ISA Journal of Arts, Humanities and Social Sciences (ISAJAHSS)

Homepage: https://isapublisher.com/isajahss/

Vol 3, Issue 6, Nov-Dec - 2026 ISSN: 3049-1827

Leasehold Transactions under Property and Real Estate Laws of Nigeria: Implications for National Development

Emmanuel Chinweike Ibezim, Ph.D[1] & Chinedu Iwuagwu, LL.B[2]

[1]*Professor of Law, Associate Dean, and the Head of Department of Commercial and Industrial Law, Abia State University, Uturu, Nigeria*

[2]*Faculty of Law, Abia State, University*

Received: 25.09.2026 | **Accepted:** 27.10.2026 | **Published:** 01.11.2026

***Corresponding Author:** Emmanuel Chinweike Ibezim, Ph.D

DOI: *10.5281/zenodo.23857153*

Abstract **Original Research Article**

The Land Use Act, 1978 and the administration of leasehold transactions, in Nigeria, have far-reaching implications for national development. Thus, this paper examined the Act, and some other legislations and observed, among other things, that the Act established a single land tenure for the entire country. The researcher adopted the doctrinal research methodology and a comparative analysis of the positions of the Law in South Africa, the Gambia, and Nigeria. It identified daunting challenges that are inherent in the provisions of the Land Use Act of Nigeria, which included: the requirement of the Governor's consent; registration gap; forfeiture and relief for non-compliance and conflict with customary Law; and found that the challenges are exacerbated by the centralized single land tenure of the Land Use Act of Nigeria. Consequently, the paper advocated for the adoption of a dual land tenure system, besides other reforms, and the repeal of the Land Use Act, 1978, of Nigeria.

Keywords: Lease, Leasehold, Land Use Act, Property, Real Estate Law, National Development, Nigeria.

Copyright © 2026 The Author(s). This is an open-access article distributed under the terms of the Creative Commons Attribution-NonCommercial 4.0 International License (CC BY-NC 4.0)

1.0 INTRODUCTION

Land use management and especially the administration of leasehold interests have far – reaching implications for national development. This informs the authors' interest in examining the legal trappings of its management under the relevant property or real estate laws of Nigeria. Of course, under the Land Use Act, 1978 all lands in Nigeria are vested in various governors of the state, who hold same in trust for the people. All that the individuals or corporate bodies are entitled to, under that legal regime is a leasehold interest which conveys exclusive possession for a term of years (at most 99 years) in exchange for rent and covenants.

In examining the leasehold transactions vis-à-vis its implications for national development, the article proceeds under the following headings: 1. Conceptual clarifications; 2. Legal Framework for leasehold transactions; 3. Implications of lease-hold transactions for National Development; 4. Key Legal Challenges; 5. Lessons from Foreign jurisdictions; and 6. Conclusion and Recommendations.

2.0 CONCEPTUAL CLARIFICATIONS:

In addressing the subject-matter of this paper, it has

become absolutely necessary to define or clarify certain relevant concepts. Such concepts are as follows: "Lease(s)/Leasehold"; "Property"; "Real Estate"; "Land"; and "National Development".

2.1. Property

"Property" means the right to possess, use and enjoy a determinate thing; and includes the right of ownership.[1] It had also been considered in its widest sense to include, all of a person's legal rights, of whatever description. In other words, all that is his, in law. Of course, this shade of meaning has become obsolete in contemporary times.[2]

According to Salmond:

> …In a second and narrower sense, property includes not all a person's rights (sic), but only his proprietary as opposed to his personal rights. The former constitutes his estate or property, while the latter constitutes his status or personal condition.
>
> In this sense a man's land, chattels, shares, and debts due to him are his property;... In a third application,...the term includes not even all proprietary rights, but only those which are both proprietary and in rem. The law of property is the law of proprietary rights in rem, the law of proprietary rights in *personam* being distinguished from it as the law of obligations. According to this usage a freehold or leasehold estate in land, or a patent or copyright, is property; but a debt or the benefit of a contract is not… Finally, in the narrowest use of the term, it includes nothing more than corporeal property − that is to say the rights of ownership in a material object or that object itself.[3]

