



LEGAL APPRAISAL OF COMPULSORY ACQUISITION UNDER THE LAND USE ACT, 1978

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Abstract

This paper examined the compulsory acquisition of land under Nigeria's Land use Act of 1978, an important law for managing land ownership in the country. The paper considered the legal rules for land acquisition and their impact on property rights and land management. The paper adopted the doctrinal method of research. The paper revealed that current laws often do not effectively address the complexities of land ownership, leading to disputes and dissatisfaction among landowners. The paper pointed out outgoing issues such as unfair acquisition practices, delays in compensation payments, and insufficient communication with affected communities. To resolve these challenges, the paper recommended amongst others, several reforms to improve the fairness and effectiveness of the land acquisition process. These include aligning acquisition laws with principles of fairness, creating transparent compensation systems that reflect market values, and unifying different legal rules related to land acquisition and compensation.

Keywords: *Compulsory, Acquisition and Land*

1.0 Introduction

The Land Use Act of 1978 stands as a monumental legislation in Nigeria's legal landscape, fundamentally altering the dynamics of land ownership and management. Prior to its enactment, Nigeria operated a patchwork, as land tenure systems inherited from its colonial past, often led to inefficiencies, inequities, and disputes over land ownership and use. Recognizing the need for a unified and coherent land management framework, the Nigerian government promulgated the Land Use Act to consolidate land ownership under the control of State Governors and ensure equitable access to land resources for all citizens. The Land Use Act, 1978 is the primary legislation on land and it touches closely on issues of compulsory acquisition of land in Nigeria.² Under the provisions of the Land Use Act, all lands in Nigeria are vested in the State governors, who hold them in trust for the benefit of the people.³ This radical shift in land ownership has significant implications for various aspects of property rights, land administration, and socio-economic development in Nigeria. One of the most contentious aspects of the Act is the power of compulsory acquisition vested in the State governors, which allows them to acquire land for public purposes without the consent of the owner. Compulsory acquisition, though a necessary tool for facilitating public infrastructure projects and development initiatives, has often been marred by controversies, including issues of inadequate compensation, lack of transparency, and abuse of power by government authorities. As such, a comprehensive understanding of the legal framework governing compulsory acquisition under the Land Use Act is essential for assessing its efficacy, fairness, and adherence to constitutional principles of property rights protection.

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² I O Smith, *Practical Approach to Law of Real Property in Nigeria* (rev ed. Ecowatch Publications Ltd 2013) 522.

³ See s. 1 (1) Land Use Act 1978 Cap. L5 No. 6, LFN 2004. Also see *R. O. Nkwocha v Governor of Anambra State* (1984) 6 S.C. 362 per Kayode Eso, JSC; *Alli v Ikusebiala* (1985) 1 NWLR 630; *Ogunola v Eiyekole* (1990) 4 NWLR (Pt. 146) 632.

This study seeks to provide a critical appraisal of compulsory acquisition under the Land Use Act 1978, examining its legal foundations, procedural mechanisms, challenges, and implications for property rights and land governance in Nigeria.

Central to the Act is the provision for compulsory acquisition, which grants State governors the power to acquire land for public purposes without the consent of the owner. While compulsory acquisition is intended to facilitate public infrastructure development and promote socio-economic progress, its implementation has been fraught with challenges and controversies, raising serious concerns about its legality, fairness, and impact on property rights. There have been numerous instances where landowners affected by compulsory acquisition projects receive inadequate compensation for their land, leading to grievances, disputes, and litigation.⁴ Lack of Transparency, the process of compulsory acquisition often lacks transparency and public participation, with decisions made by government authorities without adequate consultation or disclosure of information to affected landowners. Abuse of Power, there are concerns regarding the abuse of compulsory acquisition powers by government officials for personal gain or political purposes, resulting in unjustified land grabs and violations of property rights. Environmental and Social Impacts, compulsory acquisition projects can have significant environmental and social impacts on affected communities, including displacement, loss of livelihoods, and degradation of natural resources, raising questions about the adequacy of safeguards and mitigation measures. Legal Uncertainties: There is a lack of clarity and consistency in the interpretation and application of the legal provisions governing compulsory acquisition under the Land Use Act, leading to confusion and inconsistency in the administration of land acquisition processes. Addressing these challenges requires a comprehensive understanding of the legal framework governing compulsory acquisition, as well as an assessment of its conformity with constitutional principles of property rights protection and international human rights standards.

