

# Comparative Analysis of Land Use Act Using Traditional Method in Umuoba Anam in Anambra State

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## ABSTRACT

The human society is heavily dependent on land and its resources because without land there would be no human existence. It is from land that man derives items very essential for his survival such as food, fuel, clothing, shelter, medication and others. Nonetheless, to curb the ownership structure, use and development of land and land resources, various communities have introduced land ownership structure aimed at harmonious balancing of the interests of the government, the land retaining class and the landless class. This study examines Land Use Act using traditional method in Umuoba Anam in Anambra State, Nigeria. Some of the elders and youths were interviewed from the community. Secondary data was obtained from textbooks, journals and other published and unpublished materials useful in this work. The study also argues that land ownership structure in Nigeria has evolved over the times until 1978 when a single land policy document, else known as the Land Use Act of 1978 was established to harmonize and regulate land ownership in Nigeria. The study further strives to present land ownership structure in Nigeria as elevated in the Land Use Act of 1978 has revolutionary inclinations with inordinate state control of land ownership, use and development. The study concludes that similar land tenure system cannot effectively support private sector-driven enterprises and development initiatives as it creates too much bureaucracy in the documentation of land deals, land titling and land registration, the structure of land administration in Umuoba Anam community was one precisely drawn or introduced to benefit all members of the community. It recommends an urgent amendment of the nation's Land Use Act to facilitate speedy access to land with ease for various purposes in Nigeria.

**Keywords:** Comparative Analysis; Land Use Act; Traditional Method; Umuoba Anam.

## I. INTRODUCTION

The land system is constituted by the rules and procedures which govern the right and responsibilities of both individuals and groups in the acquisition process, use and control of land. The land system of any given society is the manner in which land is possessed and owned in the community. Udo, (2003) posited, it's an institutional framework within which opinions are taken about the utilization of land, embodying that legal or customary arrangement whereby individuals or groups or organizations gain access to economic and social opportunities through land. Denman (1978) also argued that every societies of whatever culture and political creed have land systems woven of property rights. These property rights advance form to the personal land units. The proprietary land unit is the decision-making unit which is abecedarian to all positive opinions about land use and comprises two rudiments, the run of property rights and the area of physical land to which they pertain (Denman and Prodan, 1972).

Any land system may portray categorization of estates or rights in land. Therefore, these rights are absolute or non-derivative interests and derivative interests. The absolute interests are those rights in land that confer upon their holders unconditional interests in perpetuity and in terms of quality, it's considered the foremost superior form of ownership structure. The absolute interests are those rights in land that confer upon their holders unconditional interests in infinity and in terms of quality, it's considered the foremost superior form of ownership structure. The absolute interests confer absolute ownership rights and as such allow for the loftiest compass of

personal opinions as to the use and operation of land. The derivative interests on the opposite hand are interests that are derived or carved out from the larger estates or superior estates (Udo, 2003). They are inferior in quality and include leaseholds, life interests, kola tenancy, mortgage, borrowed interests, pledges, among others as proposed by (Nwabueze, 1972).

The land ownership structure in Nigeria is predicated on the absolute and derivative interests. It is worthy of note that the ownership structure of these interests in the country has evolved through three major periods namely; the pre-colonial, colonial and post-colonial periods.

### 1.1 The Land Ownership in Nigeria before Colonial Rule

The major land tenure system in Nigeria during the pre-colonial period was the customary land tenancy or occupancy where land possessions were owned by the villages, towns, communities and families. Land was supposed not possessed by individuals but by communities and families in trust for all the relations (Omuojine, 1999). The legal estate under customary land tenancy is typically vested within the family or community as a unit. During this era, land belonged to the community or a huge family of which most of them are dead, few alive and countless members yet unborn. Therefore, those individuals had no such interest as the fee simple absolute in possession as the actual ownership of land or absolute interest was vested in the community itself. The interests or rights of individuals in community land were basically derivative interests. Dosumu (1977) and Aniyom (1978) posited that the customary land tenure system within the areas comprising the Southern States of Nigeria before colonial rule was held in the following ways:-

- (i) Communal Lands
- (ii) Stool or Chieftaincy lands
- (iii) Family lands
- (iv) Individual or Separate property

The community lands comprised lands which the whole community has a private or proprietary interest. Such community lands were supervised and administered by the chiefs and traditional rulers. The stool or chieftaincy lands were found mostly among the Igbos and comprised the Igwe's palace and the surrounding lands. The family lands were lands that were vested within the members of the family as a corporate group. Individual property comprised lands whose title was vested on individuals and was obtained by partitioning of the family land to individual

members of the family. However, during the pre-colonial period, land held under customary tenure can't be sold or alienated. Such an act was generally considered as capable of depriving the unborn generation of the opportunity to acquire land (Bardi, 1998).

