

Urban Low Income Settlements, Land Deregulation and Sustainable Development in Nigeria

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Key words: Squatter or illegal settlements, land deregulation, low incomers, security of tenure, sustainable development.

SUMMARY

At the start of the third millennium, 47% of the world's population lives in urban areas. And, a distinguishing feature of the urban growth in developing countries has been the growth of informal settlements. It is estimated that between 20 and 80 % of urban growth in developing countries is informal, usually inhabited by the poor, low incomers. Without secure access to land and the means of production, the paradigm of daily survival compels the poor, due to circumstances beyond their control or influence, to live within short – term horizons that degrade resources and fuel a downward spiral of poverty. These informal settlements have over time evolved informal systems of land tenure relations and management inspite of the state – sponsored land tenure law in Nigeria.

Nevertheless, security of tenure for the urban poor is fundamental to any strategy for poverty reduction. And, sustainable development is a call for all stakeholders, through land deregulation, to become allies with the landless by strengthening their capacity to develop sustainable livelihood. This paper, therefore, through case studies and a literature survey examine how low incomers' access to urban land could be sustained. It further argues for a reform of the existing state land law to make the poor active participants in urban land decisions to enable them overcome their poverty.

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1. BACKGROUND

According to recent UN estimates (cited in Durand – Lasserre, forthcoming), Africa has the world's highest urban growth, with an annual average of 4%. Thirty-seven per cent of the total population of Africa currently live in urban area and by 2030 the urban population is expected to account for more than half of the total population. Over the next two decades, it is estimated that nearly 90% of the population growth in Africa will take place in urban areas. A high rate of urbanization combined, in most countries, with consistent economic decline over the last two decades has resulted in a rapid increase in the number of urban poor. In sub-Saharan African Countries, it is estimated that more than 40% of urban resident are living in poverty. These factors contribute to the increasing informalisation of African cities; Nigeria being no exception.

The worst or hardest hit sector of the urban population is the low-income segment of the African cities. These urban poor or low-income settlement, comprising between 25% and 75% of the urban population, occupies irregular settlements, including squatter settlements, unauthorized land developments, and rooms and flats in dilapidated buildings in city centre areas (Durand – Lasserre, 1996; Chome, 2002). Although, there are no accurate figures, Nigeria has a fair share of these low-income settlements (Agboola, 1998; Agboola and Olatubara, 2003).

Squatter or low-income settlements, although, they are not homogenous in nature, are found on the urban fringes or in centrally located areas, mostly on public land but also, less frequently, on private land, especially when disputed. These can be the result of an organized 'invasion', or a gradual occupation. Contrary to common belief, access to squatter settlements is rarely free. An entry fee must generally be paid to an intermediary or to the person or group who expects control over the settlement, and sometimes also rent (Banerjee, 2002). The large segments of these low-income settlements have no choice but to rely on informal land and housing markets for access to land and shelter (Hardoy and Satterthwaite, 1981). Dominant in many of these explanations as the notion of land demand. Thus, tenure insecurity, threat of forced eviction and poor access to basic urban services, all contribute to further undermine the economic situation of the poor in these settlements (Audefroy, 1994). And, in most developing cities, the expansion of informal settlements has been taking place inspite of policy measures to either contain or integrate them into the urban economy. These policy measures, along with lack of, or inefficiency of, corrective measures or safety-net programmes have tended to further increase inequalities in wealth and resource distribution at all levels (Pugh, 1995; Durand – Lasserre and Royston, 2002). Even, the state intervention in land ownership and administration, through the promulgation of the Land Use Act, 1978 in Nigeria, has merely created a dual structure, that will if not dismantled soon, crystallise into

much inefficiency in land use and allocation (Iwarere, 1994). Secure title and a functioning deregulated land market have been linked to furthering economic development, sustainable resource, management, and overcoming poverty in many developing nations (Chome, op cit). Against the backdrop of the foregoing, the paper examines how land deregulation can help promote sustainable development in these low-income settlements. To achieve this, the paper examines the characteristics of these settlements, past and current approaches to solving problem of access to land and the attendant consequences, and finally, the viability or otherwise of land deregulation for the low-income settlements in the country.

