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RETROSPECTIVE REGISTRATION (DOUBLE CONSENT) OF TITLE TO LAND AT THE LAGOS STATE LANDS REGISTRY²

1. INTRODUCTION

The Land Use Act (formerly called the **Land Use Decree**) **Chapter 202 of the Laws of the Federation of Nigeria 1990**, is:

“An Act to vest all Land comprised in the territory of each State (except land vested in the Federal Government or it’s agencies) solely in the Governor of the State, who would hold such Land in trust for the people and would henceforth be responsible for allocation of land in all urban areas to individuals resident in the State and to organisations for residential, agricultural, commercial and other purposes”.

When Land has been allocated to individuals within the State, they have the responsibility of ensuring that title to the vested land is registered at the Lands Bureau / Lands Registry of the State.

2. FUNCTIONS AND ACTIVITIES OF THE LANDS REGISTRY

The Lands Registry or Lands Bureau of each State is a very important department that is saddled with the responsibility of keeping an up-to-date record of all land transactions in the State. In Lagos State, it is the only agency of the State Government that is statutorily empowered to store registered title documents relating to land in Lagos State by virtue of the following Laws:

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- a) Lagos State Land Registration Law (Cap. L41, Vol. 6, Laws of Lagos State of Nigeria 2015)
- b) Registration of Titles Law (CAP L15 Laws of Lagos State 2015)

The following are the usual functions of the Lagos Land Registry:

- Storage of proper records of all land transactions in Lagos State
- Registration of Deeds of transfer, Assents, Court Judgments, Deeds of Release as well as issuance of Memorandum of Loss of title documents, Certified True Copies of title documents, to maintain and conduct searches and support investigatory processes for the verification of land ownership.
- Registration of instruments affecting Land in Lagos.
- Administration of the Electronic Document Management System (E.D.M.S).

3. WHAT DOES RETROSPECTIVE REGISTRATION/DOUBLE CONSENT ENTAIL?

It is a known fact that registering one's title to land or property in Lagos State can be tedious as a result of the associated bureaucracies as well as the high cost of registration at the Lands Bureau. It is a system that tends to discourage many Land and property owners from title registration with most being content with merely stamping their deeds of title. The effect of non-registration of an instrument of title to land or property is that the owner of such land or property cannot plead the instrument of title as evidence of such title in court except he/she registers same,³ provided that such an instrument is not exempt from registration.⁴ This is not the only disadvantage of not registering one's title to property. It also makes the process of a subsequent legal transfer to a new owner or beneficiary tedious and almost impossible, especially when the owner of the property has passed away.

The Lagos Lands Registry has now introduced a simple method of bypassing the issue of non-registration of title by an erstwhile owner of land/property to a Purchaser/beneficiary of the same interest in the land/property simply because he did not undergo the process of registration of the title to such land/property.

Most times, before a land/property sale transaction is consummated, it is usual for the Buyer to conduct a due diligence search at the Lands Registry. However, what is not unusual is for the Seller's title to the land/property to have remained unregistered at the Lands Bureau, as a result of the difficulties and costs associated with such registration.

² Section 15 of the Land Instruments Registration Law of Lagos State 2015.

³ Section 86 Registration of Titles Law of Lagos State 2003.

If the Buyer decides to proceed by other means to verify ownership of the land/property and he is satisfied that the Seller is the true owner of the land, he may proceed to payment despite the fact that the Seller has not registered his interest in the land/property at the Lands Bureau.

The process of retrospective registration/double consent gives a subsequent Buyer the right to submit two sets of transfer instruments (one set will detail the transfer transaction between the previous owner (Party A) and the current Vendor, who did not register his equitable interest in the land (Party B) which he now seeks to transfer to the current Purchaser (Party C). the second set of transfer instrument will detail the transfer between Party B and Party C.

This submission may be done with or without the active participation of the previous owners of the land/property (Parties A and B), provided that all the documents required for the purpose would have been obtained from them prior to the completion of the sale transaction.

The following are the requirements as well as the workflow for an application for double consent/retrospective registration at the Lagos Lands Bureau:

4. REQUIREMENTS

- a. Application letter with the address, telephone number and email address of the applicant or the applicant's representative.
- b. Two sets of duly completed and sworn Form 1c.⁵
- c. 2 sets of Deeds/instruments of transfer – 2 Deeds between Parties A & B and 3 Deeds between Parties B & C.
- d. A duly sworn indemnity at the High Court by the Grantee/Assignee (Party C).
- e. 2 passport photographs for Party B (the unregistered Assignee) and 4 passport photographs for Party C.
- f. A certified true copy of Party A's root of title.
- g. Site photographs.
- h. Site location sketch.
- i. Certificate of Incorporation/registration (if a Company is a party to the transaction).
- j. Charting and endorsement fee (~~₦~~7,500 & ~~₦~~3,000).

⁴ For more information on the application approval process for a subsequent transaction to a grant of right of a right of occupancy see <http://landsbureau.lagosstate.gov.ng/storage/sites/153/2017/05/lands-bureau.pdf>, accessed on 5th September 2019.

5. WORKFLOW

The workflow for this application is as follows:

- a. After submission of the application requirements and documents, a file will be opened and passed to the vetting unit whose duty it is to ensure that all the requirements and documents are in place.
- b. After the procedural vetting, the file will be passed to the Surveyor-general's office (private land) or the Land Services Department (for State land) for charting and confirmation against all revocations of Statutory Right of Occupancy (SRO) to ensure that the land sought to be registered has not been revoked by the Government.
- c. After this process, an assessment will be issued for the charges to be paid based on the location of the Land, in line with the fair market value rates⁶ whose aggregate pattern is broken down as follows:

For the transfer instrument between Parties A and B, the Consent charge is 1%, Stamp duty is 0.5%, Registration & conveyancing fee is 0.5% whilst for the transfer instrument between Parties B and C, Consent charge is 1.5%, Stamp Duty is 0.5%, Capital Gains Tax is 0.5% and Neighborhood Improvement Charge /Ground Rent is flexibly calculated or assessed, based on the location and size of the land.

1. The file thereafter moves to delegated Commissioners for execution, en-route the Permanent Secretary (Lands) and after execution, the file, containing the deeds/instruments of transfer, will be forwarded to the Lands Bureau.
2. At this point, the file will be forwarded from the Lands Bureau to the Lands Registry Directorate for the stamping of the deeds/transfer instruments and verification of the payment of personal income tax (for individuals) or Company income tax (for Companies) by the parties to the transaction. The file will then be forwarded to the Registration Unit for the inspection of the original root of title which the applicant is expected to produce and thereafter followed by the registration of the deeds/transfer instruments.
3. After this process, the registered deeds/transfer instruments will be returned to the Land Services Unit for the preparation of the letter conveying the approval of the consent application after which both sets of the registered deeds and approval letters will be released to the applicant.

⁵ Lagos State Official Gazette No. 10 Vol 48 dated 5th February 2015 (<https://landsbureau.lagosstate.gov.ng/category/forms/>).

6. CONCLUSION

This process is bound to facilitate land transactions as well as encourage applicants who fall within this category of land/property owners to submit their unregistered deeds/instruments of transfer for registration because it is not only cheaper, it is also faster as a result of the eradication of the need to wait for a previous owner to complete the process of registration, which may not be assiduously pursued, since their interest has been transferred to another Buyer.

For further information on this article and area of law, please contact

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