### 1.2 Land Ownership Structure in Nigeria during Colonial Rule

The land ownership pattern in Nigeria under colonial rule was designed to suit the motives of the British imperialists. Historians and other scholars including Dike (1960); Ade-Ajayi (1962); Anene (1966); Oyebola and Oyelami (1967) and Onwubiko (1976) have argued that European conquest and occupation of West Africa and particularly British colonial rule in Nigeria were based on two main motives. These were initially economic interest and later governance. Oyebola and Oyelami (1967) succinctly narrated that:

“The British occupation of Nigeria began on a really small scale. It first began along the coast and subsequently went from strength to strength until it had spread throughout the country. The occupation was progressive rather than sudden. Traders led the way and their motive was purely economic. They came neither to take possession of territories nor to administer the country. Undoubtedly, while they were trading, they were spreading the influence of their country concurrently, thereby paving way for the next occupation of the country with which they traded”.

As a primary factor of production, land was inevitably required by the colonial authorities to accomplish their economic, social, and political objectives. The British merchants who came to the country purely on economic motive required land to initiate their merchandise. The National African Company and its successor, the Royal Niger Company required land to expand its business in Nigeria. The colonial governors also required land for public purposes. Because land ownership in pre-colonial Nigeria was communal, the colonial authorities initiated laws and regulations governing land ownership, land use and development among others to enable them acquire and convey titles to land for the basis of commerce and governance. Principal among these legislations were the Treaty of cession (1861), Land Proclamation Ordinance (1900), Land and Native Rights Act (1916), Niger Lands Transfer Act (1916), Public lands Acquisition Act (1917), Native lands Acquisition Act (1917), State Lands Act (1918) and Town and Country planning Act (1947). The Treaty of Cession of 1861 became the principal of all the treaties signed by the colonialists with traditional

chiefs in Nigeria. According to Elias (1971), the legal effect of the cession of 1861 was that the root title of the land comprised in the Treaty was passed to the British crown.

In 1900, the Land Proclamation Ordinance was enacted by Lord Lugard. The legislation disregarded the principles of native law and custom and provided that title to land can only be acquired through the High Commissioner. The Land Proclamation Ordinance was enacted to kill the institution of family and communal land ownership by facilitating the acquisition of title to land through the diplomat.

The Land and Native Rights Act was enacted in 1916 to vest in the colonial Governor all rights over all native lands in Northern Nigeria. Sections 3 and 4 of the Act provided as follows: -

“(3) All native lands and right over the same are hereby declared to be under the control and subject to the disposition of the Governor, and shall be held and administered for the use and common benefit of the natives of Northern Nigeria and no title to the occupation and use of any such lands shall be valid without the consent of the Governor.

(4) The Governor, in exercise of the powers conferred upon him by his Proclamation with respect to any land, shall have regard to the native laws and customs existing in the district’ in which such land is situated”.

Elias (1971) suggested in the later sections of the Act as further provided, inter-alia, for the Governor’s power:-

- (a) To grant rights of occupancy to “natives” as well as to “non-natives”,
- (b) To demand and revise rent for such grants;
- (c) To render null and void any attempted alienation by an occupier of his right of occupancy without the Governor’s consent.
- (d) To revoke the grants to occupiers for “good cause”.

Nevertheless, the land and native Rights Act of 1916 (with later amendments) was repealed and replaced by Land Tenure law of 1962, which governed land tenure in Northern Nigeria up till 1978, before the promulgation of the Land Use Decree (now Act).

Again in 1916, the Niger Lands Transfer Act was enacted. This law transferred the rights of the then Royal Niger Company in lands acquired by it and vested such rights in the British crown. The major legal effect of the Act was that lands held by the company based on treaties and agreements made with the people of Nigeria were

transferred to the colonial government, thereby creating some land ownership problems for the people.