2.0 Analysis of the Areas of Convergence and Divergence

2.1 Land Administration

The central objective of the Act is to invest ownership of land in the government which then shall apply it equitably for the benefit of all Nigerians and for the country's economic and social development. The principle of State ownership under the Act is asserted in section 1, which vests all land comprised in the territory of each State in the Federation in the Governor of that State, and such land shall be held in trust and administered for the use and common benefit of all Nigerians in accordance with the provisions of the Act. The Land Use Act, having vested all lands in the State in the governor,⁵ provides for three pronged, but uncoordinated regulatory institutions: the National Council of States, the State Governor, and the Local Government. The National Council of States is empowered to make regulations for the purpose of carrying the Act into effect in some broad respect.⁶ Apart from sharing regulatory powers with the Council, the Governor is also expected to share the administration of land in the State with the local government, assisted by Advisory Administrative Committees set up by the Authority. The Governor is to be assisted by the Land Use and Allocation Committee and the local government by the Land Allocation Advisory Committee

⁴ See the case of *Saleh v Monguno* (2006) 15 NWLR (Pt.100) 26 at 70.

⁵ Land Use Act 1978, s 1

⁶ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 46(1)

To remove the existence of any lacunae in land administration in the transition period, the Land Use Act stipulates in section 4 that the provisions of the Land Tenure Law or the State Land Law shall have effect with such modifications as would bring those laws into conformity with the Act or its general intendment. The Act excludes all lands vested in the Federal Government and its agencies under section 49, from the application of the foregoing provisions and vests the ownership and management of all such land in the President or any of his appointees entrusted with such powers.⁷ Fundamentally, whilst the land vested in the Governor is to be held in trust and administered for the use and common benefit of all Nigerians in accordance with the provisions of the Act,⁸ there is no such obligation imposed on the Federal government in respect of all lands vested in it by law. Thus, while the Governor has a caveat placed on him in respect of his management powers under the Act; the President can, to a large extent, deal with the land under their care as their personal property.

The Land Use Act empowers the National Council of States to “make regulations for the purpose of carrying the Act into effect particularly with regard to the transfer by assignment or otherwise howsoever of any rights of occupancy, including the conditions applicable to the transfer of such rights to persons who are not Nigerians.”⁹ The Council may also make regulations relating to the terms and conditions upon which special contracts may be made under section 8; the grant of certificates of occupancy under section 9; the grant of temporary rights of occupancy and the method of assessment of compensation for the purposes of section 29 of the Act. Under the provision of section 3 of the Act, the basis of the control and management of land by the Governor or the local government is determined by the designation of land as urban area and confining the undesignated areas to the control of the local governments. The Land Use Act in section 2 empowers the Governor to control and manage land within an urban area only, while the local government is empowered to administer land outside a designated urban area. It is imperative, therefore, that for the Governor to control and manage land in the State, there must be a defined territory called urban area clearly spelt out in a gazette. Without the classification or demarcation of an area as urban, the Governor has no area of control and management of land in the State, as all lands are presumed to be non-urban area by the Act.¹⁰ Unfortunately, there has been no nationally approved standard for this demarcation as envisaged by the Act. The National Council of States saddled with the responsibility is yet to come up with any regulation in that respect. Section 2(2) of the Act mandates the establishment of the Land Use and Allocation Committee (LUAC) to help the Governor in the management and administration of urban lands under his care. The functions of the LUAC are threefold. These are expressed in the Land Use Act as advising the State Governor on any matter connected with the management of land in an urban area; advising the State Governor on any matter connected with the resettlement of persons affected by the revocation of rights of occupancy on the ground of overriding public interest; and determining disputes as to the amount of compensation payable for improvements on land.

⁷ Land Use Act 1978, s 51(2)

⁸ *Ibid*, s 1.

⁹ *Ibid*, s 46(1).

¹⁰ V Ofogba, *Understanding the Land Use Act* (Lawsprings & Co 2016).

The Committee shall consist of such number of persons as the Governor may determine but shall include in its membership at least not less than two persons possessing qualifications approved as Estate Surveyors or Land Officers and who have had such qualification for not less than five years; and a Legal Practitioner.¹¹ The Governor is thus the unquestionable personage in the overall administration of land in the state. In practice, the composition, quality, and tenure of the Committee has tended to vary over time depending on the government in power and the disposition of the Governor.¹² The local government is the third tier of government in the Nigerian Federation, coming after the Federal Government and the State government. Whilst the Governor is empowered to manage urban lands, as designated under section 2 of the Act, the local governments are in charge of management of all non-urban lands in the State. To assist the local government in the management of the land under its care, the Act provides for the establishment in each local government a body to be known as the Land Allocation Advisory Committee which shall consists of such persons as may be determined by the Governor acting after consultation with the local government and shall have responsibility for advising the local government on any matter connected with the management of land on which the local government has jurisdiction.¹³ In line with section 6(2), the Act empowers the local government to grant customary rights of occupancy to any person or organization for the use of land in the local government area. Though the local government is empowered to grant customary right of occupancy under section 6 of the Act, it lacks the power to charge fees and/or rents for its exercise, save for the provisions of section 42(2), which makes inferential remarks on it. This is an inherent contradiction in the Act since the lack of such powers denies the local government a veritable source of revenue to carry out its functions under the Act.

