



CUSTOMARY TENANCY AND THE LAND USE ACT; A COMPLEX RELATIONSHIP.

Frank-Igwe U.^{*}
Agwor, Charlse I.G.^{**}

Abstract

This paper critically examined the complex relationship between Customary Tenancy and the Land Use Act in Nigeria. Customary tenancy, a landholding system indigenous to Nigeria, is based on communal ownership, where land is held by families or communities and allocated for individual use under the authority of traditional leaders. Despite the revolutionary intentions of the Land Use Act of 1978, which vested all land in state governors to manage in trust for citizens, customary land tenure remains legally recognized. Using the doctrinal analysis and review of relevant case law, the study explores how the Act's centralization of land ownership under state governors has altered traditional landholding practices and created significant issues in legal? interpretation and implementation. Findings reveal that while the Act intended to simplify land management and ensure equitable access, it has instead contributed to tenure insecurity, undermined customary rights, and converted freehold interests into leasehold, thereby diminishing ownership autonomy. In conclusion, despite the statutory recognition of customary tenancy in several provisions of the Act, the conflicting coexistence of customary and statutory systems continues to generate legal uncertainty and socio-economic challenges, particularly in rural communities. This paper further argues for legislative reforms that explicitly recognize customary rights, the development of parallel land registration systems, increased public awareness, judicial flexibility, and strengthened alternative dispute resolution mechanisms. These recommendations seek to harmonize statutory and customary systems, ensuring inclusive, fair, and sustainable land governance in Nigeria.

Keywords: Customary Tenancy, Land Use Act, Complex Relationship

1. INTRODUCTION

The effect of the Land Use Act on ownership in Nigeria cannot be overemphasized. Land being the primary asset of the rural poor in Nigeria, where 80% of the population are peasant farmers, the demand for land also increases, besides the high-level demand for land at the urban areas for construction and several other

^{*} PhD, LLM, Department of Private and Property Law, Faculty of Law, Rivers State University, Tel: 08185020301.

^{**} PhD, LLM, BL, LLB, Lecturer, Department of Private and Property Law, Faculty of Law, Rivers State University, Email: charlseagwor@gmail.com



forms of development. Therefore, land tenure security is vital to the growing population of Nigeria as the economy of a country also depends on this asset.

When the Land Use Act was promulgated in 1978, the Nigerian population was 69 million.¹ Four decades later the Nigerian population has increased to over 193 million. And as the population increases, land tenure security becomes very vital to the growing population of Nigeria. This is so because it may significantly improve food security and quality of life generally. The main catalytic force to reduce poverty in Nigeria is access to land. Insecure tenure tends to strike at the foundation of the livelihood systems of the rural poor and the elites who may need land for economic purposes. For productivity and efficiency, secure access to tenure rights may be essential for encouraging investment. On the other hand, tenure insecurity may cause destitution and discourage farmers from investing in their farms.² The tenure insecurity of the rural poor may lead to rural poverty while poor access to land may lead to increased poverty.³ It is noted that the sparse population in rural areas of Nigeria experiences tenure insecurity. Land policy affects the economy of a nation either positively or negatively depending on how effectively the policy is implemented. The problems generally identified by this paper relate to the complexity of the relationship of the Land Use Act 1978 and the customary land tenure system in Nigeria and the conversion of freehold to leasehold, the astronomical rise in land values, the increase in speculation with land, the problem of consent provisions, hindrances to agricultural development and investment, and compensation provisions.

Besides all of these, it is clear that the Laws on Land Use and Customary Land Owners have much in common. As such, the controversies generated by these issues continue to defy consensus among our academic "egg heads" as well as learned judges in our courts. Indeed, many court decisions appear to indicate that the courts have not settled the controversy on this issue. As a result, the judicial quagmire for Nigerian means of conveyance continues to this day. This paper contributes to the existing research evaluating this relationship and its trickling effect in relation to land tenure security in Nigeria.

2. CONCEPTUAL REVIEW

2.1 Customary Tenancy

This involves a relationship between a tenant and an overlord who retains ownership of the land and the tenant only has a right to occupy the land for the time being, in consideration of an acknowledgement of the title of the overlord through the payment of tribute, which most communities operate to express and

¹Index Mundi, *Nigeria Population*, 2017, <<https://www.indexmundi.com/facts/nigeria/population>>accessed 10 April 2024.

² Swedish International Development Cooperation Agency (Sida), *Improving Income among Rural Poor*, 2004, <https://www.sida.se/contentassets/a8303f32cc174d9ca827fa03a67aabdb/improving-income-among-rural-poor_1286.pdf>accessed 10 April 2025.

Department for International Development (DFID), *Land Policy Paper*, 2007, <http://moko.co.uk/wp-content/uploads/dfid_land_policy_paper_2007.pdf>accessed 10 April 2025. pp. 24–31.

³ L Cotula, Camilla Toulmin and Cedric Qun, *Better Land Access for the Rural Poor: Lessons from Experience and Challenges Ahead*, FAO, [2006] <<http://www.cpahq.org/cpahq/cpadocs/BetterOFAO.>>accessed 10 April 2025. pp. 7–8.



order ownership and possession. It is a landholding system indigenous to Nigeria. In the olden days, all lands were governed by the customary law of the indigenous natives and people. Under the Native law and custom, land did not belong to a single individual. It was vested in the community as a whole, the village or in the family as a group. It was almost a taboo in those days for land to be alienated or sold to any individual. However due to adaptation to the modern economic and commercial imperative, land is traded habitually by Nigerians in both rural and urban areas. This was made manifest in Lagos as from 1st January, 1900 after the introduction of English Common Law principles and Legislations in an attempt to promote individualization. Upon adaption to the said English law in Nigeria, we began to have duality of land tenure system. That is the duality of customary law and received English Law. In Nigeria, despite the existence of Land Use Act it is pertinent that customary land tenure system is discussed. This is because the Act itself recognizes customary law in land administration.