Furthermore in 1917, the Public Lands Acquisition Act was enacted to empower the colonial Governor to acquire lands when required for public purposes. This law covered the then colony and protectorate of Nigeria. It empowered the colonial government to compulsorily acquire land whether occupied or unoccupied and provided for non-payment of compensation if unoccupied lands were acquired.

Moreover in 1917, the Native Lands Acquisition Act was enacted to regulate the acquisition of land by aliens from the people of the southern provinces of Nigeria. It provided in section 3 as follows:-

“3(a) No alien shall acquire any interest or right in or over any lands within the protectorate from a native, except under an instrument which has received the approval in writing of the Governor.

(b) Any instrument which has not received the approval of the Governor as required by this section shall be null and void.” Also, section 3A provided as follows:-

“ 3A. Where any interest or right in or over any land has been acquired by an alien from a native with the approval in writing of the Governor as provided for in Section 3, such interest or right shall not:-

(a) Be transferred to any other alien without the approval in writing of the Governor. Section 4 of the Act provided that it shall be unlawful for any alien or for any person claiming to be an alien to occupy any land belonging to a “native” unless the right of the alien to occupy or authorize the occupation of the land is evidenced by an instrument which has received the approval of the Governor (or his delegate) in writing. Any default is punishable by fine or imprisonment or both. An alien was defined in section 2 of the Act as “any person who is not a native of Nigeria”. The Native Land Acquisition Act 1917 had, since the advent of the federal system of government in Nigeria, been replaced by the Native Land Acquisition Law of 1952 in the Western and Mid- Western states and by the Acquisition of Land by Aliens Law of 1956 in the Eastern states.

Likewise, the State Lands Act was promulgated in 1918 to regulate the use, occupation and development of crown (state) lands in which the whole public have an interest. Under section 2 of the Act, “State land’ means all public lands in the Federation which are for the time being vested in the Governor – General (at that time) on behalf or for the benefit of the state as the case may be,

and all lands heretofore held or hereafter acquired by any authority of the federation for any public purpose or otherwise for such benefit, as well as land so acquired under any Act of parliament, but does not include lands which although acquired and so held are subject to the Lands and Native Rights Act. The Act restricted the sub-lease of occupiers of state lands in the country.

Similarly in 1946, the Town and Country Planning Act was enacted as a law of general application. The law came into force on 28<sup>th</sup> March, 1946. It was a law enacted to make provision for the re-planning, improvement and development of the different parts of Nigeria. The law provided for the establishment of planning Authorities to regulate land use, planning schemes and development control. This law was replaced by the Nigerian Urban and Regional Planning Decree (now Act) of 1992. Nevertheless, while these laws were enacted to make lands available for use by the colonial government, they were implemented to eliminate the pre-colonial land tenure system in the country and facilitate private ownership of land, particularly in Southern Nigeria. Thus with the advent of colonial rule, commerce and commercialization, it had become possible for individuals to own private land and deal with such land liberally (Omuojine,1999) and subsequently, land began to be sold, leased or mortgaged to individuals or groups (Bardi,1998). Elias (1971) summarized the land ownership system in Nigeria during the colonial rule and reported that:-

“In the result, therefore, the Government (the colonial government) has pursued policy of restricting alienation of land in the former Southern provinces only to dealings among the people themselves, while frowning upon any out- and- out transfer to aliens. No claim to absolute ownership has been made, nor has any rigid distinction been drawn between crown and other lands except, perhaps that whereas in the case of certain lands taken over from the Royal Niger Company no compensation to any occupier will be paid for their appropriation to public purposes, compensation is as a rule paid in the case of all other lands within the former Southern provinces. This contrasts markedly with the Northern policy of paying only for unexhausted improvement by native occupiers and not for the acquisition of the land itself. A corollary of this has been that while in the North the Government has formally laid down the policy that no freehold title can exist in land but only a right of occupancy, there has been a benevolent neutrality on the part of the Government with respect to the form which titles to land in the former southern provinces should take”.

