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The Lagos State Lands Registration Law 2015: The Unanswered Questions*

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Abstract

Land registration in Lagos State Nigeria involved registration of titles, instruments and encumbrances. Statutes governing these types of registrations were distinct and applied to specific areas in the State, with each retaining its own registration format. The rationale for the applicability of each of these statutes to a particular area of the State to the exclusion of the other was unknown. Why would a part of the State have a registration of instruments relating to land while another part settle for registration of title to land and encumbrances as part of perfection of title to land? Then arrived the all new statute on land registration in Lagos State; the Lagos State Lands Registration Law 2015; which declared itself as the only existing statute on land registration in the State presently. Application of this statute is yet to gain noticeable ground in the State and its somewhat radical provisions are yet to be tested in the courts sufficiently enough to understand its true purport and intendment. Is it title or instrument that is presently registrable in Lagos state under the new law and what manner of protection does the statute confer on land owners in the State upon registration?

Key words: *land, registration, instruments, titles, Lagos*

1. Introduction

Lagos State[1] has for many decades operated a unique registration regime for transactions affecting land in the State. The registration system was unique in the sense that three principal statutes[2] regulated the exercise then,[3] thus leaving legal practitioners and land owners in the State, in a state of confusion. While the Registration of Titles Law regulated registration of titles and encumbrances in the area where it applied,[4] the Land Instruments Registration Law governed

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[1] Lagos State plays host to headquarters of many corporate bodies including foreign companies. Any legislation affecting land transactions in the State will no doubt attract keen attention of both the legal community and other business entities as well, within and outside Nigeria.

[2] The statutes were the Registration of Titles Law, Chapter R4, Laws of Lagos State 2003(RTL) and Land Instruments Registration Law, Chapter L58, Laws of Lagos State, 2003. There was also the Registered Land Law, Chapter R1, Laws of Lagos State, 2003 which contained provisions similar to the other two and somewhat superior in effect to them. These three statutes were repealed by the Lagos State Lands Registration Law 2015. See s.122 of the Law.

[3] Other States in Nigeria including the Federal Capital Territory, Abuja each has a statute regulating registration of transactions affecting land and only instruments are registrable in those other States. See for instance the Land Registration Act of the Federal Capital Territory Abuja, Land Instruments Registration Law of Ogun State of Nigeria, 2006 and the Land Instruments (Preparation and Registration) Law, Chapter 74, Laws of Rivers State of Nigeria 1999 etc.

[4] See s. 41 of the Law for registration of restrictive covenants as encumbrances.

registration of instruments or documents of title.[5] A location which fell within a particular statute today might be brought within the application of the other statute by the Governor of the State, without prior notice to anybody, save the publication of the order in the State gazette.[6] There was however a third statute known as the Registered Land Law[7] which purport appeared relatively vague as it had some similar provisions as the other two statutes, but sought to override some provisions of those other two statutes on same issue of registration of instruments and titles.[8]

In 2015, Lagos State made a dramatic change in registration of transactions affecting lands in the State, by introducing a new statute known as Lagos State Lands Registration Law.[9] This new Law which repealed Registration of Titles Law,[10] Land Instrument Registration Law[11] and the Registered Land Law, appears to be a torn in the flesh of legal practitioners as to its rationale. Has this Law abolished registration of titles in Lagos State with its strong protection of registered titles and replaced it with only registration of instruments or has it retained the two land registration regimes under the same roof?[12]

This paper attempts to answer these questions.

2. Land registration in Lagos before 2015

Lagos State had been operating multiple land registration systems before the commencement of the Lagos State Lands Registration Law 2015. Some parts of the State were then regulated by the Registration of Titles Law while the remaining parts had the Land Instrument Registration Law as the applicable statute. There was also the Registered Land Law which was applicable throughout the State. We shall consider briefly the salient provisions of those three repealed statutes to ascertain the true position of the law prior to the Lagos State Lands Registration Law 2015.

i. Registration of Titles Law

The Registration of Titles Law, Lagos provided for registration of titles of persons who had carried out one transaction or the other relating to any land or interest therein[13]and any form of

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[5] Those statutes provided for the three types of land registration which also operate in other parts of Nigeria which include registration of instruments, titles and encumbrances. See Thontteh, E.O., and Omirin, M.M., 'Land Registration Within the Framework of Land Administration Reform in Lagos State',<www.opendoc.php.com.> Accessed on 11th December 2022.

[6] See section 2(1) Registration of Titles Law, Lagos, 2003 which empowered the Governor to include any area as a registration district. The Governor was also empowered by that Law to remove any area as a registration district by virtue of s. 2(2) of the Law. Any Area in Lagos State then that was not a registration district was exempted from the application of the Law. Such areas were under the Land Instrument Registration Law and what was registrable in such areas was only any document or instrument affecting land and not the title. Also s. 1(1) of Registered Land Law 2003 empowered the Governor of the State to make an order bringing any part of the State into what it called an "adjudication area" for the purpose of application of the Law.

[7] See (n.2)

[8] For instance, the Registered Land Law established office of a registrar like the other two statutes(s. 23), land registration districts(s. 21), registers to be kept in land registries(s.22) ibid. etc.

[9] The Law was assented to by the Governor of the State on the 21st January, 2015 and it also commenced on the same date. See s. 123 and Page C.109 of the Law.

[10] Chapter R4 (n. 2).

[11] Chapter L58 (n. 2).

[12] These questions are pertinent enough considering the long title to the statute which states in part that it is '*A Law to make provisions for registration of title to land in Lagos State….*' ; but with provisions in the statute itself obviously stretching beyond the long title.

