



A REVIEW OF THE LAGOS STATE PROPERTY PROTECTION LAW 2016

INTRODUCTION

Land is an instrument for the creation of wealth. Protection of property rights and its security is vital to the economic prosperity of nations. The duty of the state is to ensure that the rights of property owners are vigorously protected. The constitution of the Federal Republic of Nigeria guarantees the right of every Nigerian to own immovable property everywhere in Nigeria.¹

Ownership of land dates back to the old times when land was largely communal or family owned, unlike recently where land is owned by individuals. Generally, the Law recognizes five major ways of proving title namely²:

- i. Traditional Evidence;
- ii. Acts of long possession and enjoyment of the land;
- iii. Production of document of title or grant;
- iv. Acts of possession and ownership extending over a sufficient period which are enough to infer that the plaintiff is the exclusive owner;
- v. Proof of possession of connected or adjacent land in circumstances which make it probable that

the owner of the adjacent or connected land is the owner of the land in dispute.

In Nigeria, the Land Use Act was enacted in 1978 to regulate ownership and property rights wherein the Governor is to hold land in trust and for the benefit of the people³. The provisions of the Land Use Act⁴ also makes reference to communal and family forms of tenure which suggests that the Act assumes the existence of such institutions and intends for them to continue. It is however most unfortunate that several disputes have arisen and continue to arise on issues bordering on right of ownership in communal and family settings across the country leading to violent clashes resulting in loss of lives and limbs.

The current situation is so grave that a lot of people have been forcibly dispossessed of peaceful enjoyment and ownership of their land after purchase from the community or family by people popularly referred to as 'Omo-onile' (sons of the soil) or 'Ajagungbale' (land grabbers).

¹ Section 43 of the 1999 Constitution of the Federal Republic of Nigeria (as amended).

² *Idundun v. Okumagba* (1979) LPELR-SC.309/74.

³ Section 1 of the Land Use Act (1978) Cap. C20 LFN 2004.

⁴ Section 34, 36(2), 29, 50 of the Land Use Act (1978) Cap. C20 LFN 2004.



A REVIEW OF THE LAGOS STATE PROPERTY PROTECTION LAW 2016

Some provisions of the Criminal Law⁵ clearly provide for sanctions for trespass to land and offences around property rights, without fully addressing the evil of land grabbing. It therefore came as a great relief when Lagos State enacted The Lagos State Property Protection Law⁶ to take on the hydra-headed monster which land grabbing has become.

This paper will examine the key provisions and shortcomings of the Law.

THE PROPERTY PROTECTION LAW

Who does the Law seek to protect? This is the first question that pops up in every potential land owner's mind. The Law primarily seeks to protect the proprietary right of land owners in Lagos State⁷.

Land grabbers who have constantly haunted the public with their bad habits of selling a property to multiple persons and demanding endless charges from lawful landowners who have started the process of building and construction on their land

will ultimately be restrained by this Law. This Law prohibits and criminalizes such activities.⁸

Notable Provisions of the Law

There are a number of sections embedded in this Law which are pivotal for every land owner or would be land owner to have at his fingertips.

Task Force on Land grabbing - In order to facilitate execution of the Law, a Special Task Force Unit was established under this Law known as *The Lagos State Special Task Force on Land Grabbers*. The Task Force is to enforce the provisions of the Law against land grabbers and also vests in it the power to arrest⁹.

Special Offences Court - The Law also provides for the creation of special courts to try offenders¹⁰.

Prohibition of the use of self-help - The Law¹¹ prohibits persons from the use of self-help or force to take over a land or property. It thereby punishes such an offender with ten years imprisonment if convicted by the court. It goes further to provide punishment (ten years imprisonment) for any person who forcefully or with the use of threat

⁵ Sections 50, 52, 53, 56 & 338 of the Criminal Law of Lagos State 2011.

⁶ Lagos State Property Protection Law, 2016.

