

Property Acquisition: Working Checklist

Introduction

Economic development in Nigeria and the need to acquire landed property, have also given rise to an increase in disputes and litigation arising from such acquisitions. Most of the time and rather unfortunately, professional advice is only solicited after ? .. the door of the stable had been closed and the horse had bolted?. This situation also occurs in some exceptional cases where professional advice was obtained. Further, not much assistance has been received from the government as the communal land tenure systems, where the land is cheaper, remains unorganised, prone to intrigues and in some cases, fraud.

Underneath is a checklist of steps that can be taken to prevent these disputes.

Checklist:

- On taking the decision to acquire land, consult a qualified and experienced Legal Practitioner. There is always one either in your company, family, church, mosque, neighbourhood, etc.
- Find out the name of the present Owner of the land or the name of the family that owns the land? It is critical that you establish physical contact with the Owner as soon as possible and before any payment is made for the property. This contact will also enable you to have a ?feel? of the Owner and assist you in taking a decision as to whether or not, to continue with the transaction.

The current practice of estate agents preventing an interested purchaser from meeting the Owner early in the negotiation, because of genuine concerns that they will not receive their commission, should be discouraged because when a dispute arises, the estate agent would neither assist to recompense the purchaser neither would he/she assume any form of responsibility or liability. The prospective purchaser should therefore establish some levels of guarantee that will assure the estate agent of his commission.

- Investigate the kind of title that the Owner of the land has; did the Owner acquire the land

as a gift, by government allocation, by customary inheritance, by purchase, etc?

- How long has the Owner been in possession of the land and what structures are on the land to show that he had always been in possession? Has possession been disturbed or interrupted at any time by another interested party?
- Instruct a Legal Practitioner to conduct a land search on the property, if it is registered, with the State Lands Registry? If it is not registered with the Lands Registry and it is a community or family land, go to the head of the family and inquire if the land is available? Some traditional families now have family offices on the land that they are selling. Note that a Land Search may not be conclusive as there is a reported incident of a 'switch' in the original title document at the Lands Registry when the initial land search was conducted (although this incident is still under investigation). This is why a physical search, which is also mentioned underneath, should be undertaken.
- The above land search should also establish whether the land is free from any form of government acquisition, registered mortgage(s), caveats, etc. Further, the issue of all outstanding fees and charges relating to the land should be established at this stage.
- Critical that you, with at least one Legal Practitioner, should undertake a physical and independent search on the property. Usually, there would be found pillars or beacons demarcating the plots from each other. We have discovered that mid Sunday afternoons are best suited for this exercise. Inquire from people inhabiting the adjoining properties who the owners of the land are; neighbours are always too willing to give this information.
- Explore if there are any litigation or court decisions relating to the land. Some states like Lagos State now have a Lands Division at the High Court. This should enhance a search for any litigation. Although this kind of search can be tasking as a result of the non-computerisation of the records in the Court Registries, and may also be inconclusive, it is a worthwhile exercise.
- Investigate from the local Town Planning authority in the area where the land is situated, what kind of physical development that is permitted on the land? For example, is it residential, commercial or both residential and commercial? Further, the Town Planning Authority issues to applicants, building approvals, which will also indicate whether the land is within government excision or free from any other encumbrance. Where there is an already prepared survey plan, an investigation of this plan at the Town Planning office will also assist in indicating the position of the property.
- Ensure that before actual payment is made for the land, as much documentation that would be required to change the ownership to the new one, are obtained from the original

Owner. This would prevent further expenses having to be incurred in the form of a ?signature fee? which may be demanded subsequently.

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