[13] The person with the duty to register in most cases after a transaction was one who in one way or the other, had any title or interest in the land conveyed or vested in him by virtue of the transaction. See s. 5(1) of the Law. Such

encumbrance affecting any land in the State.[14] The statute required every assignment of a lease with the unexpired interest ranging from forty years and above, grant of a lease for a term of forty years and above[15] and every grant or lease of State land for a term of more than five years,[16] to be registered at the land registry Lagos. Registration under those heads was compulsory and failure to register the title in any of those cases (except grant or lease of State lands), within two months of execution of the instrument, rendered the transaction void.[17] Other forms of registration of titles were apparently at the discretion of the person in whose favour an interest was created. Such registrations included title of any person who had power to sell any land[18] or one entitled to a lease of any land in law or equity which was for a term of less than five years, holders of power of attorney, charges, mortgages etc.[19]

Where the application to register a title to land was the first of its kind relating to that parcel of land, such registration was known as first registration.[20] Every application for first registration of title to any land was to be advertized by the Registrar of Titles in the official gazette of the State and in one or more widely circulated newspapers in Nigeria. Notice of such application would be served on each occupier of the land, the subject matter of the application and on all the owners of adjoining lands.[21] The registrar would upon receipt of the application, investigate same and if there

registration would ordinarily come after the former holder of the land had done first registration pursuant to the statute. It was however possible for such first registration to be done by any person who subsequently acquired any interest in the land from the land owner or one entitled to vest such interest in him. See *Odeneye v. Alakata*(1977) NSCC 192, where the purchaser of a parcel of land from Oloto family applied for first registration because title to the land was not previously registered by the family. See also *Onagoruwa v. Akinremi & ors* (2001) 31 WRN 1.

[14] Such encumbrance may operate in form of customary law interest in land under s. 10, restrictive covenants affecting any land under s. 43 ibid and any other form of encumbrance which may be registered as caution under the statute.

[15] See s. 5(1) (b) & (c) of the Law. Such grant or assignment of a lease must have been for monetary consideration either wholly or in part. S. 5(1)(a) listed conveyance of fee simple estate as a transaction falling under such mandatory registration. That provision was rendered redundant by ss. 1, 2(1) & 5(1)(a) of the Land Use Act, CAP L5, Laws of the Federation of Nigeria, 2004.

[16] See s. 7 of Registration of Titles Law.

[17] See section 5(1)(c) ibid. The court or registrar as the case may be was however empowered by the statute to extend the time within which to register where the period of the statutory two months had expired. Such extension of time may be premised on any of the items stated by the statute and where it was done by the registrar, he was not empowered to extend such time beyond two months after the expiration of the statutory time for registration. The registrar was obliged to record his decision on the application for extension of time before taking any other step inthe registration process. In *Odeneye V. Alakata* (supra), the court held that failure of the Registrar of Titles to make an order for extension of time within which to apply for the first registration of title, before investigation of theapplication for registration, rendered the subsequent registration carried out by the registrar void. Registration under s. 6(3) of the Law appeared to be optional though such registration when done, clothed the transaction in question with same privileges enjoyed by other registrations required by the Law to be done compulsorily.

[18] Such persons may include donee of power of attorney, a mortgagee etc.

[19] See s. 6(3) ibid.

[20] First registration referred to initial registration of title to a particular land in the lands registry by any person who claims to have any form of title to or interest in the land. See s. 3 of RTL. The words 'fee simple' in the provision should be interpreted to mean an interest subject to the Land Use Act as the registrar was prohibited by the statute from registering any title purporting to be a fee simple interest. See s. 6(2) ibid.

[21] See s. 8(2) & (3) ibid. Any person wishing to raise objection to such registration was to do so within two months from the date of the advertisement or the receipt of the notice of registration by the objector. The registrar had power to extend or abridge the period of two months if he deemed it fit. See s. 8(4) Ibid. Application for first registration of grant or lease of State land for more than five years was exempted from advertisement or serving of any notices by the registrar. See s. 8(5) Ibid. Once the document containing the grant or lease was delivered by the Principal State Land Officer to the Registrar of Titles, he was obliged to register same upon payment of the prescribed fees by the grantee or lessee. See s.7 ibid.

was any objection to the application, he would withhold registration until the objector was heard.[22] The registrar would register an applicant if he was satisfied that the applicant was entitled to the land.[23]

Every registered lease under the Registration of Titles Law had the implied covenant on the part of the tenant to pay the rent reserved at the stipulated time and that where such rent was in arrears for a period of twenty-one days or more, or the tenant was in breach of the lessee's covenants, the lessor might re-enter the demised premises.[24] There was implied in every registered charge under the statute, a covenant by the chargor (borrower) to pay to the chargee (lender) the principal and interest secured by the charge at the stipulated time, to perform and observe all the covenants in the lease and to indemnify the chargee for any expenditure made to defend or prosecute any suits, expenses and claims on account of non-payment of rent or observance of any covenant in the lease.[25] Also a chargee of a registered charge had the same rights, powers and remedies and subject to the same liabilities as if the lease had been assigned to him by way of mortgage, subject to redemption upon liquidation of the loan and interest[26].

