

IMPACT ASSESSMENT OF LAND USE DECREE ON RURAL LAND – A CASE STUDY OF OGUN STATE.

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ABSTRACT

The land use decree number 6 of March 29 1978 was aimed at solving the diversified land policies in Nigeria and ensuring easy accessibility of all Nigerians to land. The decree however classified land to rural and urban and made separate provisions for the management and administration of each. It is a known fact that good rural land tenure is one of the catalysts for rural development and it also stimulates food self-sufficiency and serves as an impetus for economic development of a nation. Ogun State is one of the 36 States of Nigeria, a State with abundant rural land. Having a total land area of 16,409.26km², out of which only 1,003.7km² (spread through 7 townships) was designated as urban land, indicating that the rest 15,405.56km² is rural land. Considering the case of Ogun State, has the decree had the expected impact on the rural land and has the provisions of the decree been kept to 26 years after its commencement? What is the attitude of estate surveyors to rural land and what remedial measures can be taken to redress the imperfections of the decree on rural land? These burning questions therefore called for this study.

1.0 INTRODUCTION/BACKGROUND

Before the advent of land use decree number 6 of March 29, 1978, there have been a serious problem as to the access, title, and use of land in Nigeria. There is a diversified land policy (north and south dichotomy). These and other problems gave birth to the land use decree of 1978. The decree as at least set the ball rolling on the issue of the reform of the land branch of Nigerian law, which has received very little attention in the past. This was the first land reform that unified the diversified land policies in Nigeria. The decree vested all land in a given state in the incumbent governor of that state to hold in trust for the benefit of all Nigerians. The objectives of the decree are as follows:

- To remove the bitter controversies generated from the existing land tenure system in Nigeria.
- To streamline and simplify the management and ownership of land in Nigeria.
- To assist Nigerian to own the place where he and his family will live a secure and peaceful life.
- To empower the government to check the use and control of land in Nigeria.

The decree expressly divided Nigeria land into two categories: rural and urban and eroded the communal system of land ownership to an individual land use and occupation. The other implication of the decree is that the initial common law doctrine of estate was glaringly distorted by recognition of only:

- (a) Possessing right (leasehold interest) was recognized as the major interest for an individual to use and occupy land for maximum period of 99 years renewable.
- (b) Ownership right (freehold interest) was exclusively vested in the incumbent State Governor. Individual cannot therefore have ownership right neither was the communal ownership recognized in the urban land.

In the general sense, and going by the objectives of the decree, it supposes to cover the whole country both rural and urban land. But by most provisions of the decree, it focuses on urban land more than the rural land in all ramifications.

Section 2(a) of the decree provides that urban land shall be vested in the Governor who can exercise strong control over urban land but that rural land shall be vested in the local government chairman who exercises weaker control over the rural land.

The power of the local government chairman was further weaken by the provision in section 5(1) which, empowers the Governor the right to issue statutory right of occupancy on any land (rural or urban) in his state. He can even nullify the grant previously made by the local government chairman and can make the local government chairman completely redundant by declaring the whole state land as urban land by virtue of section 3.

The provisions of the decree like title, alienation, revocation, compensation etc. are mainly noted for applicability in the urban land only; they are not noted in the rural land.

Although the land use decree has important land use tone, despite its title and caption, the decree is strictly not a land use policy but a mere land tenure policy because there are major conceptual and operational distinctions between utilization and tenure. From the past records, the Governors have issued a lot of statutory certificates of occupancy in each state of Nigeria. Whereas very few cases (if at all there is) of customary certificate of occupancy were issued despite the ratio of urban land to rural land in term of area coverage.

Since the rural land is generally larger than the urban land, it is expected that rural land should have been more applied for than urban land.

This paper therefore aims at assessing the impacts of the provisions of land use decree on rural land. Specifically in Ogun State since its inception in 1978 up to date, x raying such impact on each local government in Ogun State and also make the positive recommendations to remedy the observed anomalies.

2.0 RURAL LAND

Rural land could be seen as land located in the rural areas and community that is predominantly utilized for agricultural purposes and command low rental/sales value. The unique features of rural land are in its value and use. The rural land is mainly used for agricultural purpose and also massive enough to command little value. The demand of urban land is usually low compare with its urban counterpart.

Rural land can be identified as a geographical space remaining in a given state after the urban land has been designated. The implication of this is that if we can identify what urban land is, we can define the rest as rural land. It therefore means what is not urban is rural Obot, (1986).