Central to the concept of "property" are the following three core elements, namely: Some notion of an exclusive link between a resource and a particular individual or group (i.e. 'this goat, this land, is mine/ours); corresponding norms of transfer/transmission; and readiness on the part of the state to recognize and underwrite such arrangements (the transformation of shared norms into "law").[4]

2.2 Land

Land has been described as an immovable and indestructible three dimensional area consisting of a portion of the earth's surface, the space above and below everything growing on or permanently affixed to it.[5] However, the layman's conception of land is simply the 'ground' or a stretch of soil, on which someone may erect a structure.[6] In debunking this simplistic notion, the Supreme court of Nigeria has held that land no longer means the ordinary ground with its subsoil, but surely includes buildings and trees growing thereon.[7] Apparently, the Supreme Court was relying on the Property and Conveyancing Law, Laws of Western Nigeria which defines "Land" as:

> The earth surface and everything attached to the earth otherwise known as fixtures and all chattels real. It includes incorporeal rights like a right of way and other easements as well as profits enjoyed by one person over the ground and buildings belonging to another.[8]

Scholars like Nwabueze and Smith confirm the foregoing definition of "Land". For Nwabueze:

> …Land does not just mean the ground

1 Garner, B.A., (ed) *Black's Law Dictionary,* (8th ed) St. Paul, West a Thompson Business, 2004, 1252.
2 *Ibid*, 1252 – 1253.
3 *Ibid*, 1253 (John Salmond's ideas on the meaning of "Property" in his Jurisprudence 423-24 (Glanville, L Williams, ed. 10th ed., 1947) were reproduced.
4 Murphy, T, et. al, *Understanding Property Law*, 4th ed., London, Sweet & Maxwell, 2004, 7.
5 Garner, B.A., op cit, 893.
6 Akinyemi, A.A, *Land Litigation in Nigeria (Practice and Procedure),* Lagos, Renaissance Law Publishers Limited, 2022,3.
7 *Ibid*. See also *Unified Development Co. Ltd v. Adeshingbin* (2001) 4NWLR (Pt.704) 609.
8 Cap. 192, *Laws of the Federation of Nigeria*, 1990/Cap.123 *Laws of the Federation of Nigeria, 2004*.

and its subsoil, but includes also all structures and objects, like buildings and trees standing on it... 'Immovable property or "Land" include land and everything attached to the earth or permanently fastened to anything which is attached to the earth and all chattels real.[9]

On the other hand, Smith confirms it by identifying the following as the components of land: the earth surfaces, subjacent things of a physical nature, everything attached to the earth surface, and incorporeal rights.[10]

At this point, it must be acknowledged that "Land" is a specie of property, and thus comes within the meaning of "property" under section 276(1) of the constitution of the Federal Republic of Nigeria[11], as was held in *Nkwocha v Governor of Anambra State.*[12]

2.3 Real Estate

"Real Estate" otherwise "Real Property has been defined as:

Land and anything growing on attached to, or erected on it, excluding anything that may be severed without injury to the land. Real property can be either corporeal (soil and buildings) or incorporeal (easements)… .[13]

"Estate" 'applies to the length of time for which a person is entitled to hold land'.[14]

Under the common law 'Land can only be held from either the crown, if it is freehold, or from a landlord, if it is leasehold, for a certain period of time'.[15] This period of time is what is expressed as an "estate". Thus "Real Estate" could be defined as land that is held by someone for a certain period of time.

2.4. Lease(s)/ Leasehold

The "Lease" is a contractual arrangement between the landlord and the tenant or the "lessor" and the "lessee" property, so called. The term is usually used for a fixed term of tenancy.[16] Thus, it could be defined as the transfer of exclusive possession of land or property by a lessor to a lessee for a term certain, in exchange for a consideration, which is usually a rent.[17]

It is important to observe that a lease is a special kind of contract, because it is also a conveyance of an estate in land. This is the right given to the tenant or lessee by the landlord or lessor to occupy or hold that land as may be agreed. Thus, the lease may embody many terms that regulate the relationship between the parties to the transaction. Such terms are called covenants.[18] The tenant's or lessee's possessory estate (or rights) in the land is what is known as a "leasehold".[19]

In Nigeria, the leasehold could be a direct grant from the Governor of a state, who grants a Right of Occupancy for 99 years to an individual and this could be described as the root leasehold. The holder of such a lease could grant part of the term to a third party with the consent of the Governor.[20]

The original holder could also assign the entire residue or remaining term of the Right of Occupancy to an assignee with the Governor's consent.[21]

2.5. National Development

"National Development" has been defined as the

9 Nwabueze B O, *Nigerian Land Law,* Enugu, Nwamife Publishers Limited, 1974,3.

10 Smith, I. O, *Practical Approach to Law of Real Property in Nigeria,* Revised Edition) Lagos, Eco watch Publications Ltd, 2013,9.