2. URBAN LOW-INCOME SETTLEMENTS

Rapid growth of cities due to urbanization had led to the emergence of low-income settlements types, both of the inner-city and on the outskirts, that can be characterised as 'shanty towns' but which in our view are best described by the non-pejorative term 'popular settlements' (Ainia, 1990). The legal definition of the term "squatter settlement" could be misleading when applied to several uncontrolled urban settlements on the continent. For instance, where a piece of urban land is unregistered and belongs to a community, it is debatable when an individual who builds on a plot purchased from a "recognized" traditional head of the community, but without the government's approval, should be called a squatter. It is equally debatable when a government, in exercising its power of eminent domain, acquires a piece of land, fails to compensate adequately and in desperation some of the members of the community settle on a portion of the land (United Nations, 1973).

Durand – Lasserre and Royston (op cit) offer a three part classification of informal or squatter settlement. This aids in identifying the variety in informal processes, which the term informal settlement denies. These are unauthorized land development or informal subdivision at the fringes of most developing cities; squatter settlements found on the urban fringes or in the centrally located areas, most on private land, especially when disputed; and, informal rental housing which covers a range of situations and level of precariousness (Leap, 2005). These uncontrolled and squatter settlements seem to have two or more of the following characteristics: (See Aluko and Olawuni, 2002; Rakodi and Leduka, 2003).

- Their birth are usually due to rapid urbanization, occasioning housing problem. Residents are mostly low-income families who are adventurers, or either migrants from rural areas or are victims of urban renewal schemes (United Nations, 1973 *op cit*)
- Studies on the socio-economic situation of households living in irregular settlements indicate a strong correlation between urban poverty, tenure status, access to services and citizenship (Vanderschweren et al, 1996; Durand – Lasserre and Clerc, 1996, UNCHS, 1996; Durand – Lasserre and Royston, op cit). Tenure status is one of the key elements in the poverty cycle. Lack of security of tenure hinders most attempts to improve housing conditions for the urban poor, undermines long-term planning and distorts prices for land and services (Wegelin and Borgman, 1995). It has a direct impact on access to basic urban services and on investment at settlement level, and reinforces poverty and social exclusion (UNDP, 1991).

- There is a prevalence of absentee landlords whose investment behaviour in land could be described as “maximization of current investment portfolios”, relying sometimes on authorized development method to achieve their goals.

A closer look at the foregoing indicates that land accessibility problem, whether in an unauthorized land development or in uncontrolled settlements or in informal urban housing sector, is the central issue that binds them together. Land accessibility, according to Omirin, (2002) consists of land tenure security, land affordability, land availability and the ease with which land is acquired. Most analyses of African cities conceptualise urban land delivery systems and terms of “formal” or “informal” categories. Indeed, it is now a common knowledge that due to a variety of factors, informality is the predominant characteristic of urban growth and that a majority of urban residents, especially the poor, access property rights through transactions occurring outside state regulation and formal land markets. (Rakodi and Leduka, *op cit* and Leap, *op cit*).

Land tenure refers to the rights of individuals or groups in relation to land. It is a key element for the integration of the urban poor in squatter or low-income urban settlements into the city and one of the basic component of the right to housing. This is because tenure insecurity, threat of forced eviction and poor access to basic urban services all contribute to further undermine the economic situation of the poor (Audefory, *op cit*). For example, for households living in irregular settlements security of tenure offers a response to their immediate problem of forced removal or eviction. It means they cannot be evicted either by a court or administrative decision simply because they are not the owner of the land or due to lack of formal land agreement. It also means recognizing and legitimizing the existing forms of tenure that prevail among poor communities, and creating space for the poorest populations to improve their quality of life.

The issue of access to land and security of tenure as a condition to sustainable housing topped the Habitat II agenda in 1996 and tried to elicit commitments from governments at central and local levels, the private sector, the community sector and organisation representing civil society to prioritizing issues of security of tenure ‘for inhabitants of irregular or squatter settlements, slums, shack dwellers, and all precarious living environments’. Tenure securities were singled out for the implementation of the United Nations Centre for Human Settlements (UNCNS) Habitat Agenda (UNCHS, 1996). Governments were asked to commit themselves to ‘providing legal security of tenure and equal access to land to all people, including women and those living in poverty’ (UNCHS, 1996). In 1999, the UNCHS launched two global campaigns, one of which is security of tenure and, the other being governance (UNCHS, 1999). The significance of these arguments for titling is that the UNCHS has put its weight against a systematic titling approach to land for the poor.