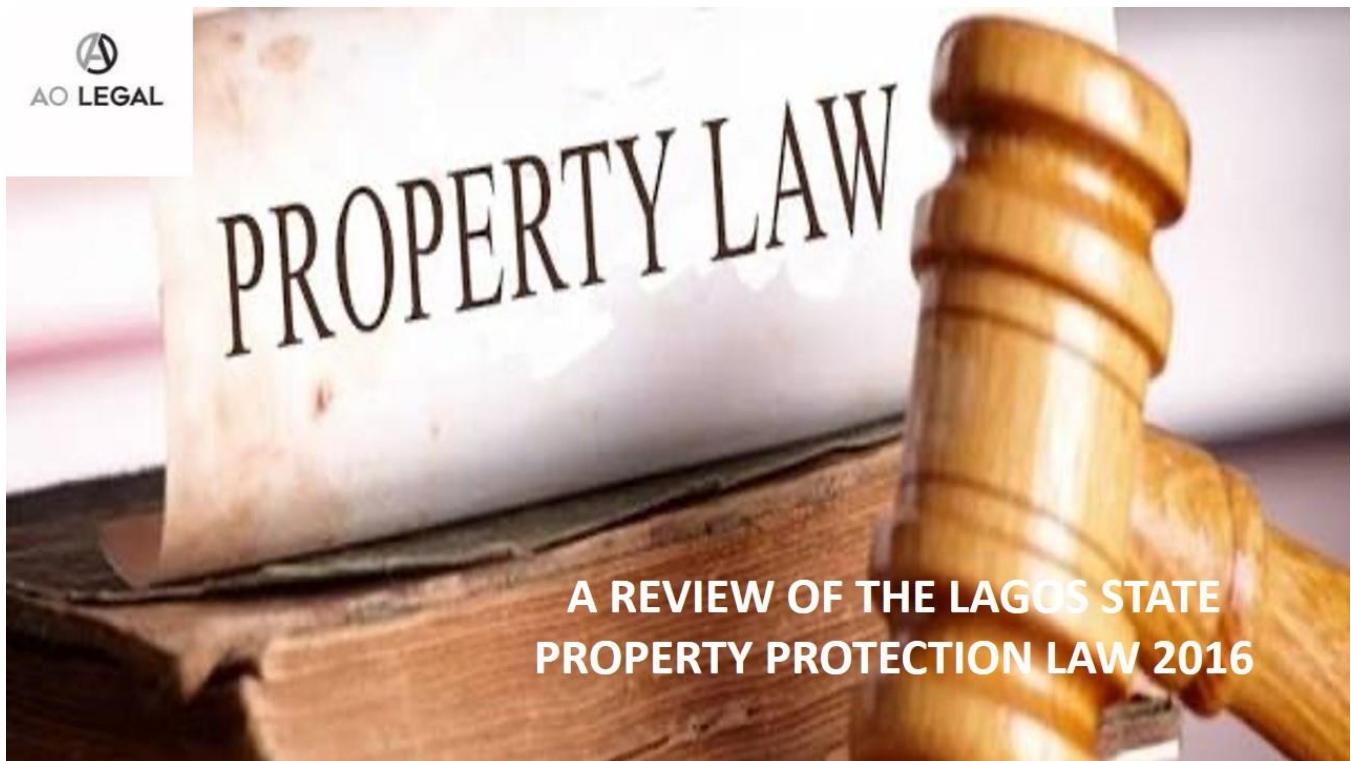
⁷ Section 2(1) Lagos State Property Protection Law, 2016.

⁸ See the Long title of the Law.

⁹ Section 13 Lagos State Property Protection Law, 2016.

¹⁰ Section 14 Lagos State Property Protection Law, 2016.

¹¹ Section 2 Lagos State Property Protection Law, 2016.



A REVIEW OF THE LAGOS STATE PROPERTY PROTECTION LAW 2016

secures any landed property for himself or another¹². It also stated that if such forceful entry is effected with the use of firearms, or any obnoxious chemical or such a person is in company with another who is armed or injures any person in the process, they shall be liable upon conviction to four (4) years imprisonment¹³. These sections therefore preclude any person including a land owner from resorting to self-help or the use of force in recovering property which may have been taken away from him forcefully or with the use of threat.

Petitions and unauthorized sale of land - Aggrieved purchasers are empowered to vent their grievances to any Law Enforcement Agency via a petition¹⁴. The Law¹⁵ in furtherance of the above, prohibits frivolous and unwarranted petitions to the enforcement agency arising from the provisions of the Law knowing such claims contained within the petition to be false. The Law further requires that such petition be accompanied by a sworn declaration by the petitioner.