11 See the Constitution of the Federal Republic of Nigeria 1999 (as Amended).

12 (1984) 1 SCNLR, 634.

13 Garner, B A, *op. cit.,* 1254.

14 Morris, J. R, *Principles of Landlord & Tenant Law,* (2nd edn.), London, Cavendish Publishing Limited, 1999, 7.

15 *Ibid*.

16 *Ibid*., 3.

17 *UBA v Tejumola & Sons Ltd* (1988) 2 NWLR (Pt. 79) 662.

18 Op cit, 3-4

19 *Ibid, 4.* See Gardner, B.A. (ed), op cit, 909

20 See section 22(1) of the Land Use Act.

21 Section 22(2) of the Land Use Act, 1978

ability of a nation to improve the lives of its citizens materially, as could be measured in increased gross domestic products or socially, in increased, literacy rates, and availability of enhanced health care.[22] Of course, this includes adequate and affordable housing. Thus it has been observed that the goal of all national development plans is to improve the lives of the citizens in question within the context of a growing economy and an emphasis on the good of the community as a whole.[23]

Ngwakwe summarizes the concept of development or national development as touching:

> Every aspect of human activity and therefore its indices find expression in all sectors of human endeavors producing economic, political, social and cultural changes or manifestations. Economically, it involves studies and activities to fight poverty through provision of solutions and answers to widespread poverty, hunger, and misery. Financial empowerment, food production, housing schemes, job opportunities and other infrastructural facilities are imperative in this connection. Socially and culturally, it targets improvement of social indicators like life expectancy, levels and quality of education, healthcare system, calories intake, existence and adoption of series of modernization ideals and relaxation etc.[24]

3.0. LAW REGULATING LEASEHOLD TRANSACTIONS IN NIGERIA

Legal regulations of the leasehold tenure in Nigeria consists of a combination of constitutional provisions, statutory enactments, land administration regulations, and a plethora of key judicial precedents or case law.

The Land Use Act of 1978, which was incorporated into the Constitution of the Federal Republic of Nigeria, 1999 (as amended) constitutes the primary legal framework for the administration of leasehold estates in Nigeria.

3.1 The Land Use Act

The Land Use Act restructured landholding in the country in a most fundamental way by vesting all lands in the country, in the state governors and effectively nationalizing land and abolishing freehold, especially in urban areas.[25]

Thus, the act empowers the governor to perform sundry acts, in respect, of lands within the state (whether or not within an urban area), which includes granting of statutory rights of occupancy, easements appurtenant to statutory rights of occupancy; demanding rental for any such land granted to any person; revising the said rental; imposing a penal rent for a breach of covenants and requiring the holder to develop or effect improvements on the land etc.[26] On the other hand local governments are empowered to grant customary rights of occupancy in rural areas.[27]

The Government also has the power to revoke any Right of Occupancy for an "overriding public interest,[28] and offer compensation payable on such revocation.[29]

Any alienation of land by assignment, sublease, mortgage, or transfer of possession for a period of more than three years requires the governor's consent under the Act.[30] Without the Governor's consent, any such transaction is void *ab initio*.[31]

---

22 Ngwakwe, E C, et al, "Review of the Synergy between Law, Social Security and national Development" in Okeke, G N, (ed) Law, *Security and National Development* being proceedings of the Conference of the Nigerian Association of Law Teachers (NALT) held 11-16 June, 2017 at Nnamdi Azikiwe University, Awka, 47.

23 *Ibid.*

24 *Ibid.*

25 Section 1, of the Land Use Act, 1978.

26 Section 5(1)(a) – (h) of the Land Use Act.

27 Section 6(2) of the Land Use Act.

28 Section 28(1); sections 28(2)-(4) defines what constitutes "'overriding public interest".

29 Section 29 of the Land Use Act.

30 Section 22 of the Land Use Act.

31 *Ibid.* See *Savannah Bank v Ajilo,* 1 NWLR, Pt. 97, 305.

