

Legal Alert ? October 2010 ? Land Instruments ? Survey Plan and Survey Law

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Legal Alert ? October 2010 ? Land Instruments - Survey Plan and Survey Law ? Part 1
Introduction

The global economic crises that also affected the Nigerian Stock Market have necessitated both big and small investors to explore the very many investment opportunities that exist in the Nigerian real estate market. However, due to the expensive land transfer/registration costs, with associated bureaucratic bottlenecks, the most common land instrument that a land purchaser retains, after the payment receipt, is the Survey Plan.

Holders of the various Survey Plans are however not usually under sufficient enquiry as to the legal value of the Survey Plan that they receive in exchange of their hard earned money. This part one of this legal alert is our contribution to your appreciation of what a Survey Plan is, and what law regulates its enforcement in the various States of the Federation.

What is a Survey Plan?

A Survey Plan can be described as a land instrument which shows as clearly and as accurately as possible, with as much certainty as also possible, the ascertainable area of a piece or parcel of land with its definite and precise boundaries that it describes. Where a survey plan does not possess these attributes, it is of no value whatsoever to the holder of the document.

What Law regulates Survey Plans, Maps, etc?

Most States in the Federal Republic of Nigeria have a Survey Law whose provisions are similar to the Survey Laws of the other States. In Lagos State, the applicable law is the Survey Law, 1984. Section 1 of the Lagos State Survey Law requires that any map or diagram or survey plan that is attached to a registered land instrument or that will be tendered in any court of law must be prepared, signed and certified by a licensed surveyor.

Any unauthorised person who wilfully obliterate, remove or injure any trigonometrical station, survey beacon, mark or pole or any boundary marks fixed, set up or placed for the purpose of any public survey or any survey ordered by an Act of Parliament shall be liable to pay a fine of N100 or to serve a term of imprisonment for 3 months or to both the fine and the term of imprisonment. In further addition to the latter provision, such a person could be ordered to pay the cost of repairing or replacing the items obliterated, removed or damaged. See Section 6 of the Survey

Law.

It is the duty of the owner and the occupiers of any land, including the community leaders in the area where the land is situated, or where the land have boundaries with any trigonometrical station, survey beacon, mark or pole, to preserve these items and report forthwith to the nearest officer of the survey department if these items are obliterated, removed or damaged or require repair. Any breach of this duty, on conviction, attracts a fine of N100.00.

Also, any person who without the authority of the Surveyor General uncovers any survey beacons or marks buried below the surface of the ground or covered with earth, stone or other material, is guilty of an offence and liable on conviction to a fine of N100.00 or to a term of imprisonment for six months.

Any person who wilfully obstructs, hinders, resists or threatens any Surveyor in the execution of his duty shall be guilty of an offence and shall be liable on conviction to pay a fine of N100 or to serve a term of imprisonment for six months or to both the fine and the term of imprisonment.

Discipline of Surveyors

A disciplinary committee is established for erring Surveyors who have intentionally or negligently or recklessly or out of culpable ignorance of facts made an incorrect survey or delivered an incorrect plan or diagram of land or prepared a plan which does not conform with the requirements of any regulation made under the Survey Law or have been convicted of any offence involving fraud or dishonesty.

Some of the penalties that a erring Surveyor could incur include suspension from practice or the outright cancellation of his practising license. Where a Surveyor's license is cancelled and he fails to surrender his license to the Surveyor General, such a Surveyor shall be guilty of an offence which on conviction carries a fine of N200 (Two Hundred Naira).

A Surveyor's license that is cancelled or suspended can always be restored on the Surveyor making an application which must disclose sufficient and reasonable ground(s) to assist the disciplinary committee in considering whether or not it should restore the Surveyor's license.

Conclusion

In part two of this legal alert, we shall be considering whether a Survey Plan is under Nigerian Law a land instrument that requires registration, and the implication of non-registration where registration is required.

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