In terms of land administration, the Public Lands Administration Act of 1976 established the Lands Tribunals under section 12. The Lands Tribunal consists of consist of a Judge of the High Court of a State or of the Federal Revenue Court who shall be assisted by two Assessors, each of whom shall possess qualifications approved for appointment to the public service of the Federation or of a State, as the case may be, as Estate Surveyor or Land Officer and shall have been so qualified for not less than 5 years, in the determination of any question relating to compensation payable by or under this Decree. The judge and the assessors are appointed by the Head of the Federal Military Government acting after consultation.¹⁴

2.2 Land Acquisition and Compensation

Under the Public Lands Acquisition (Miscellaneous Provisions) Decree of 1976, compensation payable to a person who has been dispossessed of his interest in land includes interest at bank rates at the time of the payment thereof. Section 1 of the Act provides that Compensation payable in respect of land compulsorily acquired under the Public Lands Acquisition Act, the State Lands Act or any other enactment or law permitting the acquisition of land compulsorily for the public purposes of the Federation or of a State shall be assessed and computed in accordance with the provisions of this Decree,

¹¹ Land Use Act 1978, s 2(3).

¹² P Z Datong, 'The Role of State Government in the Implementation of the Land Use Act' in O Adigun (ed), *The Land Use Act: Administration and Policy Implication* (University of Lagos Press 1991) 64.

¹³ Land Use Act 1978, s 2(5)

¹⁴ Public Lands Acquisition Act 1976, s 12(2)

notwithstanding anything to the contrary in the Constitution of the Federation or in any other enactment or law or rule of law.¹⁵ The Public Land Acquisition (Miscellaneous Provisions) Decree not only provide for land acquisition but fundamentally changed the rules governing compensation in the country. It zoned the whole country and stipulated the maximum compensation payable in each zone as stated in the schedule to the law.¹⁶ It established land tribunals¹⁷ with an exclusive jurisdiction and changed the method of compensation valuation for building and structures from open market or investment method to replacement cost valuation principle less depreciation. The Decree also introduced resettlement of displaced persons in lieu of compensation for the first time in the country.

The provisions of the Land Use Act 1978 on compulsory acquisition and compensation process are found in sections 28 and 29. On one hand, section 28 of the LUA provides that It shall be lawful for the Governor to revoke a right of occupancy for overriding public interest.¹⁸ Overriding public interest in the case of a statutory right of occupancy means; the alienation by the occupier by assignment, mortgage, transfer of possession, sublease, or otherwise of any right of occupancy or part thereof contrary to the provisions of this Act or of any regulations made there under; the requirement of the land by the Government of the State or by a Local Government in the State, in either case for public purposes within the State, or the requirement of the land by the Government of the Federation for public purposes of the Federation; the requirement of the land for mining purposes or oil pipelines or for any purpose connected therewith.¹⁹ On the other hand, section 29 of the LUA provides that if a right of occupancy is revoked for the cause set out in paragraph (b) of subsection (2) of section 28 or (c) of subsection (3) of the same section, the holder and the occupier shall be entitled to compensation for the value at the date of revocation of their un-exhausted improvements.

It is clear from the above that compensation is not payable on the compulsorily acquired land if the land is a vacant or undeveloped land. This simply means that no value is attached to land itself without any development. This is a great injustice to the holder or occupier of the land considering the importance attached to land by Africans. Going by the provisions of Section 44(1)(a) of the Constitution which makes payment of compensation a prerequisite to compulsory acquisition, it is submitted that the holder or occupier of a land either developed or undeveloped should be compensated as far as money can do it for him to be in the same position as if his land had not been taken from him. In *Lewis v Colonial Secretary*,²⁰ the issue for determination was the compensation payable for unoccupied and yet utilized land. The court was prepared to award compensation if the beneficial user of the land had been proved. The most fatal piece of evidence was that the land was barren and failure of the claimant to prove any specific benefit or advantage derived from the land. So, the court held that, “since the Right of Occupancy embraces the right to use, farm, subsist and exploit the land, therefore any deprivation of these rights/utilities without payment of compensation principally because of lack of physical improvements thereon would be unfair”. In *Commissioner of Lands v Adeleye*,²¹ the court-based

¹⁵ Public Lands Acquisition Act 1976, s 1(1)

¹⁶ *Ibid*, schedule 1

¹⁷ *Ibid*, s 12

¹⁸ LUA 1978, s 28(1)

¹⁹ LUA 1978, s 28(2)

²⁰ (1881 - 1911) 1 NLR 11, 14.

²¹ (1938) 14 NLR 109

compensation both on the value of the land itself (site value) and the building erected thereon. Arguably, since the Right of

Occupancy embraces the right to use, farm, subsist and exploit the land, therefore any deprivation of these rights/utilities without payment of compensation principally because of lack of physical improvements thereon would be unfair.