3.2 Conveyancing Act of 1881 And 1911

These Acts still apply to Nigeria but primarily as a statute of general application and in specific states, where they are yet to be repealed and replaced with local state legislations.[32] For instance, the Conveyancing Act has been largely repealed and replaced, in the Western states, by the Property and Conveyancing Law (PCL), 1959, which applies to states like Ogun, Ondo, Oyo, Osun, Ekiti, Edo, and Delta. Lagos State also has progressively replaced the English Act with local enactments. Such local enactments include: the Mortgage and Property Law 2010, which explicitly repealed the English Conveyancing Act, 1881, as it relates to mortgage transactions in the state.

However, whether or not the English Conveyancing Act 1881 applies in any State, all land transactions in Nigeria are subject to the Land Use Act of 1978. In the circumstances, the Conveyancing Act 1881/1911, wherever applicable, only provides the foundational rules for the drafting of deeds of conveyance and legal mortgages; implied covenants (such as the covenant for the right to convey and quiet enjoyment); and the powers of mortgagees and trustees.

3.3 Property and Conveyancing Law (PCL), 1959

As already mentioned, this law applies to states that were carved out of the old western region. It governs formalities for creating leases, and it requires leases above three years to be by deed. Among other things, it also provides rules on covenants, forfeitures, and reliefs.

3.4 Land Instruments Registration Laws

Every state in the federation of Nigeria, including the Federal Capital Territory (FCT), Abuja, has its own land instruments registration law (or land registration law). The law governs the registration of documents and transactions on land, such as deeds of assignment, mortgages, and powers of attorney.

3.5 Tenancy Law and Recovery of Premises Act

Each of the States of the federation has its own distinct legislation to address its own peculiar challenges, as tenancy regulations fall under the residual legislative list of the Nigerian Constitution.[33]

3.6 Received English Law

The Received English Law or statutes are those laws that were enacted in England but were received or imported into our legal system by the instrumentality of the Interpretation Act and as follows:

> Subject to the provisions of this section and except in so far as other provision is made by any federal law, the common law of England and the doctrines of equity, together with the statutes of general application that were in force in England on 1st day of January 1900, shall be in force in Lagos and in so far as they relate to any matter within the legislative competence of the Federal Legislature, shall be in force in Nigeria.[34]

It is on the strength of this enactment that such statutes as the Judicature Act 1890, the Conveyancing Act 1881, Land Transfer Act, 1897, the Wills Act, 1837 etc became applicable to Nigeria.[35] However, wherever the statutes are silent, the principles of the English land law will apply, subject to local circumstances.[36] Hence, doctrines of lease covenants, repudiatory breach, and relief against forfeiture are applied by Nigerian courts.[37]

---

32 The Conveyancing Act, 1881 still regulates land transactions/agreements in relevant circumstances in the relevant states.

33 Section 4(7) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended).

34 Section 32(1), Interpretation Act, CAP L58 LFN 2004.

35 Hagler, O, *Legal Method in Nigeria,* Lagos, Cityway Books Ventures, 2023, 137.

36 *Op cit.*

37 *Oke v Oke* (1974) 1 All NLR, 443.

3.7 Case Law (Judicial Decisions)

Case law, especially certain loci classici could be considered as forming part of the legal framework in Nigeria. Such judicial authorities or cases includes: *Oduye v Nigeria Airways Ltd;*[38] *United Bank for Africa (UBA) v Tejumola & Sons Ltd;*[39] and *Iheanacho v. Uzochukwu*[40].

In *Oduye v Nigeria Airways*[41], the Supreme Court considered the issue of certainty of terms and enforceability of tenancy agreements in leases, and held that for an agreement to constitute a valid lease, it must have a term certain, i.e. clearly defined commencement and termination dates. The fact that exclusive possession is the distinguishing element of a lease was established by the Supreme Court in the case of *United Bank of Africa v Tejumola & Sons Ltd*[42], while the requirement of a valid notice to quit was established by the Supreme Court in *Iheanacho v. Uzochukwu.*[43] In that case the Supreme Court firmly held that the court will not grant recovery of premises unless the landlord strictly complies with statutory notices requirement.