Once the title of a person was registered under Registration of Titles Law as owner of the land or a lease, the title of the registered owner was guaranteed by the State.[27] A purchaser of such registered land or any person dealing with the land would not require any other evidence of title from the registered owner, except evidence of title to be obtained from inspection of the register of title or certified true copy thereof or an extract from the register.[28] Upon completion of registration of any title, the registrar would issue to the registered owner, a certificate of title which would contain subsisting entries in the register of titles affecting the land. Such certificate of title was prime facie evidence of the entries in it.[29] In *Onagoruwa v. Akinremi,*[30]the Uwaifo JSC, while outlining the benefits of registered title, said:

> *The advantage of registered title is that the purchaser can discover from the mere inspection of the register whether the vendor has powerto the land and what the more important encumbrances are except in the case of what may be classified as overriding interest, as contained in s.52 of the Registration of Titles Law which*

[22] See ss. 9(1) & 8(4) ibid. Any person claiming that a land or lease sought to be registered upon an application for first registration was family land held under customary law or was otherwise subject to customary law, though not family land, and that he had interest or right in such land, may lodge with the Registrar of Titles, a caution against first registration. Such land or lease would not be registered until the cautioner has been heard and the caution discharged. See s.10 ibid.

[23] S.9 (2) ibid. The registrar was entitled to dismiss the application if the applicant failed to satisfy him that he was entitled to the land, whether or not there was an objection to the application. See *Majekodunmi v. Abina*(2002) 1 SCNJ 106 at 113. The registrar might however require the applicant for first registration to make a statutory declaration to the effect that all incumbrances and material facts had been disclosed in his application before he may register the applicant. See s.12(1) ibid.

[24] See. s.17 ibid. The Lessor was not under obligation to demand for the rent from the lessee before the right of re-entry accrued under the section.

[25] See s.21ibid.

[26] See s. 22(b) ibid.

[27] See s. 48(1)(a) &(b) ibid. The title vested in a registered owner under the law was indefeasible even by the State. The title was however subject among others to minerals or any mineral oil under the Minerals Act and Petroleum Act.

[28] See s.31ibid.

[29] See s.55(1) & (5) ibid.

[30] (2001) 31 WRN 1 at p. 6.

> *binds the proprietor of registered land even though he has no knowledge of them and no reference is made to them in the register. Otherwise, a registered owner of land is not affected by notice of any unregistered estate, interest or claim affecting the estate of any previous registered owner, nor is he concerned to inquire whether the terms of any caution or restriction existing before he was registered as owner of such land have been complied with: see s.54. Short of rectification of the register carried out in pursuance of s.61, a registered owner's title is indefeasible. It has been*
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> *said that a register of title is an authoritative record kept in a public office, of the rights to clearly defined units of land as vested for time being in some particular person or body, and of the limitations, if any, to which these rights are subject. With certain exceptions known as overriding interests, all the material particulars affecting the title to land are fully revealed merely by a perusal of the register which is maintained and warranted by the state.*
> *The register is at all times the final authority and the state accepts responsibility for the validity of transactions which are effected by making an entry in the register.*[31]

That was the nature of protection afforded a registered title in Lagos under the Registration of Titles Law before its repeal in 2015.

ii. Land Instruments Registration Law

The Land Instruments Registration Law which was applicable simultaneously with the Registration of Titles Law, covered some other parts of Lagos State where Registration of Titles Law was inapplicable.[32] Unlike the Registration of Titles Law, the Land Instruments Registration Law dealt with registration of documents of title to land rather than the title itself. A document affecting interest in land would qualify as an instrument where a grantor in such document conferred, transferred, limited, charged or extinguished in favour of the grantee, any right or interest in land located within the State.[33] Any instrument that required consent of the Governor of the State or any other public officer for its validity was not registrable under the statute until such consent was obtained.[34] Also, any instrument executed by an illiterate grantor was not accepted for registration under that Law unless such instrument was executed in the presence of a magistrate or Justice of the Peace, and was attested by such person as the case may be.[35]

Any person seeking to register an instrument under that statute had to present the original copy of it to the registrar. The registrar would then certify on the instrument that it was delivered to him for registration and he would also state the name of the person seeking to register the instrument

[31] Ibid at p. 8. See also *Atufe v. Oghomienor*(2004) 13 NWLR (Pt. 890) 327

[32] Those were areas not designated as one of the registration districts under s. 2 of Registration of Titles Law.

[33] See s.2 Land Instruments Registration Law Lagos. Such instrument included a certificate of purchase issued by the court and a power of attorney under which an instrument might be executed. A will and other testamentary documents were exempted from registration under that Law.

[34] S.10 ibid. A registrable instrument was also to be accompanied by survey plan of the land in question and would contain sufficient description of the land before it could be accepted for registration by the registrar. See s. 9(2) ibid.

[35] S. 8(1) ibid.

and the time and date on which it was delivered to him for registration.[36] Such instrument would therefore be registered by the registrar who should endorse on the instrument the fact that it was registered as a particular number, at a particular page and in a particular volume of the lands registry.[37] Any judgment of any court of record in the State which affects the validity of an instrument already registered, was registrable under the statute.[38] Such judgment would within two months after its delivery, be presented by the registrar of the court that gave the judgment, to the registrar at the lands registry, for filing. The certified true copies of such judgement would be delivered to the registrar at the lands registry together with any map or survey plan which was filed in the case pursuant to the order of the court.[39]

Registration of a registrable instrument in the State conferred priority on such instrument over any other document of title relating to the property which had not been registered.[40] Such instrument took effect as against other instruments affecting the same land, from the date of registration. A registrable instrument that was not registered could not be pleaded or tendered in evidence in court to prove title to land.[41] An unregistered registrable instrument could however be pleaded and tendered in evidence not to prove title to land, but to prove payment and receipt of purchase price by the vendor and purchaser respectively.[42] This point of law was confirmed by the Supreme Court in *Joseph Okoye v. Dumez Nig. Ltd*,[43] where it stated:

> *It is trite law that where a purchaser of land or a lessee is in possession of the land by virtue of a registrable instrument which has not been registered and has paid the purchase money or the rent to the vendor or the lessor, then in either case the purchaser or the lessee has acquired an equitable interest in the land which is as good as a legal estate and this equitable interest can only be defeated by a purchaser of the land for value without notice of the prior equity. A registrable instrument which has not been registered is admissible to prove such equitable interest and to prove payment of purchase money or rent.*[44]

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[36] See s.17 (1) & (2) ibid and Form B, 1st Schedule to the Law. The person delivering the Instrument would also pay the prescribed fee to the registrar.