2.3 Notices

Section 28(4) of the Land Use Act 1978, which directly relates to notice and services thereof reads as follows, the Governor shall revoke a right of occupancy in the event of the issue of a notice by or on behalf of the President if such notice declares such land to be required by the Government for public purposes.²² The revocation of a right of occupancy shall be signified under the hand of a public officer duly authorised in that behalf by the Governor and notice thereof shall be given to the holder.²³ The title of the holder of a right of occupancy shall be extinguished on receipt by him of a notice given under subsection (6) of this section or on such later date as may be stated in the notice.²⁴ Section 44 of the Land Use Act further provides that any notice required by this Act to be served on any person shall be effectively served on him- by delivering it to the person on whom it is to be served; or by leaving it at the usual or last known place of abode of that person; or by sending it in a prepaid registered letter addressed to that person at his usual or last known place of abode; or in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at its registered or principal office or sending it in a prepaid registered letter addressed to the secretary or clerk of the company or body at that office; or if it is not practicable after reasonable inquiry to ascertain the name or address of a holder or occupier of land on whom it should be served, by addressing it to him by the description of "holder" or "occupier" of the premises (naming them) to which it relates, and by delivering it to some person on the premises or, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.²⁵

Despite the existing legal framework governing compulsory acquisition in Nigeria, significant gaps in knowledge persist regarding the practical implementation and effectiveness of notice provisions. While laws such as the Land Use Act and constitutional mandates outline the requirement for adequate notice to property owners, there is limited empirical research examining how these requirements are applied in practice. Many properties owners report receiving insufficient or unclear notifications, which raises questions about the consistency of enforcement and the actual understanding of rights among affected communities. Furthermore, there is a lack of comprehensive studies that analyze the impact of improper notice on the outcomes of compulsory acquisition cases, including the extent of legal challenges or disputes that arise as a result. Additionally, there is a gap in understanding the socio-economic implications of the validity of notice on marginalized communities, particularly those disproportionately affected by compulsory acquisition. While legal literature often focuses on the procedural aspects of notice, it tends to overlook the broader consequences for communities, including loss of livelihood, displacement, and inadequate compensation. This knowledge gap highlights the need

²² LUA 1978, s 28(4)

²³ *Ibid*, s 28(6)

²⁴ *Ibid*, s 28(7)

²⁵ Land Use Act 1978, s 44(a-e)

for interdisciplinary research that integrates legal analysis with socio-economic studies, enabling a more holistic understanding of the validity of notice in compulsory acquisition. Addressing these gaps can provide valuable insights for policymakers, legal practitioners, and advocates working towards reforming compulsory acquisition processes to ensure they are just, transparent, and equitable. The validity of notice for compulsory acquisition in Nigeria is a critical legal requirement that safeguards property rights while allowing the state to fulfil its public purpose. A thorough appraisal reveals several strengths and weaknesses in the existing framework, highlighting the need for greater adherence to legal standards and improved practices.

The Land Use Act of 1978 governs compulsory acquisition in Nigeria, stipulating that proper notice must be given to affected property owners. Section 28 of the Act requires that the government provides notice to landowners detailing the intent to acquire their property, the purpose of the acquisition, and the rights of the owners, including compensation entitlements. This legal requirement is crucial for ensuring transparency and allowing property owners the opportunity to contest the acquisition if necessary. In the case of *Adisa v. Oyinwola*²⁶, this landmark case emphasized the necessity of proper notice in the compulsory acquisition process. The Supreme Court of Nigeria ruled that the failure to serve a valid notice on the property owner rendered the acquisition invalid. The court highlighted that the legal requirement for notice is not merely procedural; it is a fundamental aspect of protecting property rights. This case underscored the principle that inadequate or improper notification can lead to significant injustices and nullify government actions. Despite the legal provisions, challenges remain in the practical application of notice requirements. Many property owners have reported receiving notices that are vague or inadequately communicated, leading to confusion and a lack of awareness regarding their rights. The bureaucracy involved in the acquisition process often results in delays and inconsistencies, undermining the effectiveness of the notice. Additionally, there is a lack of resources and training for government officials responsible for issuing notices, which contributes to non-compliance with legal standards.

3.0 Appraisal of the Legal Regime on Land Compensation in Nigeria

The Constitution of the Federal Republic of Nigeria, 1999, provides a legal framework for the compensation regime for land compulsorily acquired in Nigeria²⁷. Section 44(1) this section guarantees the right to own property, including land, and stipulates that no moveable or immoveable property of any person can be compulsorily taken possession of without compensation²⁸. Section 44 (2) outlines the conditions under which the government can compulsorily acquire land for public purposes. It specifies that such acquisition must be done under a law that provides for payment of compensation and a right of access to a court of law for the determination of the amount of the compensation.²⁹ Section 44(3) emphasizes that compensation must be fair and adequate, reflecting the market value of the property at the time of the acquisition. Section 44(4) provides for situations where disputes arise concerning the amount of compensation. It states that such disputes shall be determined by a court of law or tribunal. Section 44(5) addresses the issue of deprivation of property rights through overriding public interest³⁰.