4.0 KEY LEGAL CHALLENGES

The following issues constitute the key legal challenges that confront leasehold transactions in Nigeria; Governor's consent, Registration gaps, Forfeiture and Relief, and conflicts with Customary Law.

4.1 Governor's Consent

While the requirement of the governor's consent was meant to control land use and prevent land speculation, in practice it has become an administrative bottleneck. This is so, as payable fees for processing it are discretionary and vary state by state, while delay in receiving it is indefinite.[44] Furthermore, the strict voidance rule that was established in *Savannah Bank v Ajilo*[45] means that *bona fide* purchasers lose money if consent is not available or shown.[46] Tanzania remedies this mischief in the Law by retaining consent for mortgages and transfers to foreigners only, while for citizens, notices of such transactions are deemed to have been taken.

4.2 Registration Gaps

Closing the title registration gap can be physically and financially daunting Bureaucratic bottlenecks, corruption and the high cost of processing governors consent have often been cited as major barriers to perfecting land titles, in Nigeria.

Besides, manual Registries are plagued by fraud "double allocations", and missing files, thereby making due diligence costly and unreliable. This may account for the fact that only about 3% of Nigeria's land is registered.[47]

Thus, most of the lands in Nigeria cannot be used as collateral in mortgage transactions.

4.3 Forfeiture and Relief

Another key challenge is that under the common law, the landlord may forfeit a lease for any breach, at all, not just for a rent arrears,[48] and 'relief from such forfeitures is granted sparingly and mainly for rent'.[49] Unfortunately, Nigeria has not enacted any statute to relax this rigid rule as has happened in the UK.[50] Thus, there exists this crisis of spurious revocations of titles, as has been witnessed in Abuja

38 (1987) 2 NWLR (Pt. 55), 126.
39 (1988) 2 NWLR (Pt. 79) 662.
40 (1997) 2 NWLR (Pt. 487), 347
41 *Supra*
42 (1988) 2 NWLR (Pt. 79), 662.
43 *Supra*
44 Akintola, O, 'Land Transaction Costs in Nigeria' (2018) 62 Journal of African Law, 210.
45 *Supra*.
46 *Op cit.*
47 World Bank, Nigeria: Diagnostic Study of Land Administration as an Official Advisory Services and Analytics (ASA) Report, 2019, 7.
48 *Expert Clothing Service v Hillgate House* 1 CH 271.
49 *Billson v Residential Apartments Ltd* 1 AC 494.
50 See UK Law Reform (Forfeiture) Act 1982, which is an Act of Parliament of the UK, which allows the court to relax or set aside the operation of the rigid Common Law rule, where "the justice of the case" so requires (other than to benefit a murderer).

lately.[51]

4.4 Conflict with Customary Law

As has been observed in *Lewis v Bankole*[52], in the rural areas, customary leasehold under native law and customs co-exist with the Land Use Act. Of course, without being registered such customary leases are, not being captured, invisible to formal finance and planning systems. More importantly, they come into conflict with the Customary Law System of land holding.

5.0 IMPLICATIONS FOR NATIONAL DEVELOPMENT

The aforementioned legal challenges to leasehold transactions in Nigeria have far-reaching implications for national development. These may be reflected in certain national development indices, which include the following: housing delivery, Mortgage financing/capital formation, Foreign Direct Investment (FDI), Internally generated revenue, Security of tenure and Social stability.

5.1 Housing Delivery

Leasehold insecurity arising from both government failings and general lapses in leasehold transactions accounts for a housing deficit of about 28 million units in Nigeria.[53] Government ineptitude and lapses on the part of property owners or holders can be seen in the inordinate delays in receiving the governors consent to leasehold transactions and failure to register leasehold titles on the part of citizens. This situation operates to frustrate developers who cannot access mortgage financing without registered and consented lease, as banks demand governors consent before any disbursement.[54] Consequently, the prospect for mass-housing projects are grossly curtailed. Besides, insecurity of tenure also drives informal settlements, as people build or develop their land without perfected titles, in order to avoid the hassle of bureaucracy, thereby frustrating governments' ability to internally generate revenue from stamp duties and registration fees.