[37] See s.17(4) Ibid & Form C, 1st Schedule to the Law. The registrar would also certify the copy of the instrument after comparison with the original, after which he would keep the copy and release the original to the person who delivered the instrument for registration. Where the registrar, after examination of an instrument delivered to him for registration, discovered that such instrument was void under the statute, did not comply with regulations made under the statute, was prohibited by the statute or that the copy delivered with the original instrument was not a truecopy of the instrument, he may mark across the face of the instrument the words "registration refused" and sign the instrument. See s.18(1) ibid. The registrar would return the instrument to the person that delivered it for registration. Such instrument could however be re-delivered for registration if it fulfilled conditions for registration. See s.18(3) ibid. A person who had paid registrationfee for an instrument and whose instrument was refused registration should not be entitled to a refund of the fee he earlier paid.

[38] See. s.2 ibid.

[39] See ss.19(1) & 20 ibid.

[40] See s. 16 ibid. Such registration however did not cure any defect which the instrument might have had prior to its registration. See s. 23 ibid.

[41] See s. 15 ibid. See also *Agbodike v. Onyekaba* (2001) 10 NWLR (Pt. 722) 576; *Ossai v. Nwajide*(1975) 4 SC 207.

[42] See *Ogunbambi v. Abowab*(1951) XIII WACA 222 at 224.

[43] (1985) 2 NSCC 780.

[44] Ibid at p. 786. See also *Fakoya v. St. Paul's Church, Shagamu* (1966) 1 SCNLR 189. The position of law on admissibility of registrable instrument has changed. The Supreme Court has ruled unequivocally in *Benjamin v. Kalio*(2018) AFWLR (Pt. 920) 1, that an unregistered registrable instrument is admissible to prove title to land.

A purchase receipt issued by the vendor to a purchaser of land did not qualify as registrable instrument and was not registrable under the repealed Land Instruments Registration Law of Lagos. Such document could therefore be pleaded in evidence and be admissible in evidence without registration. All that was needed for such receipt to be admissible was to have it stamped upon payment of appropriate stamp duty, before tendering same.[45]

There were however some similarities between the registration under the Registration of Titles Law and the Land Instruments Registration Law. First, apart from the privilege of priority, notice and admissibility which registration under the two statutes enjoy, registration under the two laws was also not capable of curing any defect in the instrument or the title of the person that applied for registration. Such registration could not therefore give validity to the instrument or the title of the applicant as the case may be.[46] Secondly, grant or lease of State lands was registrable both under the Registration of Titles Law and Land Instruments Registration Law.[47]

iii. Registered Land Law, Lagos

The Registered Land Law Lagos[48] stated in its long title that it was a law to amend and consolidate the law on registration of instruments and titles in Lagos State and for connected matters.[49] The statute made several references to the Land Instruments Registration Law and Registration of Titles Law. Most importantly, it established a parallel office of Registrar of Land[50] with powers similar to those of the Registrar of Titles established under the Registration of Titles Law.[51] It created what was known as "adjudication areas" and the Governor could by order bring any part of the State under the area.[52] Once such order was made to declare any part of the State as an adjudication area, registration of any title under the Registration of Titles Law or instrument under the Land Instruments Registration Law was prohibited save with prior written consent of a registration officer appointed under the Registered Land Law.[53]

Registration of interests under the Registered Land Law excluded the application of the Registration of Titles Law to the title in question.[54] Effect of registration of land under the

[45] See *Okuwobi v. Ishola*(1973) 3 SC 43. Non-payment of such stamp duty did not render the receipt inadmissible in evidence. The court may admit the document and request the person who tendered same to have it stamped. See s. 91 Stamp Duties Act. See also *Atufe v. Oghomienor*(2004) 13 NWLR (Pt. 890) 327. The position is still the same in Lagos presently and is not affected by the repeal of the Land Instruments Registration Law.

[46] See ss.23 Land Instruments Registration Law & 48 (2) Registration of Titles Law.

[47] See ss.7 Registration of Titles Law and 14 Land Instruments Registration Law.

[48] Chapter R1, Laws of Lagos State 2003.

[49] This statute in our humble opinion however did not appear to have expressly amended any of the provisions of the other two statutes as it opined. Apart from making some of its provisions superior to the provisions of the other two statutes whenever any registration was carried out under it(e.g. s. 27), the statute existed side by side with the other statutes relating to land registration until their eventual repeal in 2015.

[50] See s. 23(1) Registered Land Law.

[51] See s. 24 & 51 ibid.

[52] See s. 1(1) ibid.

[53] See s. 1(3) ibid. It would appear that the Registered Land Law required an order from the Governor for its activation by way of creation of adjudication areas. The law was not so popular as little or nothing was heard of its implementation until its eventual repeal.