Also, in furtherance of the international concern around human housing in relation to tenure is the human rights based approach to development, in which secure tenure is seen as a critical element (Leap, *op cit*). This more recent paradigm shift attempts to lift the tenure debate from national policies that determine the primacy of some tenures over others, towards a universal human rights based approach to tenure. According to Conway and others, 2002:

“Rooting policy in universal basic right may be the only way to reorient Government priorities towards the poor. Basic entitlements in rights rather than discretionary policy makes it easier to defend continuity of service provision, increasing the political sustainability of the pro-poor actions”.

Struggles for the realization of rights require sustained action in a variety of national and international fora. By guaranteeing a minimum livelihood and discouraging extreme inequalities, enforceable economic and social rights also help to promote the social and political stability necessary for sustainable national development (Conway, et al op cit). In view of the above, a number approaches had been and, are still being, adopted in resolving the problem of access to land including security of tenure for the inhabitants of squatter or low-income settlements in the urban areas.

3. APPROACHES TO SOLVING THE PROBLEMS OF LOW-INCOME OR SQUATTER SETTLEMENTS

A number of responses regarding protection of access to land and security of tenure for the urban poor have been well documented in the literature (see for example Dowall, 1991, Dowall and Giles, 1991; Azuila 1995; Zinimermann, 1998; Zevenhergen, 1998). These include:

- Urban redevelopment or renewal
- Site and services scheme
- Large-scale registration and tenure upgrading and legitimization programme.
- Attempts to adapt land law to the situation and needs of the developing cities.
- Tolerance by the public authorities of the existence of a dual, formal/informal, land delivery system (this is the case in most sub-saharan African countries), but with the absence of a clear strategy regarding irregular or squatter settlements.
- Setting up a simplified registration system where tenure can be incrementally upgraded to real rights in accordance with the needs and resources of individuals households and the processing capacity of the administration in charge.

In Nigeria, so far, the following responses were pursued:

3.1 Urban Redevelopment or Renewal

Two of the hallmarks of the colonial approach to African urban housing in the fifties were the redevelopment of decaying ‘core’ areas combined with the renewal of ‘slums’ or squatter areas, and the construction of large rental (sometimes tenant purchase) public housing estates. The first attempt in the country was in 1951. the then minister of Lagos Affairs appointed the Lagos Executive Development Board (LEDB) now known, as the Lagos State Development and Property Corporation (LSDPC) to clear a slum area of about 28.34hectares (70acres) in central Lagos within a triangle in the vicinity of Broad Street, Balogun and Martins Streets together with Nnamdi Azikwe Street and the area east of it. The property structures in this area range from residential to market stalls erected in the area without planning and due regard for accessibility, drainage, sewers, open spaces, parking facilities and density. Finance

and problem of rehousing displaced persons occasioning tenure insecurity confronted the project. Originally, the government granted the sum of about N5.90 million to the LEDB for the clearance of the slum but actual expenditure in 1962 had risen to about N6,932,886 despite the little cleared. The amount of deposits received by government from lots redeemed amounted to only N1,452,192 leaving a net balance of expenditure of N5,476,694. Acquisition of land and structures apart from the Surulere rehousing site amounted to about N6,232,360. With this kind of approach, the funding required is usually beyond the capacity of most developing nations who have to depend on international finance organizations including World Bank for such projects. The latest attempt was in 1991 when the military government in Lagos State forcefully displaced the residents of Maroko, a suburb to Victoria Island and took over the land. The action was greeted with overwhelming public condemnation and, has been threatening the tenure security granted the new residents as the “Omoniles” (sons of the soul or original landowners) still requests the new residents to repurchase the land from them.