5.2. Mortgage Finance and Capital Formation

As unregistered and unconsented lease are not bankable collateral, capital locked in land becomes unavailable for funding businesses thereby adversely affecting economic growth and national development. Interestingly, a scholar has described such capital that is locked in land as "dead capital".[55]

5.3. Foreign Direct Investments

Foreign Direct Investments (FDI) in real estate, manufacturing, and infrastructure enhance economic growth and national development but investors require secure transferable land rights, which are not readily guaranteed in Nigeria. For instance, World Bank's "Registering Property" index ranked Nigeria 183 out of 190 in 2020.[56] This, of course, is because of the delay in receiving the requisite consent and registration, and the risk of unwarranted revocation of tittle. Thus, multi-nationals are said to prefer leasehold in free trade zones, where clarity of title is more assured.[57] This militates against national development.

5.4. Government Revenue (Internally Generated Revenue)

The Nigerian governments lose enormous revenue, because of low registration of leases, and inordinate delays in receiving government's consent. They lose revenue from ground rents, consent fees and stamp duties, which are veritable sources of internally generated revenue. For instance, Lagos State internally generated revenue (IGR) from land

[51] That is under the Administration of Wike, as FCT Minister.

[52] *Supra*.

[53] Federal Ministry of Works and Housing, National Housing Programme Report, 2023, 4.

[54] See the Housing Finance Report, Central Bank of Nigeria of 2022, 18.

[55] De Soto H, *The Mystery of Capital,* Basic Books, 2000, 35.

[56] World Bank Report, Doing Business, 2020, 5.

[57] *Ibid*.

charges alone exceeded N200 billion, in 2023.[58]

Unfortunately, informal leasehold transactions escape taxation entirely, thus adversely affecting national development.

5.5 Security of Tenure and Social Stability

Insecurity of tenure and social instability of all manners discourage long term investment in buildings and infrastructure.[59] The "omo onile" land grabber conflicts of 2016,[60] and the more recent xenophobic calls to expel Igbos and close down their businesses, in Lagos, are typical of these factors.[61]

The foregoing socio-economic upheaval affects socio-economic growth, which concomitantly militate against national development.

6.0 LESSONS FROM FOREIGN JURISDICTIONS

Leasehold systems within most of Africa's jurisdictions share common roots in the English Common Law heritage.[62] However, they also diverge significantly due largely to statutory interventions, colonial histories and modern land reform policies.[63]

At this point, what obtains in Nigeria will be compared with the positions in the Gambia and South Africa. This will be along the lines of their land tenure systems, legal frameworks for leasehold, and regulations on foreigners' leasehold rights.

6.1 Land Tenure Systems

Whereas Nigeria operates a centralized land tenure system under its Land Use Act,[64] the Gambia maintains a dual land tenure system, which consists of customary tenure and statutory tenure, respectively. On the other hand, South Africa operates a mixed land system which is shaped by a combination of its colonial history, its apartheid era, and its modern reforms.[65]

Unlike the position in Nigeria, all lands are not vested in the State, (in the Gambia and South Africa), as private ownership is permissible under their respective laws. Thus, in the two jurisdictions, leaseholds could be granted by both private owners and the state, meaning that private owners enjoy both freehold and leasehold interests in land,[66] in those jurisdictions. This seems to be an advantage over Nigeria.

6.2 Legal Frameworks

Whereas land administration, in Nigeria is governed by a unified legislation, (the Land use Act, 1978). Currently, South Africa operates a dual-land tenure system, which recognizes statutory private ownership under Common Law, and communal land ownership under customary law.[67] Her unified Communal Land Rights Act, 11 of 2004 was struck

---

58 The Lagos State Government had not yet published the fully audited, component by component breakdown for the entire ₦1.87 trillion 2025 IGR, as at the time of writing this article, but official data shows that land charges and property taxes typically generate tens of billions of Naira annually. Land use charges accounted for over N14 billion in revenue, marking a 37% increase in property tax collections compared to previous cycles. Thus, the 2025 Land use charges must have exceeded the ₦200 billion of 2023.