[54] See s. 27 ibid. Upon giving of notice to persons interested in a land by the registrar under the Registered Land Law, to the effect that interests already registered under Registration of Titles Law have been included in the register opened under Registered Land Law, Registration of Titles Law ceased to apply to such interests. Such owner of land was entitled to surrender the certificate issued to him under Registration of Titles Law if he so wished and be issued with another certificate under the Registered Land Law.

Registered Land Law was also similar to that under the Registration of Titles Law as such registration conferred on the proprietor of the land, absolute ownership of such land.[55] The Registered Land Law also permitted a person dealing with land registered under the Law to conduct searches only in the register kept under that Law and dispensed with conduct of searches in any register kept under the Registration of Titles Law.[56]

These were the jungle of registration formats existing in Lagos State before 1st January 2015. Admittedly, the three statutes in the course of their applications in Lagos State, created some confusions especially among legal practitioners who were not resident in the State. It was always a problem trying to figure out the exact boundary of a registration district for the purpose of determining the particular statute that would regulate the process of registration at a given period. The extent of confusion and uncertainty created by those statutes could better be imagined.

3. The Lagos State Lands Registration Law 2015

The Lagos State Lands Registration Law 2015, which is applicable to the entire State, seeks to modify the process of registration affecting land which existed in the State previously.[57] The aim of the Law appears to be the simplification of registration process in the State as well as the unification of such process. Whether or not the statute succeeded in these two key areas would be seen from the analysis of its relevant provisions and comparison with the position existing prior to the statute in the State.

The Lagos State Lands Registration Law 2015 retained the creation of land registries in designated places by the Governor. However, while the Registration of Titles Law regarded the places as 'land registries', the 2015 Law calls it 'land registry divisions'.[58] One major innovation by the new Law is that both the Registrar of Titles who is in charge of the land registry headquarters and the deputy registrars, who would supervise the land registry divisions, are legal practitioners.[59] The running of the land registry divisions by legal practitioners will go a long way in achieving effective compliance with the provisions of the Law. Each land registry division and the headquarters are mandated by the statute to maintain certain books and records. These are land registry map[60],

[55] See s. 38(1)(a) ibid. Also, registration of any person as the proprietor of a lease vested in that person the leasehold interest described in the lease. See s. 38(1)(b) ibid.

[56] See s. 49 ibid.

[57] The long title of the Law is however misleading. It is similar to the long title of the repealed Registration of Titles Law. The long title of the 2015 Law states as follows: " A Law to make provisions for the registration of title to land in Lagos State and for connected purposes" while the long title of Registration of Titles Law was "A law to provide for registration of titles to land".

[58] See ss. 3(2) Lagos State Lands Registration Law 2015 and 4(1) RTL.

[59] See s. 4 (1) (a) & (b) Lagos State Lands Registration Law 2015. Whilethe registrar of titles should not be less than ten years standing as a lawyer, each of the deputy registrars should not be less than eight years post-call standing at the Bar. This exclusive right given to legal practitioners has been criticized by other professionals who argued that such right should be left to professionals who are knowledgeable in land administration. See Awolaja, A. G., 'Land Administration in Nigeria: Issues and Challenges',<www.covenantuniversity.edu.ng>accessed on 27th November 2022, P.7.

[60] This is a map compiled from plans which should be kept by the registrar. See s. 1 and 3(4)(b) ibid. It shows the boundaries of every parcel of land registered in the lands registry. See s. 12 (1) ibid.

parcel files[61], the day list[62], mutation record[63], nominal index[64], register of power of attorney, and a register of all transactions affecting interest in land which should be kept both in hard copy and electronic form.[65]

There is also established in the Lagos State lands registry a system known as Land Information Management System (LIMS).[66] Some registers are required to be kept at the lands registry for the purpose of registration of documents using the "LIMS". These registers which contain information relating to specific lands in the State are the day list[67], mortgages, caution and any other register which the registrar may prescribe.[68] In addition to these registers, all other registers previously kept in the land registry, pursuant to the repealed Registration of Titles Law and Land Instruments Registration Law, would form part of the registers to be included in "LIMS".[69] Every register kept for the purpose of "LIMS" should contain information on the location of the property, description of the property, names and addresses of the parties to the transaction, the survey plan of the property and any other information that the registrar may deem necessary.[70]

i. **What is registrable under the 2015 Law; Title or Instrument?**

It is mandatory under the 2015 statute to register all documents of title or interest in any land in Lagos State in accordance with the Law.[71] Such documents are to be registered using the "LIMS".[72] Such registration should be effected within sixty(60) days after obtaining Governor's consent.[73] A grant or sub-lease of a State land for a term above five years is registrable.[74] All probates and letters of administration relating to succession to land are registrable upon production of the certified true copy of the documents as the case may be.[75] Any power of attorney relating to transfer of land[76] or which is stated to be irrevocable and relates to an interest in land[77], is registrable and should not be accepted by the registrar for registration unless the consent of the Governor of Lagos State is endorsed on it. A sub-lease relating to a land subject to mortgage cannot

[61] This contains documents and any plan already filed in the registry which supports existing entries in the register at the land registry. See s. 3(4)(c) ibid.

[62]The Day List is a book containing record of applications for registration made to the land registry and which should be numbered consecutively in the order in which they were made. See s. 3(4)(d) ibid.

[63]This is a form containing record of changes in the register. See s. 1 & 3(4)(e) ibid.

[64] The nominal index contains record of names of land holders which should be made in alphabetical order, with sufficient description and any other information relating to the land. See s. 3(4)(f) ibid.

