

Imperatives of reforming the Land Use Act

by Olubunmi E. Aboderin

As state governors desperately look for ways to boost their internally generated revenue base, here's a radical idea for them: Use whatever influence you have at the federal level to push for the removal of the Land Use Act from the constitution, then proactively support those working on getting that piece of legislation reformed, and allow their recommendations to be effectively implemented in your respective states. With the current system, it is estimated that less than five per cent of housing units have formal title registration. Reforming the land management system will open up the possibility of bringing the remaining 95 per cent of existing housing into the formal title registration loop.

There is a shortage of affordable housing in Nigeria. Some estimates say we need 14 to 17 million more units than what we currently have. Others say the figure is closer to 40 million. Either way, reforming the land management system will release the choke-hold on private sector urban housing developers who have the ingenuity and the energy to tackle the multimillion housing deficit, which the states' housing corporations, ministries of housing and their federal counterparts, are trying valiantly to satiate. Think of what the states would gain directly in increased transaction volume through stamp duties, fees, PAYE, and indirectly through reduced unemployment, increased civic satisfaction and so on. This can be achieved if the bureaucracy is trimmed down, the response times are faster, the process is transparent and the per unit processing cost is reduced.

Prior to the Land Use Decree of 1978, a dichotomous system prevailed in country. In Northern Nigeria, the land was vested to the governor who then apportioned or utilised it as he deemed fit. One could say it was a form of controlled socialism, in comparison to the free market system adopted in the South. In Southern Nigeria, other than areas selected for public purposes, land was owned by individuals or clans and passed along from one generation to the next. Permission however had to be sought from the governor before land rights could be assigned to aliens. In the absence of a formal titling and registration mechanism, the system in the South threw up endemic problems of multiple sales of the same parcel of land to various buyers. The South also experienced land speculation, problems with acquiring land for public purposes, exorbitant pricing, and the social malaise resulting from the accumulation of land by those who had unjustly dispossessed others of their property. The Land Use Decree was created

ostensibly to solve these problems and to install one codified land administration system across the country.

As can be imagined, the decree was not popular in the South. People accustomed to owning land were effectively turned to tenants via the wholesale transfer of land ownership rights to the governor, and compensation was only paid for developed land or agricultural land. The decree also empowered governors to issue Certificates of Occupancy which would allow the possessor to use a specific piece of land for a pre-defined period of time. And more importantly, the consent of the governor had to be given before any transfer or transaction could be done with the land, (including mortgages or assignments). This specific provision is one of the protagonists causing the current bottleneck in the mass housing industry. The potential quantum of paperwork that this must necessarily involve for a country with over 170 million citizens is mind-boggling. To expect all that paperwork to pass efficiently through the office of 36 people is unrealistic. It is a stumbling block to the proliferation of home ownership and it's time to make a concerted effort to take the brakes off. In his essay, *The Land Use Act: 11 Years After*, Dr A. Nnamani, who was the Attorney-General of the Federation in 1978 said, “*It seems to me that it is not healthy for the economy that the Governor’s Office should be flooded with these applications for consent*.” We should not sacrifice efficiency on the altar of control.

The Land Use Decree was inserted into the 1979 and 1999 constitutions, to make it difficult for it to be revised or repealed. In 2009, President Umaru Yar’Adua established the Presidential Technical Committee on Land Reform and gave it the task of finding a better way for the country to handle the administration and recording of land ownership, the issuance of titles and the process for registration, as well as other land-related matters. Professor Akin Mabogunje, the 2009-2011 Chairman of the Committee, described the Land Use Act as “a clog in the wheel of development”. The Mabogunje Report states that “Although the decree has made it easy for governments to acquire land for public purposes, drastically minimised the burden of land compensation and considerably reduced court litigations over land, it has, since its inception...created a new genre of serious problems for land management in the country.” The report goes on to list at least nine of these problems and in 2013, President Goodluck Jonathan directed the committee to look into the practicalities of reforming the Land Use Act.

According to the Managing Director of Crusader Sterling Pensions Niyi Falade, “the Nigerian housing sector is currently valued at N6.5 trillion with an annual growth estimation of 10 per cent over the next few years.” Trying

to benefit from the untapped potential in the real estate and construction industry without reforming the Land Use Act is like trying to drive a Ferrari with the hand brakes on. Yes, the vehicle will move but its progress will be hampered. Reforming (or, as some would say, repealing) the Land Use Act would be a catalyst for the development of affordable housing on a mass scale.

However, let's not throw the baby out with the bath water. There are some redeeming features of the Act. Let's hold on to those while revising the ones that need revising. Updating the Land Use Act will certainly assist in taking us from where we are to where we want to be. It is one of several tipping points available to us as a country for moving millions of people out of poverty. Currently, close to 85 per cent of urbanites live in rented accommodation which swallows up as much as 40 per cent of their salary, if not more. The need for reasonably-priced housing is further compounded by urban migration. People, mainly young adults, are moving out from rural areas into the cities. The population in Abuja is estimated as growing by nine per cent every year. In Lagos, the estimate is three per cent each year. Where will they live? Where will they work?

At a real estate forum in 2015, the CEO of Lead Capital Abimbola Olashore estimated that the production of just 75,000 homes per year would create "at least 300,000 direct jobs and 488,000 indirect jobs." Assuming the housing deficit is 17 million units, we would need to build 850,000 units per year for the next 20 years, *ceteris paribus*. Expunge the Land Use Act from the constitution and let the Act be updated. Unleash the real estate sector and provide incentives for the construction of affordable housing across the country, then watch the multiplier effect go to work on the economy.

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