3.2 Site and Services Scheme

The pressure for this came from the international lending community and in particular the World bank. Given the rising figures of ‘spontaneous or squatter settlements’, in cities all over the third world, in the face of tight planning control, regular demolitions, and high-cost construction programmes, the World Bank argued for a new approach to urban development which incorporated various forms of aided self-help (World Bank, 1972) the two ‘packages’ which received the most support were sites and services scheme, and upgrading schemes. Essentially, the first provided low-income beneficiaries with serviced plots including tenure security and help to build (or have built) their own houses; the second approach helped house-owners in existing squatter areas obtains tenure to their land, and to improve their dwellings. Many of these sites exist all over the country essentially provided by the government. And, inspite of the fact that they may help to improve tenure security, the programme is capital-intensive in nature and the initial target population, low-income, usually do not benefit from them. (Aluko, 2002). This is because the cost attached to each plot is usually beyond the reach of the urban poor.

3.3 Large,-Scale Registration and Tenure Upgrading and Legitimization Programmes

Central to pro-titling arguments is the hypothesis that registered ownership encourages investment in property, which contributes to economic development. Quan (2003) points out how the World Bank strongly pushed for “modernizing” and land titling throughout the second half of the 20th century, on the assumption that individual titles are necessary to overcome poverty and constraints to development. Their lending was to technical projects to support registration and titling. This view became ‘received wisdom’ and was internalized by developing country officials and policy makers. It has also dominated convential responses to land management in developing countries. Durand Lasserre and Royston (op cit) argue that these conventional responses are based on the regularization of irregular settlements with emphasis on the provision of individual freehold titles. In Nigeria, Lagos State Government recently set up Sustainable Land Development Agency (SLDA) to work in concert with the

lands bureau, Governor's office, in legitimizing titles of inhabitants of squatters settlements, either excised or government acquisitions lands. The implication of excision is that, the root of title to lands originally compulsorily acquired by the government but invaded by squatters now resides in or go back to the original landowners. The excision document or gazette is as good as a title document. Of the bulk of such excision programmes in Lagos State, over 90percent, took place between 1974 and 1998 and about 169 government acquisition sites from various villages/town were excised (Aluko and Olawumi, op cit). Each squatter settler requires Governor's consent to formalize the disposition between him/her and the landowners. Apart from the delay experienced in perfecting a title due to beaueracy, the costs may run between 25% and 45% of the purchase price of land. This is usually not affordable to the residents of those low-income settlements. For the squatters on government lands or estates, not yet excised, their stay may be legitimized, only, after due payment of direct cost of purchasing such site has been paid. There are about 205 of such sites invaded by squatters in Lagos State. The purchase price is usually exorbitant and not within the reach of the urban poor in these settlements. In addition,. There are conflicts in the operational modalities of both the SLDA and the Lands Bureau in the State. State management of land is threatened with corruption and this occur at all the levels and agencies (Omirin and Antroi, 2004).

3.4 Setting up Simplified Registration System

In response to increased pressure on land, many people are seeking to strengthen their land claims, and have developed a range of mechanisms to document land of rights and transactions. These include the increasing use of written contracts, formal witnessing of agreements. In Nigeria, certificate of occupancy is an evidence of title to land on State or local government land. Omirin and Antwi, op, cit, identified 21 stages to certificated allocation of State land and 13staegs in respect of Governor's consent required to perfect title to land transactions. Moreover, the formalization procedures are so complicated and expensive involving too many departments in the bureaucracy. And, since according to Babatunde (1999), possession of a formal title does not always guarantee security it is not surprising that many who buy land prefer not to seek registration. Thus, while registration might in theory be expected to help poorer groups confirm their claims to land, in practice, registration has often served to redistribute assets towards the weather and better informed.

3.5 Nationalization of Land

The Federal Military government promulgated the Land Use Act (LUA) on the 29th of March, 1978 to nationalize and vests ownership of land within the territory of each state in the Governor for the use and common benefits of every Nigerian. The erstwhile customary land tenure system was considered to bedeviled with a lot of problems such as: insecurity of land tenure, incessant rancour and litigations on land matters, fraudulent land sales, exhorbitant land prices due to the activities of land speculators, and fragmentation of landholdings into uneconomic size holdings, amongst others. The Act recognize only a right of occupancy to grantees which may be statutory or customary depending on whether the land is either in urban or rural areas of the State respectively. The Act replaced market allocation system with the administrative system. This new authority is exercised by the

special Land Use Boards known as Land Use and Allocation Committee (LUAAC) at the State level and Land Allocation Advisory Committee (LAAC) at the local government level. The Act was meant to ameliorate all the problems associated with the customary land tenure system and, at the same time, unify the land tenure system in the country. With this, it was thought that Government can help to guarantee access to land and security of title for all lands including squatter sites in the country.