²⁶ (2000) CLR SC.

²⁷ CFRN, 1999.

²⁸ *Ibid*.

²⁹ *Ibid*

³⁰ *Ibid*

It specifies that any moveable or immovable property compulsorily taken possession of or acquired for overriding public interest shall be administered in a manner that serves the public interest.³¹

These sections collectively establish the legal basis for the compensation regime for land compulsorily acquired in Nigeria, ensuring that property owners are adequately compensated and have recourse to legal avenues in case of disputes.³² Despite the guarantee of compensation, there have been instances where compensation has been inadequate or delayed, leading to dissatisfaction among landowners.³³ Additionally, there may be ambiguity in defining what constitutes fair compensation, leading to disputes. One challenge is the broad interpretation of “public purposes,” which can sometimes be exploited for private gain rather than genuine public benefit.³⁴ This can result in unjust land acquisitions and inadequate compensation for affected landowners.³⁵ Determining the market value of land can be challenging, especially in rural areas where land markets are less developed.³⁶ This can lead to disputes over the valuation of land and the adequacy of compensation.³⁷ Access to courts or tribunals for the determination of compensation disputes may be hindered by bureaucratic processes, lack of legal awareness among affected communities, or undue influence exerted by powerful interests.³⁸ The concept of “overriding public interest” can be subject to abuse, as it allows the government to prioritize its interests over those of individual landowners.³⁹ This can result in arbitrary land acquisitions and inadequate compensation, particularly in cases where the public interest justification is weak or questionable. In the case of *Kefie v. Nwako*⁴⁰, the Supreme Court of Nigeria emphasized the importance of fair and adequate compensation for compulsorily acquired land. The court held that compensation must be determined based on the market value of the property at the time of acquisition, and any failure to provide adequate compensation would amount to a violation of property rights under Section 44(1) of the Constitution. Also, in *Alhaji Sa’idu Garba v. Kano State Urban Development Board*⁴¹, the Court of Appeal affirmed that compulsory acquisition of land for public purposes must be done in accordance with a law that provides for compensation, as stipulated in Section 44(2) of the Constitution.

The court ruled that any acquisition carried out without statutory backing or without payment of compensation would be unconstitutional. The case of *Awolesi v. Ajibade*⁴² illustrates the challenge of determining fair compensation. In this case, the court emphasized the need for proper valuation methods to determine the market value of the land acquired. Failure to use appropriate valuation methods could lead to disputes over the adequacy of compensation, as guaranteed by Section 44(3) of the Constitution. In *Obioha v. Gov., Imo State*⁴³, the Supreme Court of Nigeria addressed the issue of overriding public interest in land acquisition. The court ruled that the government must demonstrate a genuine public

³¹*Ibid.*

³² CFRN, 1999.

³³*Ibid.*

³⁴*Ibid.*

³⁵*Ibid.*

³⁶*Ibid.*

³⁷*Ibid.*

³⁸*Ibid.*

³⁹*Ibid.*

⁴⁰ (2003) 12 NWLR (Pt.832) 201.

⁴¹ (2004) 13 NWLR (Pt.889) 1.

⁴² (2011) 1 NWLR (Pt. 1216).

⁴³ (2014) LPELR-22369(SC).

interest justification for compulsorily acquiring land under Section 44(5) of the Constitution. Failure to do so would render the acquisition unconstitutional and void.

The Land Use Act, 1978, is a significant piece of legislation in Nigeria that governs land ownership and administration⁴⁴. Section 28 addresses compensation for land compulsorily acquired by the government. It stipulates that compensation shall be paid to the customary owners or holders of a right of occupancy, and the amount of compensation shall be determined by a tribunal. Section 51 establishes the Land Use and Allocation Committee responsible for allocating land in urban areas. Challenges may arise in cases where land allocated by the committee is subsequently compulsorily acquired by the government, leading to disputes over compensation and the allocation process.⁴⁵ Section 36 provides for the payment of disturbance allowance to persons affected by the revocation of their rights of occupancy. Challenges include determining the criteria for eligibility for disturbance allowance and disputes over the amount of allowance provided. The case of *Sanni v. NITEL (Nigeria Telecommunications Limited)*,⁴⁶ involved a dispute over compensation for land compulsorily acquired for the installation of telecommunications infrastructure. The court emphasized the need for fair and adequate compensation in accordance with the Land Use Act. Also, in *Adekoya v. Lagos State Government*,⁴⁷ the Supreme Court of Nigeria ruled on the compensation payable for land compulsorily acquired by the Lagos State Government for public purposes. The court emphasized the importance of complying with the provisions of the Land Use Act, particularly regarding the determination of compensation by a tribunal.⁴⁸

The right of government to compulsorily acquire land for public purpose is universally recognized. Equally it is axiomatic to adequately compensate the deprived landowners for the loss of their land to the public. Therefore, the compulsory acquisition of land for public purpose without adequate compensation is not only unjust but a serious violation of the property right guaranteed under the Constitution of the Federal Republic of Nigeria and the African Charter on Human and Peoples Rights (Ratification and Enforcement) Act.⁴⁹ Public Lands Acquisition Decree No. 36 of 1976 which is now referred to as Public Lands Act of 1976, is still in force. This Act operates in *pari pascu* with the Land Use Act of 1978.