By the tone of land use decree number 6 of March 1978 rural land means all land except the land in urban areas.

Rural land is the land under the control and management of local government chairman. Rural land may also be defined as the part of a state land, which was not, designated as urban land by the governor of that state (through publication in government gazette).

3.0 RURAL LAND AND URBAN LAND DICHOTOMY

Factors creating rural and urban land differences have been explained by social scientists in three approaches.

One stresses the differences, seemingly assuming a dichotomy between rural and urban areas: another approach uses the ideal of continuum, or the location of any given community somewhere between the two extremes of the traditional community and the cosmopolitan city; a third emphasizes not merely the continuum but the symbiotic or the interdependent connection between the two (Sanders, 1977).

Each of these approaches has implications for rural development. The dichotomous approach views the rural areas as being distinct from the city. This approach champions one way of life against the other. The continuum approach recognizes that rural community changes to urban community so that each settlement will emerge at a level based on its steam without any formal planning and/or intervention.

The interdependence approach sees these rural and urban areas as jointed in a symbiotic relationship as part of a national society' this approach sees the wellbeing of rural area as contributory to that of urban area leading to a better national setting.

In accordance with the land use decree, rural land may be distinguished from urban land as follows:

- (a) Control and management – Rural land is being controlled and managed by the local government chairman, while the urban land is being managed and controlled by the governor of a given state where the land is located.
- (b) The land allocation committee – The land allocation committee shall be named 'land use and allocation committee for the urban land while that of the rural land shall be called the land allocation advisory committee'.
- (c) Title to the grant – The title to urban land shall be the 'statutory right of occupancy' while the title to rural land shall be the 'customary right of occupancy'.
- (d) Land area grant-able – The maximum area of land grant-able for the use of urban land is 5000M² or ½ hectare of land, while the maximum area grant-able for the rural land shall be 500hectares and 5000 hectares for agricultural purpose and grazing purpose respectively.
- (e) Court jurisdiction – The magistrate court shall have jurisdiction to entertain legal suit on the rural land, while the high court shall have jurisdiction to entertain legal suit on the urban land dispute.

4.0 PROVISION OF LAND USE DECREE (ESTABLISHMENT ORDER OF OGUN STATE)

Section 2(2) of the decree provided that the Governor shall establish “the land use and allocation committee” for the management of urban land, and Section 2(5) provided that the chairman of local Government shall establish “the land allocation advisory committee” for the management of rural land. The minimum membership composition of land use and allocation advisory committee was given.

In Ogun State, subject to Section 3(2) of the decree, there are comprehensive establishment orders for the composition of both land use and allocation committee and land allocation advisory committee.

By the provision of the orders, the land use and allocation committee shall be made up of the following:

- (a) A part-time chairman;
- (b) One traditional ruler to represent each of the traditional council areas in the state;
- (c) One person to represent each of the local governments in the state so however, that no local government shall be entitled to a second representative if the representative of traditional council for the local government area is representative of the local government;
- (d) The following ex-officio members:
 - (i) The permanent secretary, lands department;
 - (ii) The chief lands officer;
 - (iii) The surveyor-General;
 - (iv) The chief Town planning officer;
 - (v) A legal officer from the ministry of justice in the state;
 - (vi) The chief agricultural officer; and
 - (vii) The general manager; Ogun State Housing Corporation.

For the land allocation advisory committee, the composition shall be made up of:

- (a) The president of the local government council who shall be the chairman of the committee.
- (b) Two persons representative of the community; and the following:
 - (i) The supervisory councilor responsible for works matters in the local government
 - (ii) Two officers of the department of government of the state whose commissioner is charge with responsibility for land matters whose ranks shall not be less than those of –
 - (a) A land officer and
 - (b) A land surveyor respectively;
 - (iii) An officer of the department of government whose commissioner is charged with responsibility for matters relating to agriculture whose rank shall not be less than that of agricultural officer
 - (iv) A legal practitioner.

Section 3 of the decree empowers the Governor to designate part of his state territory that constitute urban land and this should be done in conjunction with the national council of states and be published in the state Gazette.