## II. LAND OWNERSHIP IN NIGERIA SINCE INDEPENDENCE IN 1960

The country Nigeria gained independence from colonial rule in 1960 and became a republic in 1963. After independence, private ownership of land by individuals, families and communities was the predominant land tenure system in the Eastern States of Nigeria while all lands in the territory including the Northern States of Nigeria were assumed as owned by the state, based on the provisions of the Land Tenure Law of 1962.

There are two principal legislations which have been enacted to regulate land ownership in Nigeria since independence. These are: -

- (i) The Land Tenure Law of Northern Nigeria of 1962
- (ii) The Land Use Act of 1978

### 2.1.1 The Land Tenure Law of 1962

This particular law contains the basic principles as those in the Land and Native Right Act of 1916. It was basically enacted to replace the Land and Native Rights Act of 1916. The land Tenure Law provided that all lands in each of the states in Northern Nigeria whether occupied or unoccupied are “native lands” and are placed under the control, and are subject to the disposition of the Minister liable for land matters, who holds and administers them for the utilization and common good of the “natives”, that is to say, persons whose fathers were members of any tribes indigenous to every state in Northern Nigeria. This means that all other persons who are not indigenous to each of such states are “non-natives”. Under this law, no title to the occupation and use of any such lands by a non-native is valid without the Minister’s consent. The natives of Northern Nigeria were granted right of occupancy to land for a limited number of years. For the objectives of the law, a right of occupancy means a title to the use and occupation of land and includes both customary and statutory right of occupancy. An occupier enjoys prerogative right to his land against all persons aside from the Minister. He may, with the Minister’s consent, sell, mortgage or transfer any lawful improvement on the land. Also, on the determination of a statutory right of occupancy, all the improvements on the land revert to or vest in the Minister without payment of any compensation to the holder. Alienation of a statutory right of occupancy is prohibited without the Minister’s prior consent. The Land Tenure law of 1962 was repealed and replaced by the Land Use Decree (now Act) of 1978.

Ifediora (2014) opined that land has a



spiritual value as the home of those ancestors who, more often than is realized, play an active and important part in the daily life of those still living. Land tenure is an important part of social, political

and economic structures. It is multi-dimensional, bringing into play social, technical, economic, institutional, legal and political aspects that are often ignored but must be taken into account.

### 2.1.2 Umuoba Anam Community and Land Tenure System



**Fig 1: Geographical Map of Anam showing Umuoba Anam Community, Anambra State.**

Anam kingdom is a town in Anambra West Local Government Area within the South Eastern State of Anambra in Nigeria. It is located within the north western part in Anambra State. Anam kingdom is actually an ancient community with great cultural heritage and history deep in agriculture, animism, arts, oratory, philosophy, masquerades, wars, gods and goddesses.

It is a beautiful island that is separated from Onitsha by the famous Anambra River in the South and Otuocha in the East, though Umuoba Anam one of the communities situates both on the beautiful island and across the river in Otuocha. There are eight communities in Anam namely: Umuze, Umuoba, Mmiata, Iyiora (These four are called Ifite-Anam); Umuikwu, Umudiora, Oroma-Etiti and Umuoenwelum (These four are called Ezi-Anam). Anam has boundary neighbours in the North with Nzam; in the East with Aguleri/Umueri; in the West with the River Niger; and in the South with Onitsha Starting from Onitsha and transcends the old Nkisi expressway to Otuocha traverses Anambra River to the western part of Anam while Umuoba Anam is sharing Otuocha with Aguleri and Umueri.

Importantly, the area of the town is mostly riverine with an annual rainfall of about 2500mm. Most of the people are farmers and fishermen. Anam kingdom is also surrounded on the West by River Niger, on the East by river Omambala, on the northeast by River Ezichi and Eziagulu Out Aguleri in Anambra East LGA, and ashore by Echeno, Ika and Omabo, both in Ibaji

L.G.A of Kogi State, likewise Inoma and Nzam both are Igala speaking area of Anambra-West L.G.A. Diachronic and topological studies have shown that, though geographically circumscribe by these rivers.

Similarly, Anam land has very modest temperature and friendly weather most of the year. There are various seasons in Anam include Udu-mmili (rainy season), Iji (Flood season), Ugulu (harmattan season), Okochi (dry season). A home to innumerable species of medicinal and economic plants, animals, beautiful birds, insects and butterflies original to Anam land.