Interestingly, there have been cases where a particular land is compulsorily acquired for a specific purpose, and it turns out that same land is put into a use radically different from the primary purpose. This clearly violates the rule of law and brings the popularity of the government into question. The owners of such land may bring an action to recover their land even though compensation may have been paid. When Land is acquired for public purposes, it must be used for the purposes in which it was acquired. Thus, in the case of *Mayegun v Governor of Lagos State*,⁵⁰ the Court of Appeal held that the law is settled that the acquisition of land by Government for a private individual or company does not qualify as public purpose within the provision of the Land Use Act.

⁴⁴ LUA, 1978, s 21, 18 and 36.

⁴⁵ LUA, 1978, s 21, 18 and 36.

⁴⁶ (2003) 12 NWLR (Pt.833) 532.

⁴⁷ (2011) LPELR-8371(SC).

⁴⁸ *Ibid.*

⁴⁹ ACHPR, 1986.

⁵⁰ (2010) LPELR-CA/L/126/07.

Therefore, for an acquisition of property for public purpose to be valid, it must pass the conditions set out in *Provost v Edu*,⁵¹ the notice of acquisition of property must be specific and precise as to the property acquired; the particulars of the 'public purpose' for which such property is acquired must be given and; before private property is acquired, the acquiring authority must give evidence of intention to acquire the property before publishing same in the gazette. Thus, the rights to be compensated as provided in section 44 of the 1999 Constitution of Nigeria are moveable property or any interest in an immovable property.⁵²

4.0 Procedures for Compulsory Acquisition of Land Under Public Land Acquisition Law, 1976 and the Land Use Act, 1978

4.1 Notice/Inquiry

Government issues a notice of intention to acquire land for public purposes. Failure to serve the notice of acquisition personally provides sufficient basis to declare the purported acquisition null and void having not followed the procedure set down in the law. This was the court's position in the case of *Abubakar v AG Federation*⁵³, the Court of Appeal, held quoting the Supreme Court in *Commerce Bank Nigeria Ltd v AG Anambra State*⁵⁴ said: "now it is the law that where a statute provides for a particular method of performing a duty regulated by the statute, that method and no other must have to be adopted". Service of notice of acquisition as required under both legal regimes could be affected where the notice is pasted at a conspicuous place. This seems to be against the service being affected personally and goes in line with a substituted form of service.

4.2 Payment of Compensation under Public Lands Acquisition Law

Under the 1976 Decree, compensation payable to a person who has been dispossessed of his interest in land includes interest at bank rates at the time of the payment thereof.⁵⁵ The Act envisages that prompt and immediate payment should be made where land is requisitioned or acquired for public interest.⁵⁶ However, where compensation is not immediately paid, the interest shall be paid on the delayed payment calculated on the basis of central bank rate. Thus, by section 1 (1) compensation payable in respect of land compulsorily acquired under the Public Lands Acquisition, the State Lands Act or any other enactment or law permitting the acquisition of land compulsorily for the public purposes of the Federation or of a state shall be assessed and computed in accordance with the provisions of this Decree, notwithstanding anything to the contrary in the Constitution of the Federation or in any other enactment or law or rule of law.⁵⁷

5.0 Comparative Analysis of the Public Lands Acquisition Act, 1976 and the Land Use Act, 1978

The Public Lands Acquisition Act of 1976 and the Land Use Act of 1978 are two significant pieces of legislation in Nigeria that govern land acquisition and management. While they share some similarities, they also have notable distinctions.

⁵¹ (2004) MJSC 94.

⁵² CFRN, 1999, s 44.

⁵³ (2007) 3 NWLR (Pt 1022) 601.

⁵⁴ (1992) 8 NWLR (Pt 261) 528.

⁵⁵ C C Wigwe, *Land Use and Management Law* (Princeton and Associates Publishing Co. Ltd 2016) 107.