However, in spite of section 1 of the Land Use Act, 1978 (LUA) vesting ownership of land in each state, the difficulty in locating the place of radical title to land as a result of conflict between some provisions of the Act and its intendments, has further heightened insecurity of tenure in Nigeria. For instance, section 48 of the Act recognize existing interests in land before the Act was promulgated; and, by section 29(3) which deals with compensation, families, communities or villages can still continue to own land. Similarly, customary right of occupancy is defined under the Act as being administered according to native law and custom. Therefore, a plurality of land tenure and management systems (i.e. state and customary) prevail in the country. This further contributes to problem of double purchase of same land from two vendors, viz-a-viz government and “Omooniles” (sons of the soil or landowners) as earlier reiterated. While the legal regime and institutional arrangements appear absolute, they are also, paradoxically, very weak. Staffing constraint lack of support services, low morale and pervasive corruption are endemic and occur at all levels and agencies (Aluko, 2002 op cit)

In addition, studies (see, for example, cross,1999, Vantorren, 1999; Leduka, 2000) show that formal land delivery in African cities, based on legal concepts and administrative systems have proved unable to cope with the demands of rapid urban growth and the development of squatter or spontaneous settlements in contexts of extreme poverty and limited capacity. Instead, these studies show that most land for urban development, especially that occupied by the poor, is supplied outside state regulatory frameworks. Arguably, attempts to devise land administration and delivery systems capable of providing a supply of urban land sufficient to satisfy demand and meet the needs of low-income households for secure tenure should build on the success of large scale informal land delivery, as well as addressing its shortcomings (Rakodi and Leduka, op cit). This therefore calls for land deregulation to be able to meet the need of the squatter settlers of sustainable development as to be promoted.

4. CONCLUSION

We have examined in this paper a lot of bewildering issues with respect to low-income or squatter settlements in the country. We hold the view that lack of perfect information, inequitably allocation, unclear property rights, irrational economic decisions, amongst others are not only peculiar to informal land market, but are more pronounced in the formal land delivery system due to bureaucracy, conflict in tenure system, staffing constraints, lack of support services, low morale and pervasive corruption at all levels and agencies. Thus, if Nigeria is to achieve meaningful levels of economic development and social process and, as well, enhance access to land and secure tenure for the urban poor, then issues of land resource management cannot be divorced from issues of politics, democracy and good governance.

Secure title and a functioning land market, through land deregulation; have been linked to furthering economic development and overcoming poverty in many developing nations. Private ownership of land resources is the hallmark of a ordered society.

Again, land is not just a commodity but is also a cultural artifact, imbedded within the social arrangements of many people and an intrinsic part of many belief systems. African culture and traditions are the glue that holds people together and allow communities to function. Therefore, to improve tenure security and prevent the existence of parallel market to the state allocation system, traditional or customary tenure must be allowed to co-existence with the former; otherwise, the current problem of having to purchase the same land from two different vendors would remain unabated. Traditional or customary tenure systems offer as much security as any other system provided that communities have legal ownership and authority over their land.

Also, any discussion of land registration to improve the titling or legitimization of squatter settlements must clearly distinguish between the public and private function of registration. The public function relates to the welfare of the state or community as a whole while the private concerns the advantage to the individual citizen. In an economy like Nigeria, where both customary, and / or informal or formal system of land market occur, government should invest heavily in or promote initiatives to provide a common titling and registration system to support land system. The system must be corruption free, cost-effective and eliminate delay or time wasting due to bureaucratic set up in the administrative machinery. At a minimum, cadastral, subdivision and parcel maps should be compiled, along with a system for recording land transactions and updating ownership records.

Finally, perhaps if more responsibilities in land matters are delegated to the local government, the closest to the populace, a more effective and efficient urban land delivery system will be promoted in the country.

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