Anam land is a beautiful evergreen area to behold, from the Akpaka Hill, Nsugbe, Otuocha, Asaba, Anwai & Illah Hills. Surrounded by Omambala River, Niger and Ezichi the topography is flat in nature, a table landmass, which makes the whole area, susceptible to experience 3months of intense flood annually when the three rivers surrounding the Anam land overflow their banks. The main focus of study is Umuoba Anam Community.

### III. COMPARATIVE ANALYSIS OF THE LAND USE ACT OF 1978

The Land Use Act No. 6 of 1978 was promulgated into law with effect from 29<sup>th</sup> March, 1978 as the nation's land policy document. The land Use Act regulates the ownership, alienation, acquisition, administration and management of land within the Federal Republic of Nigeria. Section 1

of the Land Use Act vests all land comprised in the territory of each state in the Federation of Nigeria 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. However, Section 5(1) of the Act empowers the Governor of a state to grant statutory right of occupancy to any person for all purposes in respect of land, whether or not in an urban area and issue a certificate of occupancy in evidence of such right of occupancy in accordance with the provisions of Section 9(1) of the Act. Again, Section 5(2) of the Act provides that “Upon the grant of a statutory right of occupancy under the provisions of sub – section (1) of this section, all existing rights to the use and occupation of the land which is the subject of the statutory right of occupancy shall be extinguished.” Thus, the statutory right of occupancy granted by a Governor is presently the highest right to land in Nigeria. This right of occupancy is a right which allows the holder to use or occupy land to the exclusion of all other persons except the Governor and is granted for a maximum holding period of 99 years, subject to the payment of ground rent fixed by the Governor throughout the holding period. Consequently, Sections 21 and 22 of the Act prohibit alienation, assignment, mortgage, transfer of possession, sub – lease or otherwise howsoever customary or statutory rights of occupancy in Nigeria without the consent and approval of the Governor of the state where such right of occupancy was granted. Furthermore, the provisions of Sections 21 and 22 of the Act are as follows:

21. It shall not be lawful for any customary right of occupancy or any part thereof to be alienated by assignment, mortgage, transfer of possession, sub-lease or otherwise howsoever.
- (a) without the consent of the Governor in cases where the property is to be sold by or under the order of any court under the provisions of the applicable Sheriffs and Civil Process Law; or
- (b) In other cases without the approval of the Local Government.
22. (1) It shall not be lawful for the holder of a statutory right of occupancy granted by the

Governor to alienate his right of occupancy or any part thereof by assignment, mortgage, transfer of possession, sub-lease or otherwise howsoever without the consent of the Governor first had and obtained; Provided that the consent of the Governor;

- (a) Shall not be required to the creation of a legal mortgage, over a statutory right of occupancy in favour of a person in whose favour an equitable mortgage over the right of occupancy has already been created with the consent of the Governor;
- (b) shall not be required to the reconveyance or release by a mortgage to a holder or occupier of a statutory right of occupancy which that holder or occupier has mortgaged to that mortgagee with the consent of the Governor;
- (c) To the renewal of a sub-lease shall not be presumed by reason only of his having consented to the grant of a sub-lease containing an option to renew the same.
- (2) The Governor when giving his consent to an assignment, mortgage or sub-lease may require the holder of a statutory right of occupancy to submit an instrument executed in evidence of the assignment, mortgage or sub-lease and the holder shall when so required deliver the said instrument to the Governor in order that the consent given by the Governor under sub-section (1) of this section may be signified by endorsement thereon.

Importantly, Statutory right of occupancy as interpreted in Section 50 of the Act is a right of occupancy granted by the Governor under the Act for a maximum holding period of 99 years. Customary right of occupancy as also interpreted in that section of the Act is the right of a person or community lawfully using or occupying land in accordance with customary law and includes a customary right of occupancy granted by a Local Government under the Act. Also, Section 28(1) empowers the Governor of a state to revoke a right of occupancy for overriding public interest, subject to the payment of compensation for the unexhausted improvements based on the provisions of Section 29 (4) of the Act.