By this provision, the definition of rural land by Obot (1986) implied i.e. the remaining land after the urban land has been designated. In Ogun State, the land use (declaration of urban areas) order, schedule the urban land (as designated by the Governor in 7 townships) as follow:

TOWNSHIP AREA DESIGNATED

- (i) Abeokuta: 12 kilometre radius of the Cenotaph at Itoku.
- (ii) Agbara: The west ends half of the site for the industrial town consisting of about 4,000 hectares.
- (iii) Ilaro: 5 kilometre radius of the junction of Ilaro – Papalanto Road/Owode to Abeokuta Roads.
- (iv) Otta: 6 Kilometre radius of Okede square at the junction of Iganmode/Itele/Igbo Olori roads at Obada station and motor park.
- (v) Ijebu-Igbo: 6 kilometre radius of the junction of the town hall road/Okeagbo road at Obada station and motor park.
- (vi) Ijebu-Ode: 6 kilometre radius of Folagbade street/Awujale Street Junction.
- (vii) Shagamu: 6 kilometre radius of the junction of Adedoyin road/Lagos –Ibadan road.

5.0 IMPACT ANALYSIS OF THE DECREE ON RURAL/URBAN LAND IN OGUN STATE

Ogun State has Abeokuta as its capital city with 20 local government areas. There are about 5,081 settlements in Ogun State and of all these settlements, only 10 (which is only 0.2% of total settlements) can be classified as urban (NPC). Indicating that about 5,071 settlements (99.8%) are rural settlements, although the state government in the schedule for urban land designated only 7. Odeda local government alone has about 800 settlements out of which 80 were acquired to give 10000 hectares to accommodate the present University of Agriculture Abeokuta.

The findings of this study has reflected that out of the 20 local governments in the state, none has so far issued customary right of occupancy since the inception of the decree and as at the present, none of the local government has a constituted land allocation advisory committee'. Most of the local government chairman do neither know their expected role as provided by the decree nor display any interest in the rural land management. In the rural areas, the concept of in-alienability of land is till as binding as before the land use decree was promulgated, the role of the traditional rulers is still rampant while the role created for the local government chairman is not performed. It is generally observed that access to land by non-indigenes has become more difficult than before. The local government chairman that were empowered by the decree were powerless and culture conscious because they only make consultations with the customary chiefs in respect of customary land allocation and seek from governor, the statutory right of occupation even if the land is rural in their domain. The concept of customary right of occupancy is only in a document called the land use decree but not applicable to land in Ogun State.

None of the local governments has in its staff list a qualified land officer/estate officer as required by the Ogun State establishment order.

Since none customary right has been granted, ground rents which supposed to constitute income to the local governments has not being collected by any of the local governments in the state.

It was found out that statutory right of occupancy has been the only right issue-able on both rural and urban land in Ogun State. Any Nigerian who intends to use and occupy land in the state gets the right from the governor even if the land is a rural land. This has grossly defeated the provision of the decree and the local government has not being performing its land management function as provided by the current land tenure statute.

Furthermore, urban land has far been practically extended beyond the designated area in the urban area schedule of the state without any formal announcement or publication of such extension in the state gazette as required by section 3 of the decree. For example, Abeokuta area coverage according to Ogun State designated area for the town in the schedule was put at 12 kilometer radius of the Cenotaph at Itoku which by calculation should be $\text{Iir}2 (22/7 \times 144)$ amounting to 452.5km². But presently, Abeokuta urban land has extended more than 12 kilometer radius of the Itoku Cenotaph and same form of extension has been noted in the other 6 townships in the schedule (see appendix). The governor is still expected to re-designate in the state gazette as required by the decree.

Apart from this, some settlements have gotten the status of urban settlement and the government has this cognizance but did not make move to accommodate them in the urban designation schedule. In fact most provisions of the decree are now been set aside meaning that they are outdated and require serious review and update.

6.0 ESTATE SURVEYORS ATTITUDE TOWARDS RURAL LAND

The rural land, (due to the low value it commands and lesser patronage on it) has been less attractive to the professionals in environmental studies most especially the estate surveyors.

This has been eroding the income that supposed to go to the estate surveyors and also paving way for the quacks recognition by the public in the field of estate surveying. How many of the notable estate surveying firms can claim to have had at least one transaction in the rural land in the recent two or three years? And what kind of response has rural land transaction being getting from the estate surveyors?

In Ogun State for example, along Shagamu-Lagos expressway, one will notice some notable religious organizations and commercial outfits such as Redemption camp; Youth camp; Deeper life camp; Nasfat camp; Mountain of Fire and Miracle camp; Traders Island etc.

It is worth of note that with the exception of Traders Island, the genesis and conclusion of land acquisition transaction of all these organizations and outfits does not involve estate surveyors but quacks.