59 This was observed *obiter* in *Osho v Foreign Finance Corp*, 4 NWLR, Pt. 184, 157.

60 Akinola R, 'Omo Onile and Land Conflicts in Lagos' (2016) 54 *Africa Development*, 89.

61 These campaigns to expel Igbos have often been triggered by political and economic conflicts. For example, there was the ethnic profiling of Igbos during the 2015 general elections in Lagos; that of an online "#Igbo Must Go" campaign of 2024, which demanded Igbos vacate Lagos and relocate their businesses to the southeast; selective property demolitions of estates, markets, and shops owned by Igbo traders in areas like Alaba international Market etc.

62 Iwuagwu C, "An Appraisal of Leasehold and Leases: A Comparative Analysis of Nigeria, Gambia and South Africa", (Being an LL.M Seminar Paper presented to the Post Graduate Unit of Faculty of Law, ABSU, in 2024/2025 Session.

63 *Ibid*.

64 *Ibid*.

65 *Ibid*, 10.

66 *Ibid*.

67 Hitherto, the unified legislation was the Communal Land Rights Act (No. 11) of 2004, of South Africa.

down in its entirety by the Constitutional Court of South Africa in 2010, for being incorrectly tagged as a "Section 75" Bill instead of a "Section 76" Bill, which requires 'broader provincial participation'.[68]

In the above circumstances, the Interim Protection Informal Land Rights Act (IPILRA) 31 of 1996 has been relied upon to fill the gap and protect rural/customary communities. The Minister of Lands Reforms extends its operation yearly.[69] Besides this, land tenure security is protected by a patch-work of distinct pieces of legislation.[70] However, the South African government is presently taking steps to improve the situation.

South Africa has passed the Expropriation Act, 2024.[71] She has also introduced the Prevention of Illegal Eviction from and Unlawful Occupation of Land L(PIE) Amendment Bill to curb illegal land invasions by criminalizing the incitement of property occupations and boosting municipal powers to swiftly clear unlawful land invasions.[72] Furthermore, the department of Land Reforms is actively preparing Communal Land Tenure and Administration Bill 'as a long term strategy, like the interim protection of informal Land Rights Act[73], and fix the administrative gaps that presently exist in communal regions.

Department of Land Reforms is actively preparing the Communal Land Tenure and Administration Bill 'as a long-term strategy to replace the expired temporary protections', like the Interim Protection of Informal Land Rights Act,[74] and fix the administrative gaps that presently exist in communal regions. The Bill is scheduled to be introduced in parliament in 2027.[75]

On the other hand, in the Gambia, land is governed by a dual legal framework, which consists of statutory and customary practices.[76] Under this framework, lands are administered by the Ministry of Lands and Regional Governments. They are categorized into three main tenures: customary, state/leasehold, and freehold.[77]

Customary Tenure governs approximately 95% of the land, and is based on indigenous traditions, which are administered by local chiefs (Alkalos), and councils of elders. While the lands are usually not registered, rights to use and access them are gained through birth, marriage, or residency within a lineage group.[78]

State lands and leasehold are vested in the President for the benefit of the people, under the State Land Act of 1991 (and the subsequent State Lands Regulations).[79] By the same Act, individuals and corporations can hold leasehold rights usually for 99 years in urban and peri-urban areas on payment of rents to the State.[80]

Freehold tenure grants perpetual, absolute ownership of lands and entitles the owner to transfer or sell it without state interference. Of course, freehold ownership is relatively rare in the Gambia, and is mostly found in parts of Banjul and the Kombo St. Mary District.[81]

---

68 *Tongoane and others v Minister for Agriculture and Land Affairs and other* ([2010], ZACC 10).

69 Presently, its life has been extended to December, 31, 2026 by IPILRA Gazette Extension.

70 Such legislations include: Upgrading of Land tenure Rights Act 112 of 1991 (ULTRA) Title Act (This Act allows individuals holding weaker apartheid-era tenure rights (such as deeds of grant" or "permit to occupy" to upgrade them into full secure property ownership and title deeds); Prevention of Illegal Eviction from Unlawful Occupation of Land Act 19 of 1998; Commercial Farms and Rural Laborers Laws (1996 and 1997); Community Land Management and Restitution Laws, 1994 and 1996 etc.

71 Expropriation Act, 2024 (Act 13 of 2024) replaces the outdated Expropriation Act of 1975 and establishes the current legal framework for the state to acquire private property for public purposes.

72 See 'PIE Amendment Bill', available at https://www.explorit.co.za+1 (accessed 11-7-2026).

73 *Supra*.