**Table 1: Analysis of Major Factors that Determine Land Tenure in Umuoba Anam Community**

Villages	Total No of Respondents collected	Analysis of major factors that determine the land tenure systems in traditional Umuoba Anam Community				
		Historical Antecedents	Birth Right	Religious/Spiritual obligation/vocation	Overriding public interest/ Political decision	Citizenship and Naturalization
Umuezeanya	98	98	98	98	72	80
Umuoji	95	95	95	95	70	79

Umuoche	92	92	92	92	68	69
Umuobalichi	89	87	88	89	65	61
Umuoke	86	80	86	86	59	53

In Umuoba Anam Community, there are lots of factors which determines the various types of land tenure system in the community. Table 1 identified the various factors considered in determining the land tenure system in the

community which were largely agreed by the respondents namely: Historical Antecedents, Birth Right, Religious/Spiritual Obligation/vocation, Overriding public interest/ Political decision, Citizenship and Naturalization.

**Table 2: Classification of Land Tenure system in Umuoba Anam Community**

Types of Land Tenure					
	Umuezeanya	Umuoji	Umuoche	Umuobalichi	Umuoke
Communal Land Tenure (Ani Oboro)	97	95	90	85	84
Village Land	92	90	89	88	84
Clan Land	97	90	87	85	81
Family Land	95	93	89	87	84
Individual Land	97	92	89	83	83

Table 2 shows the total number per village who concurred to the types of land tenure identified by the researcher in Umuoba Anam Community.

The Mmeghe group holds the entire Umuoba Anam communal land (Ani Oboro) in trust on behalf of the entire community. Historically, Umuoba Anam land was held communally, however, this pattern of land ownership or land tenure has given way to individually held pieces and parcels of land, or communally specific pattern of land tenure system. The tenure system in Umuoba Anam Community is a peculiar one; such the different tenure system practiced in Umuoba Anam Community.

#### IV. THE CURRENT ISSUES IN LAND OWNERSHIP INNIGERIA: ADVANTAGES AND DISADVANTAGES

As stipulated in its major provisions therein, the Land Use Act of 1978 was enacted to nationalize land ownership in Nigeria as well as facilitate effective state control of the use and development of land. In the application of the Act in the past three and a half decades or so, the Act has progressively become a clog in the wheel of economic growth and development in the country.

Ututama (2008) opined that the promulgation of the Land Use Act 1978 was aimed at redirecting the general philosophies of pre-existing land tenure systems in Nigeria through the application of a uniform statutory regulation of ownership and control of land rights and to stimulate easier access to land for greater economic development as well as promote national social

cohesion. In an attempt to regulate the different land tenure systems previously existing in the country, the Act has created multiple forms of tenure resulting in insecurity of right of occupancy granted under the Act, excessive bureaucracy in obtaining Governor's consent and approval for land transactions and certificate of occupancy, among other shortcomings. This excessive bureaucracy has made land registration in the country very prohibitive. As reported by World Bank (2014), Nigeria as a nation ranks among the lowest in terms of ease of registration of property title. While it will take twelve days and fifteen days to register property title in Rwanda and Botswana respectively, such title will take seventy-seven days to be registered in Nigeria. In addition to excessive bureaucracy as depicted by its highest number of procedures required for property registration in sub-Saharan Africa, the cost of property registration in Nigeria is the highest when compared with those of other countries in the region of the world.

Any land ownership pattern which restricts the citizens' right to occupy land, buy, let or sell their land without obtaining the consent and approval of their Governors as provided in Sections 21 and 22 of Nigeria's Land Use Act is anti-people and oppressive and cannot enhance sustainable development in any egalitarian society.

Undoubtedly, the Act has obviously hindered the effective functioning and operation of the property markets in the country. Pursuant to Section 1 of the Act, individuals cannot own freehold interest in land in Nigeria. Individuals can only be granted a right of occupancy for a

maximum holding period of 99 years, subject to payment of ground rent to the government as fixed by the Governor. This has made private land ownership in the country insecure. It has also affected the efficiency of the property markets. To all intents and purposes, this right of occupancy is a leasehold interest. The muddle made by this interpretation on the property markets in the country has resulted in ignorant trading and transfer of property rights by professionals and laymen alike as people continue to sell freehold interests in land which they don't have within the context of the Act.

The vesting of all land comprised in the territory of each state in the Federation of Nigeria in the Governor of that state implies that the Governor holds the absolute interest in land in each state of the Federation. Pursuant to Section 1 of the Act, individuals cannot own freehold interest in land in Nigeria.

