LAND ADMINISTRATION IN NIGERIA AND THE GEOGRAPHIC INFORMATION SYSTEM: AN OVERVIEW OF THE KADUNA GEOGRAPHIC INFORMATION SERVICE LAW, 2015

Written by Abigail Benjamin Kahuwai
Senior Lecturer, Nigerian Law School, Bwari, Abuja, Nigeria

ABSTRACT

The Kaduna Geographic Information Service (KADGIS) Law, 2015 enacted on 23rd December, 2015 replaced the Ministry of Lands, Surveys and Country Planning with the Kaduna Geographic Information Service (KADGIS). The KADGIS saddled with the administration of land in Kaduna State so performs such functions as the issuance of certificates of occupancy, registration of land transactions and such other duties that were hitherto performed by the Ministry. This article acknowledges that although the enactment of the law helps in safeguarding the integrity of land transactions in the State, a lot still need to be done. Some recommendations were therefore made.

Keywords: KADGIS, Land Use, Land Administration, Kaduna State, Land Use Act, Geographic Information System, Nigeria
INTRODUCTION

The ancient town of Kaduna acquired political prominence when it was made the capital of the Northern Region in 1917 by the Sir Fredrick Lugard, then British governor of Northern Nigeria. Before the coming of the colonial master and even thereafter, land in northern Nigeria was communally owned by all members of a community but were under the care of either an emir or local chief with allocation and control vested on family heads for the use and enjoyment by members on freehold, leasehold or on some other cultural arrangements or practice peculiar to the community. The entrance of the colonial masters and their need for land for their trades and businesses made them enact laws that wrested land from the natives (under the guise of providing protection them from other slave masters) vesting same in the British Empire. A famous example of that was the Treaty of Cession (1861) entered into with Oba Dosunmu. Article 1 of the Treaty removed the management and administration of land, an heritage jointly owned by the people, which hitherto had been administered by Oba on behalf of his people and vested same in the Queen and her heir and successors forever. By virtue of the afore described and similar treaties and proclamation, such as the Land Proclamation Ordinance of 1900, administration and control of land by community leaders was brought an end. Land administration and control was now handled by the High Commissioners who were the representatives of the colonial masters. Land acquisition, which hitherto was a birth right, could now be done only through the commissioner since he was the only one, that by law, was empowered to administer and manage same. Another law that regulated land administration in the colonial era was the Land and Native Rights Act (1916). This Act vested the control and disposition of all native lands in the colonial governor to be ‘…held and administered for the use and common benefit of the natives of Northern Nigeria…’. The law (with later amendments) was repealed and replaced by the Land Tenure Law 1962 but this still retained land administration and control in the hand of the government. Although Kaduna became a state in 1976 the Land Tenure Law was still operative until the enactment of the Land Use Act in 1978 (originally a decree as it was made under the military rule). The Land Use Act continued the precedent of making the government the overlords or principal lessors of all lands as it vested all land within a particular State in the Governor to be held in trust and for the benefit of all Nigerians.
Kaduna State, is an old town where ownership of land, because of the historical and political status, is considered, as not just a good investment but as a status symbol especially for people of the northern extraction. Land administration and procedure for acquisition and ownership have undergone several evolutions since the coming of the British colonial masters and is still evolving till date. After governance and land administration was wrest from the community leaders, the government established office for the administration of land transaction. The enactment of the Land Use Act in 1978 which vested the control and management of land within a State in the governor\textsuperscript{viii} or Local government\textsuperscript{ix} as the case may be. The governor was also vested with the power to establish structure for the control and management of land within the State.\textsuperscript{x} This led to the retention of existing structures, and certain circumstances, the establishment of news agencies for the administration and management land to help realise the vision of the framers of the Land Use Act. Individual states therefore felt the need to and stated establishing departments, agencies or parastatals for land administration and management at the local government and State levels.

The Kaduna State government established the Department of Lands and Surveys (in the Governor’s office) till 1994. The establishment had its name changed to Bureau for Lands, Surveys (still under the Governor’s office) between 1995 and 1998. The Bureau’s name was revised back to a department again between 1999-2004. It was then made a full-fledged ministry, that is, the Ministry of Lands, Surveys and Country Planning between 2005 - 2015 performing such functions as land allocation, registration of titles and interests, issuance of certificates of occupancy, and other land transactions. The Kaduna state government enacted the Kaduna Geographic Information Service (KADGIS) Law, 2015 on 23\textsuperscript{rd} December 2015\textsuperscript{xi} and therein established the Kaduna Geographic Information Service (KADGIS) thus replacing the Ministry of Lands Survey and Country Planning\textsuperscript{xii}. The KADGIS is now saddled with the responsibility of undertaking the function that were hitherto done by the Ministry of Land Surveys and Country Planning.