⁵⁶ *Ibid.*

⁵⁷ *Ibid.*



5.1 Objective and Scope

The Public Lands Acquisition Act (PLAA) primarily deals with the acquisition of public lands by the government for public purposes such as infrastructure development, urban renewal, and public amenities.⁵⁸ The Land Use Act (LUA), on the other hand, is a comprehensive land management legislation that governs all lands in Nigeria, whether public or private. It vests all land within the territory of a state in the governor of that state, making the state government the trustee of all lands.⁵⁹

5.2 Ownership and Control

The PLAA addresses the acquisition of public lands owned by the government, giving the government the power to compulsorily acquire such lands for public use.⁶⁰ The LUA vests ownership and control of all lands in the state governments, with the governor acting as the trustee on behalf of the people. It abolishes all existing land tenure systems, including customary and freehold tenures, and replaces them with a leasehold system.⁶¹

5.3 Compensation and Valuation

The PLAA provides for the payment of compensation to affected landowners whose lands are compulsorily acquired by the government. Compensation is determined based on the value of the land and any improvements on it.⁶² The LUA also provides for compensation to landowners whose rights are revoked or compulsorily acquired by the government. Compensation is determined based on the value of the land as assessed by a land valuation board.⁶³

6.0 Challenges of the Legal Processes for Compulsory Land Acquisition in Nigeria

6.1 Delays in the Process

One of the most significant challenges is the prolonged and often cumbersome nature of the compulsory land acquisition process.⁶⁴ Delays can occur at various stages, including the issuance of notices, valuation exercises, compensation negotiations, and legal proceedings. These delays can result in prolonged uncertainty for affected landowners and hinder timely implementation of development projects.⁶⁵

6.2 Inadequate Compensation

Another challenge is the issue of inadequate compensation paid to affected landowners. Valuation methodologies may not accurately reflect the true value of the land, leading to undervaluation and unfair compensation.⁶⁶ Additionally, compensation may not adequately account for intangible losses such as

⁵⁸ G Olowu, 'Compulsory Acquisition and Compensation in Nigeria: An Overview' [1990] (34) (2) *Journal of African Law* 207-219.

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*

⁶¹ A A Adeola, 'Compulsory Land Acquisition and Valuation for Compensation in Nigeria' [2011] (5) (1) *Journal of Sustainable Development* 140-153.

⁶² *Ibid.*

⁶³ Adeola (n111).

⁶⁴ F M Udo, 'Land Use Act and Compulsory Acquisition: Re-examining the Landowner's Right to Compensation' [2013] (9) (3) *African Journal of Environmental Law* 22-34.

⁶⁵ *Ibid.*

⁶⁶ *Ibid.*

loss of livelihoods, cultural heritage, and community cohesion, further exacerbating grievances among affected parties.⁶⁷

6.3 Lack of Transparency

The lack of transparency in the land acquisition process is another significant challenge. Government agencies may fail to provide adequate information to affected landowners about the purpose, scope, and implications of the acquisition.⁶⁸ Public notices may be insufficiently disseminated, and decision-making processes may lack openness and accountability, leading to mistrust and suspicion among affected parties.⁶⁹

6.4 Resistance from Affected Communities

Resistance from affected communities is a common response to compulsory land acquisition, particularly when there is perceived injustice or lack of consultation.⁷⁰ Communities may mobilize to protest the acquisition, file legal challenges, or engage in direct action to resist eviction.⁷¹ This resistance can lead to social unrest, project delays, and increased costs for the government.⁷²

6.5 Assessment of the Land Compensation Regime in the United Kingdom

Overall, the UK's land compensation regime is relatively robust and provides several safeguards to protect the rights of landowners. One of the key aspects of the UK's land compensation regime is the principle of "equivalent reinstatement," which aims to ensure that affected landowners are placed in a similar position to what they would have been if their land had not been acquired.⁷³ This principle is enshrined in legislation such as the Land Compensation Act 1961 and the Town and Country Planning Act 1990, which provide for compensation based on the value of the land, as well as other factors such as disturbance and injurious affection.

Additionally, the UK has established specialized bodies such as the Upper Tribunal (Lands Chamber) to adjudicate disputes related to land compensation, providing affected parties with access to an independent and impartial forum for resolving grievances.⁷⁴ The tribunal has the authority to determine compensation amounts and ensure that they are fair and just. Furthermore, the UK's land compensation regime includes provisions for advance payments to affected landowners to mitigate financial hardship during the acquisition process. This helps to ensure that landowners are not unduly burdened by delays in compensation payments.⁷⁵

However, despite these strengths, the UK's land compensation regime is not without its challenges. Delays in the compensation process, disputes over valuation methodologies, and the subjective nature of compensation assessments can sometimes result in protracted legal battles and dissatisfaction among

⁶⁷ K M Onu, 'An Analysis of the Compensation Process in Nigeria's Land Use Act' [2015] (7) (4) *International Journal of Real Estate Studies* 56.72.

⁶⁸ Onu (n118).

⁶⁹ *Ibid.*

⁷⁰ *Ibid.*

⁷¹ O A Oyebanji, 'Issues and Challenges in Compulsory Acquisition and Compensation in Nigeria' [2010] (4) (5) *Journal of African Real Estate Research* 123-136.

