a remedial pathway, but it must be pursued with transparency and compliance.

Ultimately, the law favours the diligent and punishes the negligent. The courts have repeatedly emphasised that ignorance of legal requirements is not a defence. A purchaser who fails to conduct proper investigation, verify documentation, and comply with statutory procedures risks acquiring a defective title and losing their investment. Conversely, a purchaser who approaches land acquisition with legal literacy, procedural rigour, and contextual sensitivity is empowered to secure valid title and enjoy peaceful possession.

## Recommendations

### 1. Strengthening Institutional Transparency and Land Records

Government land registries should be digitised, centralised, and made publicly accessible to reduce reliance on informal enquiries and curb fraudulent documentation. Transparent land records will enhance title verification, reduce litigation, and promote investor confidence in the property market.

### 2. Harmonisation of Statutory and Customary Land Practices

There is a pressing need to harmonise statutory land requirements with customary landholding practices. Clear statutory guidelines should be developed to integrate customary consent procedures into formal land registration systems, thereby reducing conflicts arising from undocumented or orally conducted land transactions.

### 3. Mandatory Due Diligence Protocols for Land Transactions

Regulatory authorities should adopt mandatory due diligence checklists, covering survey verification, litigation searches, consent validation, and government acquisition checks, as a precondition for title registration and perfection. This will institutionalise diligence and reduce negligent conveyancing practices.

### 4. Enhanced Legal Literacy and Professional Accountability

Continuous legal education should be intensified for legal practitioners, surveyors, estate agents, and land officers on emerging risks in land transactions. Professional bodies must enforce ethical standards and sanctions against negligent or fraudulent practices to safeguard the integrity of land dealings.

### 5. Due Diligence is a must.

Land purchasers must conduct comprehensive legal due diligence before and after acquisition by verifying the vendor's authority, investigating title history, confirming survey accuracy and government acquisition status, checking for litigation and encumbrances, obtaining all required statutory and customary consents and promptly documenting and registering the transaction with the assistance of qualified legal and surveying professionals, as Nigerian law protects the diligent purchaser and not the careless one.

In Nigerian land transactions, the security of title depends not on trust or possession, but on diligence, documentation and compliance with legal and customary requirements.

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