[65] See generally s.3(4) ibid. These registers were not required to be kept in the land registry under Registration of Titles Law and Land Instruments Registration Law. But see s. 22 of the repealed Registered Land Law 2003 which stipulated some of these items as records to be mandatorily kept by the Registrar of Lands under that statute.

[66] See s. 17 Lagos State Lands Registration Law 2015.

[67] See s. 19(1)(a) ibid.

[68] These registers should contain information on the respective subject and files as may be prescribed by the registrar. See s. 19(1) ibid.

[69] See s. 19(3) ibid. One of such registers kept pursuant to s. 69 of Registration of Titles Law was the register of titles.

[70] See s. 20 of Lagos State Lands Registration Law 2015.

[71] S. 2 ibid.

[72] See s. 18 ibid. Such documents include those registered at the land registry before the commencement of the 2015 Law

[73] See s. 26(1) ibid. The registrar may by notice require any person who is in possession of a registrable document and who has failed to register same, to present it to the registrar for registration See s. 26(4) ibid.

[74]See s. 8 ibid. That was the same position under s.7 of the repealed Registration of Titles Law.

[75] See s. 26(3) of Lagos State Lands Registration Law 2015.

[76] See s. 7 ibid.

[77] S. 57 ibid. The section does not state that such power of attorney should relate to interest in land but that intention can be presumed from the fact that the Law in question deals with land registration.

be registered without the prior consent of the mortgagee except where the mortgage instrument provided otherwise.[78] Certain documents relating to interest in land are however precluded from registration under the 2015 Law. These include a grant or sub-lease of State land for a term of five years or below,[79] a will and a sub-lease for a term of less than three years.[80]

The Lagos State Lands Registration Law of 2015 compels registration of instruments relating to land where the person or persons entitled to the land acquired their title or interest through a registrable instrument under the Law.[81] But it appears that the Law also makes provisions for what may appear as registration of title to land as well as instrument. The Law permits any person who has power to assign his interest in any land, whether in law or equity, to apply to the registrar to be registered as a land holder.[82] This type of registration which in all ramifications is registration of title of the land holder, is quite different from registration of document of title or interest in land which is made compulsory under section 2 of the law. The registrar may, before registering any person as a land holder, require him to produce any document which relates him to the land and may mark same if he deems it necessary, to prevent concealment of the registration.[83] The registrar should after registration of the person as a land holder, retain such document presented to him as evidence of the nature of the interest of the registered land holder.[84]

It is quite obvious that the intention of the law in allowing registration of interest or title of a person as a land holder under section 7 of the Law is to take care of situations where a person may become entitled to a parcel of land through customary law inheritance, operation of law through transmission or any other form of acquisition of interest in land without any formal document of transfer backing up such title. In such a situation, it will be practically impossible to expect the land holder to come forward and register any instrument that vested the land in him. The only option is for the specific title or interest of such person in the land to be registered at the relevant division of the lands registry where the land is located.[85]

ii. Mode of registration under the 2015 Law.

The Lagos Land Registration Law 2015 prescribes that all transactions relating to land, including sub-leases and mortgages, should be by deed.[86] Such deed is registrable at the land registry by

[78] See s. 43 ibid.

[79] S. 8 ibid.

[80] S. 26(2) & (3) ibid. See also s. 2 of the repealed Land Instruments Registration Law for similar provision. A sub-lease for a term of 5 years and above is not registrable under the 2015 Law unless Governor's consent is obtained. See s. 42 ibid.

[81] Such registrable instrument include deeds of mortgage, lease, sub-lease, assignment, and probate, letter of administration, power of attorney, deed of gift, contract for sale of land etc. See s.2 ibid. All these are documents of interest or title in land. The Law does not restrict such document to one that conveys or creates legal interest in such land.

[82] See s. 7 ibid. Presentation of any document of title to land is therefore not a prerequisite for registration under the section.

[83] See s. 11(1) ibid. Where any copy or duplicate of any such document of title is presented and filed in any register for documents, the person in custody of such register should mark the copy or duplicate. See s. 11 (2) ibid.

[84] See s. 11(3) ibid.

[85] Such interests may include customary law inheritance, pledges, gifts and other forms of title to land which may or may not be evidenced in writing. It however appears that it is at the discretion of any such land holder to apply tohave his interest registered. This is quite different from registration of instruments under the same Law which ismandatory and should be effected within a stipulated time. See s. 7 & 26(1) ibid.

[86] See s. 74(1) ibid. There was no such express stipulation in the repealed Registration of Titles Law. The parties under that Law were only required to fill the relevant form and file at the land registry after the transaction. The forms

presentation by the applicant for registration, the original and a true copy to the registrar. Such document should contain the consideration for the transaction and in the case of a mortgage deed or charge, the loan granted by the mortgagee or chargee.[87] A document creating any interest in land may not be registered unless such instrument is accompanied by a survey plan which shows sufficient description of the land.[88] Such document should not qualify for registration unless it is stamped in accordance with the stamp duties legislation[89] and Governor's consent is endorsed on it.[90] Any document relating to land which is delivered to the registrar for registration should be registered the same day of delivery or at the commencement of business on the next working day.[91] The registrar upon receipt of such document should examine same and the true copy of it. Where the document qualifies for registration under the Law and the true copy represents the contents of the instrument, the registrar would register the instrument and make appropriate entries in the register. He would thereafter release the original copy to the applicant and retain the true copy.[92] The registrar should upon registration of a land holder or mortgage, issue to him a document known as land certificate.[93]