Individuals can only be granted a right of occupancy for a maximum holding period of 99 years, subject to period within the provisions of the Act, except for an amount equal to the rent, if any, paid by the occupier during the year in which the right of occupancy was revoked. Besides, compensation payable on revocation of right of occupancy by the Governor is limited to unexhausted improvements as provided in Section 29 (4) of the Act and does not include other pertinent claims for severance and injurious affection. Also, the Land Use Act of 1978 lacks adequate capacity for conflict resolution with respect to disputes arising from unjust and unfair revocation of rights of occupancy granted under the provisions of the Act. This is evident in Section 47 of the Act which states as follows:-

1. This Act shall have effect notwithstanding anything to the contrary in any law or rule of law including the Constitution of the Federal Republic of Nigeria and, without prejudice to the generality of the foregoing, no court shall have jurisdiction to inquire into:-
  - (a) Any question concerning or pertaining to the vesting of all land in the Governor in accordance with the provisions of this Act; or
  - (b) Any question concerning or pertaining to the right of the Governor to grant a statutory right of occupancy in accordance with the provisions of this Act; or
  - (c) Any question concerning or pertaining to the right of a Local government to grant a customary right of occupancy under this Act.
2. No court shall have jurisdiction to inquire into any question concerning or pertaining to the amount or adequacy of any compensation paid

or to be paid under this Act.

Nevertheless, the court and even the Constitution of the Federal Republic of Nigeria are excluded from inquiring into any question pertaining to the granting of land rights by the Governor and payment of compensation in cases of compulsory land acquisition in any part of the country.

## V. CONCLUSION

The land ownership structure in pre-colonial Nigeria was communal. Land was deemed not owned by individuals but by communities and families in trust for all the family members as applicable in Umuoba Anam community.

Similarly, the legal estate as enshrined under customary land tenancy is vested in the family or community as a unit. This is because land ownership in pre-colonial Nigeria was communal, the colonial authorities initiated laws and regulations guiding land ownership, land use and development among others to enable them acquire and convey titles to land for the aim of commerce and governance. However, while these laws were enacted to make lands available for use by the colonial government, they were implemented to eliminate the pre-colonial land tenure system in the country and facilitate private ownership of land, particularly in Eastern Nigeria. Nevertheless, with the advent of colonial rule, commerce and commercialization, it had become possible for individuals to own individual land and deal with such land liberally and subsequently, land began to be sold, leased or mortgaged to individuals or groups.

The Land Use Act of 1978 was enacted to redirect the general ideas of pre-existing land tenure systems in Nigeria through the application of a uniform statutory regulation of ownership and control of land rights and to stimulate easier access to land for greater economic development and also promoting national/ social cohesion. In an attempt to harmonize the different land tenure systems previously existing in the country, the Act has obviously created multiple forms of tenure resulting in insecurity of right of occupancy granted under the Act, excessive bureaucracy in obtaining Governor's consent and approval for land transactions and certificate of occupancy, among other shortcomings. The multiple forms of land tenure created by the Act have also generated confusion concerning legal estates which can be owned in the Federal Republic of Nigeria.

With the privatization of most public enterprises hitherto owned by the government, coupled with the deregulation of major sectors of the economy, Nigeria is gradually shifting from



pseudo-socialism to capitalism. The implication is that the economy will be more private-sector driven than before. The present land ownership structure in Nigeria as enshrined in the Land Use Act of 1978 has socialist inclinations with excessive state control of land ownership, use and development. Such land system cannot effectively support private sector-driven enterprises and development initiatives because it creates an excessive amount of bureaucracy within the documentation of land transactions, land registration and land titling. The structure of land administration in Umuoba Anam community was one precisely drawn or introduced to profit all members of the community. Furthermore, there is urgent need for the amendment of the nation's Land Use Act to eliminate all legal ambiguities currently associated with private land ownership in the country and to improve fast access to land with ease for various purposes.

Thus, such amendment should ensure that Nigerians can own freehold interest in land in the country and can transact with their land without the consent of the Governor. It should also strengthen the federal government to effectively exercise the facility of legal right within the acquisition of land in any part of the country for public overriding purposes.

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