

Introduction

Land continues to be a very significant aspect of human existence and wealth creation. In recognition of this reality, the land laws in most countries make the ownership of land and the right to alienate such ownership to other persons, an inalienable constitutional right.

Due to insufficient enlightenment on the lawful methods to validly obtain and retain legal title to land, proof of ownership to land continues to be very contentious and litigious.

To mitigate against some of the risks associated with land acquisition and ownership, let us consider some of the most common methods of owning and retaining ownership to land, pre and post the enactment of twenty-first century land legislations.

Historical Methods of Land Ownership

FIRST SETTLERS ? From time immemorial, the first legally recognised method of land ownership was with the first settlers on any land, who located, de-forested and cultivated the land over a very long period of time.

WAR AND CONQUEST ? Tribal wars and victors from such wars usually took as spoils of such wars, the lands of the losing tribe.

CUSTOMARY GRANTS OF TITLE ? Before the passing into Law of land legislations, land allocation and transfer were mostly done by the Community Head of the area where the land is situated.

INHERITANCE ? Title to land has also evolved from one generation to the next generation by way of hereditary succession.

GIFTS ? Title to some land have passed to other people by virtue of the legitimate owner of the land making a gift of the land to another person. It is however recommended that in this present day, where a gift of land is made, it should be embodied in a Deed of Gift to which the consent of the appropriate statutory authority should be obtained.

SALE OF LAND ? Advancements in civilisation, industrialisation and the economic migration of people have led to the sale of land being the most common method of acquiring title to land. Where a sale of land is under customary law, such sale will only be valid where money is paid and the land is delivered to the buyer in the presence of at least two (2) witnesses. Where a sale of land is not under customary law, a formal written agreement is required to validate the sale.

Land Use Act and Land Ownership

The enactment of the Land Use Act in 1978 has brought into force the jettisoning of the old methods of acquiring land, as enumerated above; with all land not previously owned before 1978, now vested in the Governor of the State ? for land in urban areas ? or the Chairman of the Local Government Area - for land in rural areas; both of whom hold all such land in trust, for the common benefit of the people of such a State or Local Government Area where the land is situated.

CERTIFICATE OF OCCUPANCY. In furtherance of the authority conferred on the Governor by the Land Use Act, a Governor of a State is the only authority permitted to issue a Certificate of Occupancy to Applicants that fulfil the conditions precedent for the issuance of a Certificate of Occupancy; upon the payment of the prescribed fees. For land in rural areas, it is the Local Government Chairman that issues the Customary Rights of Occupancy. Like any other contract, the terms and conditions of a Certificate of Occupancy, which includes the payment of the annual rent, must be strictly adhered to as any breach or default will lead to the Certificate of Occupancy or the Customary Right of Occupancy being revoked.

TRANSFER OF TITLE ? Assignment, Mortgage, long Lease or Sublease. It is unlawful for any Certificate of Occupancy or any Customary Right of Occupancy to be transferred to another party by assignment, mortgage, transfer of possession, sublease or otherwise without the consent of the Governor ? or Local Government Chairman as may apply - being first obtained. For land in urban areas, it is the consent of the Governor of that State that is required; and for land in the rural areas, it is the consent of the Chairman of the Local Government that is required.

Where the prior consent of the Governor or Local Government Chairman is not obtained to any alienation of any interest in land, such alienation shall be held to be null and void.

Conclusion

As owing any form of interest in any real estate is a very important business decision that an individual or corporate entity will make during his or her or its lifetime, greater care and circumspect must be exercised in acquiring and retaining valid legal title to this continually appreciating asset.

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