74 *Ibid*

75 See 'The Report of the Parliamentary Monitoring Group', available at https://www.google.com/... (accessed 11-7-2026).

76 FAOLE X Database or the World Bank Land Governance Assessment, available at https://www.google.com/s.. (accessed 11-7-2026).

77 *Ibid.*

78 *Ibid.*

79 *Ibid.* See the State Lands Act, 1991 and subsequent Lands Regulations.

80 *Ibid*.

81 *Ibid*.

Interestingly, under the Gambia Women's Act, 2009 and the Constitution of the Gambia,[82] Women's equal right to own, use, and inherit land is guaranteed. This guarantee is further reinforced by agricultural and rural development initiatives like the IFAD roots project.[83] This is significant because women produce over 90% of the rice and vegetable outputs in the Gambia, and make-up about 70% of the total agricultural work-force.[84]

Unfortunately, they hardly have access to legal land ownership, despite the statutory guarantees of full equality. This is because customary practices on ground do not respect or reflect the relevant legislations, which provide for women's right to acquire, manage, and transfer property. This right to acquire and to inherit landed property has been given judicial assent by the Supreme Court of Nigeria in the landmark case of *Ukeje v Ukeje (2014)*.[85] The same court, in the related case of *Anekwe v Nweke (2014)*[86], ruled that customary practices that deny women their rights are "repugnant to natural justice, equity, and good conscience." So the Gambia should borrow a leaf from the current state of the law in Nigeria.

6.3 Foreigner's Leasehold Rights

In Nigeria, foreigners may acquire leaseholds or rights of occupancy with the governor's consent. Same thing is applicable in the Gambia except that non-Gambians may only be granted residential land in tourism zones under strict government regulations, while in South Africa, foreigners may own or lease land freely, with few limitations. However, currently, there are on-going debates for stricter restrictions.[87]

7.0 CONCLUSION AND RECOMMENDATIONS

At this point this paper proposes to summarily draw a conclusion and make necessary recommendations.

7.1. Conclusion

This paper has clarified the meaning of some key concepts in leasehold transactions, and examined some of the laws that regulate them, including relevant judicial decisions. It has also examined the key legal challenges to leasehold transactions and observed their implications to national development.

In a bid to seek solutions to perceived challenges to leasehold transactions in Nigeria, the paper also undertook a comparative assessment of the position of the law in Nigeria, vis-à-vis those in South Africa and the Gambia, and came to the conclusion that the land use Act of Nigeria should be repealed. It advocates for the adoption of the dual land tenure system, as obtainable in both South Africa and the Gambia, where statutory private ownership and communal land ownership co-exist under the common law and the customary Laws, respectively. It is hoped that the adoption of the dual tenure system will enhance access to land for national development by liberalizing overall access to land in Nigeria.

7.2. Recommendations

The following recommendations for overall reforms of leasehold transactions in Nigeria are hereby made as follows:

a. Nigeria should adopt the dual land tenure system under which statutory private ownership and communal land ownership co-exist under the common law, and the customary laws, respectively.

b. The provision for Governor's "consent" should be reviewed by amending section 22 of the Land use Act to replace "consent" with the phrase, "notice and deemed approval after 30 days" for assignments and subleases, while retaining "consent" for mortgages and transfers to foreigners

82 *Ibid.*

83 'Women's Land Rights in the Gambia', available at https://www.landscapealliance.org. (Accessed on 12-7-26).

84 Ibid.

85 (2014) 11 NWLR (Pt. 1418) 384.

86 (2014) JELR 54573 (SC). This case challenges the customary law of male primogeniture (the right of succession belonging to the eldest son) of the Awka people in Anambra State

87 See Regulation of Agricultural Land Holdings Bill of South Africa.

only. Besides, government should issue bulk consents to developers for mass housing estates, rather than individual consents, so as to cut delay and cost.

c. Nigeria should enact a legislation that will give the courts the discretion to grant relief for all breaches, if the tenant remedies them, so as to protect the tenant's capital investment, and encourage development.

Nigeria should digitize and harmonize land registries by encouraging all states to adopt electronic land registration, as has been done in Lagos State. To achieve this, the federal government should enact a national land Registration Act to harmonize records and introduce Torrens indefeasibility. (The rule that registered property owner's right to land is final and absolute).