THE KADUNA GEOGRAPHIC INFORMATION SERVICE

\textit{a. Objectives, Duties and Powers}
The Kaduna Geographic Information Service (KADGIS) Law, 2015, (hereafter KADGIS) came into force on 23rd December 2015. The law has 30 sections. One of its principal provisions is the establishment of the Kaduna Geographic Information Service, (hereafter Service), a body corporate with perpetual succession and common seal, which, apart from having the personality to sue and be sued in its name, can also acquire movable and immovable properties. KADGIS, the sole system responsible for the management and administration of land and allied matters in Kaduna State was established as ‘…a response to the immediate need to provide Kaduna State with a modern and efficient land administration backed by automated systems and a fully trained staff that can produce secure land titles’. It is a parastatal in the office of the Governor and a replacement for the ‘…defunct Ministry of Lands, Surveys and Country Planning with the object of computerising all land records and information throughout Kaduna State’.

Some of its principal objectives it seeks to achieve includes the establishment of ‘a central geographic information clearing house to maintain map inventories, information on and planned geographic and spatial systems applications, information on available for the acquisition or enhancement geographic information resources’. Another laudable objective is the planning, establishment and management of a directory of geographic information resources available in Kaduna State.

KADGIS also has a training and consultancy mandate so can provide consultancy services and technical assistance, education and training on the application and use of geographic information technologies. It can also provide technical assistance to other agencies of the government or other persons who wish to incorporate geographic information systems capabilities in their activities and systems. The Service has the power to develop and maintain a data base all land in the State, approve and register Land Vendors and undertake such other activities as are required for the efficient management and administration of land matters in the State.

In line with the task of producing secure land titles in Kaduna, the Service can receive and conduct due diligence on, and verify applications for issuance of certificate of occupancy for land or the grant of other rights over land or subsequent transactions in land within the State. A common practice by persons involved in land transactions, especially where rights and interests are being transferred, is conducting searches at relevant registries to confirm, not just
the authenticity of the title subject of the transaction but also the ownership in relations thereto. This can be done at the Service as the law vest it with the right to ‘permit members of the public to, after the payment of the prescribed fees, to conduct searches on land, xxvi

b. The Structure

i. The Governing Board

The Service has a governing Board is made up of a Chairman, who must have cognate experience in Public Service either in Land Administration, Geospatial Science or Information Technology xxvii, one member each from the three Senatorial Zones in the State one of whom shall be a woman xxviii, a representatives, not below the rank of a Director, from the Ministry of Finance, Kaduna State Urban Planning Development Authority (KASUPDA), Kaduna State Environmental Protection Agency (KEPA), Ministry of Justice, Board of Internal Revenue, Ministry of Environment and Natural Resources, Ministry for Local Government and Chieftaincy Affairs, Surveyor-General xxix, a representative of Kaduna Chamber of Commerce, Industry, Mines and Agriculture (KADCCIMA) xxx and the Director General of the Service xxxi. All the members are appointed by the Governor on a part time basis xxxii and shall hold office for a period of four years renewable for a further period of four years xxxiii. A member may, before the expiration of his tenure, however resign his appointment by a notice addressed to the Governor xxxiv. Where a member dies, resigns or otherwise vacates his office before the expiration of the term for which he is appointed, the Governor shall appoint a fit and proper person for the remainder of the term of office, and the successor shall represent the same interest as the person they replaced xxxv.

The Board is responsible for the “…periodic review of KADGIS policies and strategy for the attainment of an efficient enterprise geospatial data, infrastructure and land administrative system in the State and provide advice and general guidance to the Director General”, xxvii

Whenever it needs advice on specific issues or occasions, the Board may co-opt any person to be its member. Such co-opted member enjoys the same rights and privileges as other members save the right to vote or count towards a quorum xxxvii. The Board has also been bestowed with the power of appointing its Legal Adviser. The person to be so appointed must be a legal practitioner of not less than ten years post-call qualification and have cognate experience in land administration xxxviii. It also has the right to appoint standing or ad-hoc committees to
consider and report on any matter with which the Service is concerned\textsuperscript{xxxix}. Any such committee must be presided by a member of the Board but may be made up of persons that are not necessarily members of the Board as the Board may determine in each case\textsuperscript{xl}.

Every meeting of the Board shall be presided over by the Chairman and in his absence members present shall select 1 of them to preside\textsuperscript{xli}. The quorum at a meeting of the Board shall be simple majority of members of the Board\textsuperscript{xlii}.