⁷² *Ibid.*

⁷³ *Ibid.*

⁷⁴ A R Buckley, 'Land Compensation and the Role of the Lands Tribunal' [2010] (27) (2) *Journal of Planning and Environment* 115-129.

⁷⁵ *Ibid.*

affected parties. Additionally, some critics argue that the compensation amounts provided may not always fully reflect the true value of the land or the losses incurred by landowners.

7.0 Lessons from the United Kingdom

7.1 Clear Legislative Framework

The UK has a well-defined legislative framework governing compulsory acquisition, primarily through the Land Compensation Act 1961 and related statutes, which outline the requirements for notice and compensation.⁷⁶ Nigeria could enhance its legislative framework by consolidating and clarifying existing laws related to compulsory acquisition, ensuring that the requirements for notice are explicitly detailed and accessible. This could involve amending the Land Use Act to incorporate best practices observed in the UK.

7.2 Standardized Notice Procedures

In the UK, standardized procedures for issuing notices ensure consistency and transparency in the compulsory acquisition process, including specific timelines for notifying affected parties. Nigeria could adopt standardized procedures for notice issuance, including specific formats and timelines that must be adhered to by government authorities. This would help ensure that all property owners receive timely and clear notifications, reducing confusion and disputes.

7.3 Assessment of the Land Compensation Regime in Norway

Norway's land compensation regime is characterized by a strong emphasis on fairness, transparency, and public participation. The Norwegian government recognizes the importance of compensating landowners fairly when their land is compulsorily acquired for public purposes, such as infrastructure development or environmental conservation.⁷⁷

7.4 Comprehensive Legal Framework

Norway has a robust legal framework that clearly defines the processes and requirements for compulsory acquisition, including detailed provisions for notice.⁷⁸ Nigeria can enhance its own legal framework by explicitly outlining the notice requirements within the Land Use Act, 1978 and related statutes, ensuring that all processes are transparent and legally binding. This would provide clearer guidance for government authorities and property owners alike.

7.5 Emphasis on Transparency and Information

Norway prioritizes transparency by ensuring that all notices related to compulsory acquisition are clear, accessible, and provide comprehensive information about the acquisition process and the rights of property owners.⁷⁹ Nigeria could adopt similar practices by mandating that all notices include essential information such as the purpose of the acquisition, potential impacts on property owners, and detailed

⁷⁶ D W Denyer, 'Reforming the UK's Compulsory Purchase System' [2018] (34) (1) *Land Use Policy* 45-60.

⁷⁶*Ibid.*

⁷⁷ O H Berge, 'Compulsory Acquisition and Compensation: The Norwegian Approach' [2007] (16) (1) *Journal of Surveying and Real Estate Research* 52-68.

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⁷⁹ O H Berge, 'Compulsory Acquisition and Compensation: The Norwegian Approach' [2007] (16) (1) *Journal of Surveying and Real Estate Research* 52-68.

compensation processes. Additionally, using simple language and local languages can enhance understanding.

7.6 Fair and Timely Compensation

Norway ensures that compensation for acquired land is fair and reflects the true market value, with clear processes for determining compensation amounts.⁸⁰ Nigeria could develop a more structured compensation assessment process that guarantees property owners receive adequate compensation based on transparent valuation methods. This might include regular training for officials involved in property valuation to ensure consistency and fairness.

8.0 Conclusion

The validity of notice for compulsory acquisition in Nigeria is a critical legal requirement that serves to protect property rights while allowing the government to pursue public interest projects. Despite existing legal frameworks, significant challenges persist regarding the clarity, adequacy, and execution of notice provisions. A critical appraisal reveals gaps in implementation that often lead to injustices for affected property owners. By learning from international best practices and addressing these shortcomings, Nigeria can strengthen its compulsory acquisition processes, ensuring they are transparent, equitable, and respectful of individual rights.

9.0 Recommendations

9.1 Strengthening Legislative Framework

The Nigerian government should undertake a comprehensive review of the existing legal framework governing compulsory acquisition, particularly the Land Use Act. By amending the Act to clarify notice requirements and procedures, the government can provide clearer guidelines for both authorities and property owners, ensuring adherence to best practices and improving legal certainty.

9.2 Standardizing Notice Procedures

Establishing standardized procedures for issuing notices can ensure consistency and transparency across different regions and agencies. The government can develop a template for notices that includes essential information such as the purpose of acquisition, timelines, and the rights of property owners, facilitating better understanding and compliance.

9.3 Establishing Clear Compensation Guidelines

Developing clear and transparent guidelines for determining compensation can help ensure that property owners receive fair remuneration for their losses. The government should create a standardized methodology for property valuation and compensation, possibly involving independent assessors to enhance credibility and fairness in the compensation process.

⁸⁰ *Ibid.*