The registrar is not however obliged to register every instrument delivered to him for registration by an applicant. Where after the examination of a document and the true copy thereof delivered to him for registration, the registrar is of the opinion that such document is void, prohibited from registration under the law, the copy is not a true copy of the original document or is otherwise in breach of any of the provisions of the Law, the registrar may refuse to register such document. Such rejected document and the copy should be marked "registration refused" by the registrar, and signed by him.[94]

Any document relating to land in the State which is executed abroad should not be accepted for registration by the registrar unless such document was executed by the parties before a consul, notary public, a foreign or Nigerian judge, magistrate or Justice of Peace.[95] Similarly, any

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were however in the nature of deeds. See for instance form 4 for lease and sub-lease; form 5 for charge and sub-charge; form 6 for release of a charge or sub-charge and form 7 for transfer of title in land. See ss. 14, 18, 27 and 28 respectively of RTL.

[87] See s. 74(5) Lagos State Lands Registration Law 2015. Such monetary consideration should be stated in words and figures. This provision may however not apply to cases where a power of attorney merely authorises the donee to act on behalf of the donor in respect of a land and donee is not purchasing the property from the donor.

[88] See s. 12(3) ibid.

[89] See s. 77 ibid.

[90] See s. 26(1) ibid

[91] S. 29(2) ibid. Such document may be delivered by hand, post or through courier to the registrar. One really wonders how practicable this prompt registration may be, considering the number of such documents of title to land that may be presented for registration every day and the processes involved in registration of each of thosedocuments.

[92] See s. 74(2) ibid.

[93] The land certificate contains current entries in the register concerning the land. See s. 35(1) ibid.

[94] See s. 9(1) ibid. The document and the copy should be returned to the applicant upon application by him. See s. 9(1) & (2) ibid. The fee paid by such applicant is non-refundable and where such document is re-presented for registration, he should be required to pay fresh registration fees. See s. 9(4) ibid. Such rejected document may however be destroyed by the registrar after twelve months of its delivery for registration, if no application for its return was made by the owner. See s. 9(2) ibid. We hold the view that it is oppressive to require a person who had previously paid registration fee in respect of a rejected document, to pay another registration fee upon re-presentation of same document for registration. It would have been fair to ask such applicant to pay a percentage of the application fee as penalty upon such re-presentation of the instrument.

[95] S. 76(2) ibid. The list is confusing. If a document is executed abroad, how could it be executed before a Nigerian judge, magistrate or Justice of Peace? Would such official be abroad and be present at the relevant time for the

instrument in which the grantor is an illiterate person should not be accepted for registration unless such instrument was executed before and attested by a notary public, Justice of the Peace, magistrate or commissioner for oaths.[96] Any instrument executed by an attorney on behalf of any donor may only qualify for registration upon production to the registrar, the original copy of such power of attorney authorising the attorney to so act. Such power of attorney must have been filed in the land registry.[97]

iii. Effect of registration under the 2015 Law

Registration under the Lagos State Land Registration Law 2015 constitutes evidence of title to the land and a purchaser of land or any person dealing with the land should not require any other evidence of title except the evidence obtained from the register of titles or an extract from it.[98] Such registration also constitutes evidence of holding of that parcel of land by the applicant, together with all the relevant rights and privileges accruing to every legitimate holder of land in the State.[99] Also, registration of any person as a sub-lessee under the Law vests in such person the leasehold interest created in his favour with all the rights and appurtenances associated with the sub-lease, subject however to the terms of the sub-lease.[100]

It appears that the level of protection given to interests or titles to land registered under the Registration of Titles Law differs in many respects from the one given to instruments and titles to land registered under the Lagos State Lands Registration Law 2015. It is not in doubt that registration under the repealed Registration of Titles Law made the title so registered indefeasible against any other title to land and free from all titles held by any other person including the State.[101] This strong protection was not given by the 2015 Law as it excluded the State from those who may not interfer with the title of the registered owner. Moreover, such registration under the present Law does not vest right of occupancy over such land on the registered owner. It only constitutes evidence of holding such land at the time of registration.[102] It is only the registration of a sub-lessee and a charge under the present Law that would vest the leasehold interest and a charge on

execution of such document before him by the parties? We think the provision should have stipulated only the consul, notary public or a foreign Judge as persons before whom such instrument could be executed.

[96] S. 76(3) ibid. This provision is similar to s. 8(1) of the repealed Land Instrument Registration Law. We do not see the rationale behind restricting this protection to only the illiterate grantor. It should have been extended to both parties to the transaction.

[97] S. 94(1) &(2) ibid. The original of the duly executed power of attorney or an authenticated copy of it should be filed in the land registry. The instrument executed by the attorney may, if the registrar thinks fit, be accompanied by a declaration to the effect that such power of attorney had not been revoked.

[98] See s. 102(a) ibid. The register in the land registry constitutes conclusive evidence of entries in the register and any copy of such entries or extract thereof certified by the registrar of titles shall be prima facie evidence of such entries. See s. 39(2)&(4) ibid.

[99] See s. 27(1) ibid.

[100] See s. 27 (2) ibid. These provisions amount to the elevation of the privilege previously given to instruments upon registration. They are to some extent similar to the protections given to titles or interests registered under the repealed Registration of Titles Law under s. 48 of the Law.

[101] See s. 48(1)(a) & (b). See also *Onagoruwa v. Akinremi* (n. 30). Paragraph (a) of the sub-section talked about estate in fee simple but that could have been commuted to right of occupancy under the Land Use Act.