7.0 THE SUGGESTED REMEDIAL MEASURES

In a lecture titled “the land use act 11 years after at the 1989 annual dinner party of the Nigeria bar Association, Ikeja Branch, one of the architects of the decree, Justice Augustine Nnamani who was the minister for justice in 1978, maintained that the objectives of the decree “have been distorted, abused and seriously undermined”.

In the wake of this, the most paramount remedy is that the decree as a whole should be removed from our constitution so that it could be easily amended and also to remove series of its imperfections and to ensure that its tone is brought in line with cultural and societal attitude at any given time.

Since the decree has been incorporated as part of our constitution, no meaningful remedy could be done unless it is first removed from the constitution.

Having done this, then there will be a need for re-drafting of a unified property law that will bear in mind the culture of the people but not to attempt a reversal of the culture of the people who are subject to customary law. Property legislation need not wipe away the culture of the people overnight in order to achieve social goals.

Since the local government chairmen have woefully failed in the exercise of their roles in the rural land management, they should be disengaged rather than being there redundant, powerless and of no positive effect. In real sense, since the customary right of occupancy is carved out in accordance with customary law, then customary law rule should continue to apply to the customary right of occupancy.

Therefore, the paramount traditional chiefs/rulers (non-partisan) should be made the chairman/members of the land allocation advisory committee in their areas in order to boost their ego, hence their position in their community and avoid apathy on their part in the sincere implementation of the desired refined decree.

In general, the provision of section 47(1) which makes the provisions of the decree to be supreme over the provisions of the constitution should be completely modified because constitution of any nation supposed to be supreme over all statutes.

Furthermore, the outer-clause provided in section 47(2) of the decree, which expressly states that no court shall have jurisdiction to inquire into any question concerning or pertaining to the amount or adequacy of any compensation to be paid in respect of land compulsorily acquired by government should be remedied.

This is because it tends to undermine the principle of separation of power, which made the courts the final arbiter in any disputes between governmental institutions and individuals.

Finally the all-inclusive power of the governor should be reduced by a bit de-centralization. Most governors of Nigerian states have, grossly abused the centralization of power to them. The decree should be re-engineered so as to give room for separation of powers and allow for checks and balances for improved performance in the land management activities in Nigeria.

8.0 CONCLUSION

As part of Obasanjo administration economic reform, government has now seen reason in it not to put all eggs in a basket and not to base Nigeria source of income solely and largely on petroleum resources. There is serious need to diversify and have multiple source of income. Nigerian economy is now bending towards agriculture as one of the means for income diversification, self-reliance and self-sufficiency in food production. The government is now making frantic efforts to stop importation of food like rice, frozen fish and turkey among others and encouraging food exportation in order to improve the foreign earnings. Chief Audu Ogbeh, national chairman of the ruling people’s Democratic Party on December 2, 2004 at the ‘northern peace conference’ stated that importation of rice to Nigeria will be a thing of the past as from year 2005 and urge all northerners to embark on massive cultivation of grain to save the northern economy and that of the nation at large. This will definitely require land from rural areas. Apart from some governments: states and local, most corporate organizations and individuals have been showing interest in agriculture and aquaculture business. I predict that banks will soon diversify and join in this race if the atmosphere is very conducive. Good rural land reform is most needed as a foundation and catalyst for this economic reform to be fruitful. If there is a good rural land reform that can practically guarantee people accessibility to rural land without much ado, the wish of the government can be achieved, but on the contrary such a wish may be a mere imagination. The estate surveyors also need to brace-up and have a re-orientation as regards rural land administration. This is needed in order to play professional role in this economic reform and catch from the impending income opportunity and guide against giving out professional right and responsibility to quacks who are there always ready to take undue advantage of the professionals’ weaknesses.

I do believe that we can still redress, re-orient, and re-strategize to catch up because it is never too late.

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APPENDIX

SCHEDULE OF ZONAL LAND AREA COVERAGE OF OGUN STATE

Zone	Area coverage (hectares)
Abeokuta	125,593.26
Egbado North	375,503.26
Egbado South	163,720.30
Ifo/Ota	172,811.70
Ijebu East	291,815.33
Ijebu North	96,901.87
Ijebu Ode	82,986.62
Obafemi Owode	104,187.07
Odeda	126,342.02
Remo	97,298.34

Source: Bureau of lands, survey and town planning, Ogun State (2004)