It makes it punishable for anyone who is without lawful title to a property or who without the necessary authority of the lawful owner offers for sale such property. Such a person is liable upon conviction to a fine of five hundred thousand naira (N 500,000) or six (6) months imprisonment or both.

Professional Misconduct in relation to Land-Professionals are prohibited (lawyers inclusive) from facilitating contractual agreement between a land owning family and any person knowing that such contractual agreement will contravene the provisions of this Law. Any professional who does such commits the offence of aiding and abetting the commission of such offence¹⁶.

The Law further provides that any professional who executes a judgment of court without following due process as provided for in the Sheriff and Civil Process Act or any Law commits an offence and shall be reported to the relevant professional body for misconduct and necessary actions¹⁷.

Unlawful demand of Fees for Construction- The Law precludes a person whether for himself or

¹² Section 3(4) Lagos State Property Protection Law, 2016.

¹³ Section 3(4) Lagos State Property Protection Law, 2016.

¹⁴ Section 10 Lagos State Property Protection Law, 2016.

¹⁵ Section 10(2) Lagos State Property Protection Law, 2016.

¹⁶ Section 9 Lagos State Property Protection Law, 2016.

¹⁷ Sections 9(2) and 9(4) Lagos State Property Protection Law, 2016.



A REVIEW OF THE LAGOS STATE PROPERTY PROTECTION LAW 2016

acting as an agent from demanding any fee or levy with respect to any construction activity on any property, or disrupting or obstructing construction works¹⁸. If convicted, such a person is liable to a fine not exceeding one million naira or two (2) years imprisonment or both¹⁹.

Shortcomings of the Law

Irrespective of the fact that this Law is a welcome development and has been generally perceived to be effective in protecting land owners against the acts of land grabbers, there are however some loopholes.

The lacunae in the Law as it concerns the power to arrest is seen in Sections 12 and 13 which vests the power to arrest on the Task Force but fail to mention if the Task Force also has alongside this power, the power to investigate, detain and prosecute. It is clear that a power of arrest is of little use without the ability to detain and the authority to investigate and prosecute. This may negatively impact the enforceability of the Law.

Sections 5 & 6 which prohibit persons from placing any agent on a land and the fact that

security agents must execute court judgments as provided by the Sherriff and Civil Process Act, imposes no penalty for this offence.

The Law is silent on the issue of where or with whom the power to arrest lies where there is a conflict between the Task Force and other Law enforcement agencies. This again limits the practical implementation and effect of the Law.

Another significant drawback is in Section 11 as it appears to encourage land owning families to enter a property forcibly and demand for customary fees ('foundation levies' or 'possession fees').

The Law also makes no provision for situations where there is a conflict between the Lagos State Property Protection Law and the Criminal Law of Lagos State as regards which Law takes preeminence and which of the punishments are meted-out on such an offender.

CONCLUSION

The forceful takeover and sale of land by persons not having any form or right of ownership is an evil that the Law has sought to fully address. With the implementation of the provisions of the Lagos State Property Protection Law, prospective

¹⁸ Section 11 Lagos State Property Protection Law, 2016.

¹⁹ Section 11(2) Lagos State Property Protection Law, 2016.

PROPERTY LAW

A REVIEW OF THE LAGOS STATE PROPERTY PROTECTION LAW 2016

purchasers of land in communal and family settings can now breathe a sigh of relief.

However, in order to cure the lacunae in this Law especially where it fails to provide punishment sections for offences created by the Law, it is our recommendation that there should be an omnibus penal section to cater for this defect.

Also Section 11 of the Law should be reviewed to prohibit strictly and expressly all land owning families from demanding or collecting either by themselves or with the help of omo-oniles customary fees for possession (foundation levy). If any, it should be by an agreement of both parties.

We also consider it imperative that a register of family land owners (accredited family representatives) be made readily available at the Land Registry which will aid prospective purchasers in determining who are the actual owners or representatives of the land they intend to purchase.

**For further enquiries please contact us at
info@aolegal.net**