[102] See s. 27(1) Lagos Lands Registration Law 2015. It may not be surprising that the State is unwilling to offer such strong protection to a registered owner. The reason may not be farfetched. The registrar under RTL had to conduct investigation into the title of an applicant for registration before registering his title. Under the 2015 Law, there is no such requirement for investigation of title of the applicant before registration. Registration under the new Law therefore appears to be as of right to whoever applies for such registration.

the persons that applied for such registration.[103] It is therefore our humble view that the State under the 2015 Law does not guarantee the title of any other land owner, by virtue of registration under the Law except the title of a sub-lessee and a chargee who registered his sub-lease or charge under the Law.

Documents of title to land in Lagos under the 2015 Law are to rank in priority according to the order in which they were presented for registration, notwithstanding the dates on the documents.[104] The Law also provided that no unregistered registrable instrument should be pleaded or admissible in evidence in any court in the State as affecting land in the State.[105] When a charge is registered under this Law, the chargee is conferred with a charge on the register subject however to any incumbrance on the title of the chargor.[106] A judgment of any court relating to title or interest in land in the State is registrable.[107] Failure to register any judgment of court or writ of execution does not render such judgment or writ invalid.[108] However failure by the judgment creditor to tender such judgment or writ of execution to the Registrar of Titles for registration, will make such judgment or writ of execution not to be binding or otherwise have effect on the land the subject matter of the judgment or writ of execution.[109]

4. Conclusion

The Lagos State Lands Registration Law 2015 has brought under its fold the twin models of registration of instruments and titles previously practised under the three repealed statutes.[110] The 2015 Law has however jettisoned the cumbersome registration procedure under the repealed Registration of Titles Law, by abandoning the practice of requiring the registrar to first conduct

[103] See ss. 27(2) & 54 ibid.

[104] See s. 29(1) ibid.

[105] S. 30 ibid. See however *Benjamin v. Kalio*(2018) AFWLR (Pt. 920) 1, where the Supreme Court held that matters of evidence were *ultra vires* the powers of the State legislature as they fell within the exclusive legislative list in the Constitution. State legislatures therefore have no power to legislate on the admissibility or otherwise of unregistered registrable instruments. Section 30 of the Law is therefore no longer applicable to land registration in Lagos and any unregistered instrument would be admissible in the State to prove title. See however the case of *Abdullahi v. Adetutu*(2019) LPELR- 47384(SC) where it was held that admissibility of an unregistered registrable instrument would depend on the purpose for which the document was sought to be tendered. Failure to register a sub-lease or a mortgage within six months from the date Governor gave his consent for the transaction will attract a penalty of five hundred Naira for each month of the breach. See s. 28(3) Lagos State Lands Registration Law 2015. We are of the view that the amount of the penalty should have been left for the Commissioner in charge of land matters to stipulate from time to time by means of a regulation. That would have taken care of inflation andadequacy of such extra charge in future.

[106] See s. 54 ibid.

[107] See s. 58 ibid. Same applies to writ of execution issued by the registrar of any court. The judgement creditor should forward the certified true copy of the judgement with particulars of the land to the Registrar of Titles for registration.

[108] See s. 59(2) ibid.

[109]This is an interference on the powers of the court. Does this provision include interlocutory rulings given by a court affecting a land in the State? A ruling of a court is a judgement except it is exempted from the definition of a judgement by the statute. There is no such exemption by the 2015 Law. This means that if a court grants an interim or final order restraining a party from entering the disputed land, such party may ignore such order on the ground that it was not registered. We suggest that this provision should be struck down as it may lead to unnecessary manipulation of orders of the court on the ground of non-registration. Registration under the Law does not confer on the judgement any validity or effect which it would not have had. See s. 59(3) ibid. Where a judgement is registered, the registrar should not accept for registration any title document that is inconsistent with the judgement. See s. 59(1) ibid.

[110] See Adekile, O.M., 'The Lagos State Land Registration Law 2015: Needs, Principles, Provisions and Potentials.' <https://papers.ssrn.com.> Accessed on 10th October 2022.

investigation of the title of the applicant for first registration before registration. The 2015 Law has also clothed registration of instruments with official protection of constituting evidence of title. This type of protection was only available to registered titles by virtue of sections 31and 48 of the repealed Registration of Titles Law. There was no such protection in the repealed Land Instrument Registration Law. Also neither registration of titles of the owner of land nor instruments requires use of any statutory forms, unlike the case under the repealed Registration of Titles Law.

The provisions of the three repealed statutes are mostly repeated in different parts of the 2015 Law with some variations. Be that as it may, the 2015 Law tilted heavily towards registration of documents (instruments) rather than titles, although both words were often used interchangeably in the statute. We hold the view that land registration in Lagos State is easier now and less complicated than it was before the 2015 statute came into force.Land registration which constitutes an important and last part of perfection of title to land ought to be simplified for the benefits of land owners and legal practitioners. A situation where such an important exercise is regulated in a State by three distinct statutes is unhealthy both from the perspective of lawyers, land administrators and land holders in the State. Such situation also leads to uncertainty in the application of the statutes to different parts of the State.

The arrival of the Lagos State Lands Registration Law 2015 is a very huge legal development in the area of land registration in the State as it has streamlined registration process in the State as well as removed the aura of uncertainty clouding land registration in the State. It is hoped that land registries in the State should undertake hasty implementation of the provisions of this Law. Lawyers practicing in the jurisdiction should also not hesitate to approach the courts for interpretation of any provision of the statute any time the need arises.