\textbf{ii. The Staff}

The Service is headed by a Director General appointed by the State Governor\textsuperscript{xliii}. The Director General, as the Chief Executive Officer, must be a person "with relevant qualifications and cognate experience in land administration, geographic information system or information technology"\textsuperscript{xliv}. The Director General shall be responsible for the day-to-day running of the Service subject to the supervision and control of the Governing Board\textsuperscript{xlv}. He shall hold office for term of 4 years, which may be renewed for another term\textsuperscript{xlvi}. The Service, may, subject to the approval or the Board, appoint such category of staff as may be necessary for the effective performance its functions as provided by the law\textsuperscript{xlvii}. It may also engage the services of consultants and advisers and areas where they have technical deficiencies\textsuperscript{xlviii}

\textbf{KADGIS: A STEP IN THE RIGHT DIRECTION}

The digitised record keeping has, apart from bringing documentation of land transaction in Kaduna State into the 21\textsuperscript{st} century, will in no small way protect titles in lands by giving up-to-date information on land acquisitions and dealings in relations thereto. It will also reduced both the waiting period for obtaining information on land matters, incidences of missing files or documents. It will, in no small way, encourage private individuals and corporate bodies to invest in land because the genuineness or otherwise of titles to land and transactions thereto can be easily confirmed through the digitised system in the Service. The government should also be commended for tackling the issue of illegal land sale and acquisition by land grabbers and speculator because the law made provision for the registration of Land Vendors\textsuperscript{xlix}. This will in no small way protect innocent investors from the fraudulent activities of unscrupulous persons.
RECOMMENDATIONS

While appreciating this innovation in land transaction, the following recommendation, will, it is humbly believed, help in actualising the intent of the law, are made:

i. Deployment or engagement of professional personnel to manage the geographic information system. Trained personnel will be able to more effectively assist persons that come to the Registry for any transaction. Land is arguably the most valuable asset in a man’s life and any transaction entered into in relations thereto is taken seriously. Having trained personnel to guide assist persons encourage people register their interest. It is therefore recommended that apart from the stipulation that the legal adviser to the Service being of at least 10 years’ experience most of the personnel of the Service should be lawyers, surveyors, estate administrators and such persons that have formal training on issues relating to land administration and management so that they can advise applicants appropriately.

ii. Enactment of a more comprehensive system of land registration that will, as much as possible, cover the major issues with relations to land transactions leaving only the issues of fees for periodic review. This will reduce the stress that people undergo when each successive government bring new regulations, laws, or directives, etc on land matters.

iii. The law did not take into cognisance the issue of communal or family land ownership. This style of land holding has been the commonest way people obtained and still acquire land so has been in existence before the enactment of the Land Use Act. The law should therefore take a stand on the legal position of such land and transactions undertaking using such title. It could start by requiring the registration of communal or family land representatives so that titles or interest acquired from such avenues could also enjoy protection from the law.
CONCLUSION

The enactment of the Kaduna Geographic Information Service (KADGIS) Law, 2015 is a step towards digitising land information and documentation system in Kaduna State in such a way as to bring it in line with practices in other developed climes. This is a good step that will help reduce or even eradicate issues of missing or incomplete documentations with respect to land. The KADGIS Law will further restore confidence on the documents and transactions in the State. The State government should therefore be commended for taking this bold step and be encouraged to do more so that instrument or document relating to land emanating from the State will be taken to be as good and true as it appears.

ENDNOTES

iii ibid
iv Section 3 Native Land and Rights Proclamation
vi Cap L5 LFN, 2004
vii ibid
viii ibid s. 2(1) (a)
ix ibid s. 2(1) (b)
x S. 2 LUS 1978
xi Section 2, KADGIS Law, 2015
xii op cit at page 2
xiii Section 2 KADGIS Law, 2015
xiv Section 4 KADGIS Law, 2015
xv Section 15 (1) KADGIS Law, 2015
xvi Section 4 (3) KADGIS Law, 2015
xvii Explanatory Note KADGIS Law, 2015
xviii Section 16 (b) KADGIS Law, 2015
xix Section 16 (c) KADGIS Law 2015
xx Section 16 € KADGIS Law, 2015
xxi Section 16 (m) KADGIS Law, 2015
xxii Section 15 (1) © KADGIS Law, 2015
xxiii Section 15 (1) (g) KADGIS Law, 2015
xxiv Ibid 20
xxv Section 15 (2) (b) KADGIS Law, 2015
xxvi Ibid at 15 (2) (d)
xxvii Section 5 (a) KADGIS Law, 2015
xxviii Section 5 (b) KADGIS Law, 2015
xxix Section 5 (c) KADGIS Law, 2015
xxx Section 5 (d) KADGIS Law, 2015
xxxi Section 5 € KADGIS Law, 2015
xxxii Section 5 (2) KADGIS Law, 2015