3. RIGHTS VESTED UNDER THE CUSTOMARY TENURE

It could be said that in the past access to land by the natives was straight forward. Fundamentally, land was used for subsistence and not for commercial purposes. Every member of the family has the right to use the land when need be. Absolute ownership is vested in the community as a whole. Any member of the community was entitled only to use and occupy the portion which the head of the community or head of family allocates to him. He had a right of exclusive possession over the land allocated to him and could maintain an action for trespass against other members of the family interfering with his possession.⁴

Statement on the rights of an individual vis-à-vis family land was stated in **Lewis v Bankole**.⁵In this case, the plaintiff (grandchildren) who had inherited partitioned lands given inter vivos to their parents also sought to participate in the sharing of profits from family land. Other family members (defendants) disputed this claim on the ground that they had resided in the family land for over 30 years without let or hindrance from the plaintiff and as such they were absolute owners to the exclusion of the plaintiffs. Acting CJ, in the lower Court favoured the defendants claim on the ground that by ‘tacit mutual arrangement and acquiescence of all parties extending over a number of years these various properties have been separated and come to be considered as separately owned.’ He sought to avoid “throwing the property into the melting pot of an acrimonious family feud.” On Appeal, Osborne CJ disagreed. He recognized the rights of the grandchildren to the family compound jointly with the defendants. Family ownership had not been determined and as such it held that: the plaintiffs were not entitled to share in profits equally; the different branches of the founder’s family would be represented per stripes in the family council, each branch having one vote. The plaintiffs had no right to build on the land without the consent and allocation by the family; and not being ordinarily resident in the compound they had no right of ingress or egress save the right to attend to safeguard their interest in the land, subject to the occupants’ rights to enter family land which was

⁴ O. Delano, 'Land Tenure Reform in Nigeria', <<https://www.akindelano.com>>accessed 26 April 2025.

⁵(1908) 1 NLR 81.



already allocated to another member. Now, a member cannot alienate his own plot to third parties or dispose of it by a will to his children without the consent of the family. The aftermath of this decision is that any improvement made to the family property belongs to the family. This was the view of the court in the case **Akinbade v Babatunde**,⁶ **Ogunjemila v Ajibade**,⁷ **Archibong v Ita**,⁸ **kano v Maikaji**⁹

4.LEGAL STATUS AND JUDICIAL RECOGNITION OF CUSTOMARY TENANCY

In Nigeria, customary tenancy is a legally recognized relationship, where a landlord grants land to a tenant for an indefinite or specified period, subject to mutually agreed terms. This type of tenancy operates under customary law, with variations across different ethnic groups in the country. Through judicial decisions, Nigerian courts have consistently reinforced the principles governing customary tenancy, highlighting the responsibilities of tenants, the rights of landlords, and the conditions under which land can be forfeited. Thus, in **Lasisi v Tubi**¹⁰ the Supreme Court held that a customary tenant is entitled to undisturbed possession of the land as long as they fulfill their tenancy obligations, such as acknowledging the landlord's title and paying the agreed tribute or rent.

Similarly, in **Dokubo v Bob-Manuel**¹¹ the court reaffirmed that a customary tenant's right to possession is subject to compliance with traditional obligations. Any breach, such as denying the landlord's title or engaging in acts inconsistent with tenancy terms, may lead to forfeiture. Furthermore, in **Obaseki J.S.C v Adediran**,¹² the Supreme Court restated the obligations of a customary tenant, which include the duty to pay rent (historically in the form of tributes), maintain good conduct, and acknowledge the landlord's title at all times. Indeed, customary tenancy has been recognized by Nigerian courts. Courts in Nigeria respect the customary practices that govern land tenure, provided they do not conflict with statutory laws. However, there are cases where statutory law and customary law clash, particularly in urban areas, due to the introduction of the Land Use Act of 1978. Under the regime of the Land Use Act, all land in Nigeria is vested in the Governor of each state, making the Governor the trustee of land, converting customary rights into rights of occupancy. However, customary tenancy continues to operate, particularly where traditional practices remain entrenched, and statutory provisions are not strictly enforced.

5.THE LAND USE ACT

The Land Use Decree (now Act) was promulgated on the 29th of March, 1978 by the Federal Military Government to exercise control over all lands in the country. Four objectives have been claimed for the

⁶(2018) 7 NWLR (pt. 1618) 366.

⁷(2010) 11 NWLR (pt. 1206)559.

⁸(2004) 2 NWLR (pt. 858)590.

⁹(2011) 17 NWLR (pt. 1275) 139.

¹⁰(1974) 12 SC 71.

¹¹ (n 7).

¹²(1992) 6 NWLR (Pt. 250) 690.



enactment of the Land Use Act.¹³ They are: (a) To remove the bitter controversies, resulting at times in loss of lives and limbs, which land is known to be generating. (b) To streamline and simplify the management and ownership of land in the country. (c) To assist the citizenry, irrespective of his status, to realize his ambition and aspiration of owning the place where he and his family will live a secured and peaceful life. (d) To enable the government to bring under control the use to which land can be put in all parts of the country and thus facilitate planning and zoning programmes for particular uses. As good as the intention of the Government was, no legislation promulgated in this country has elicited as much controversy and criticism in the interpretation of its provisions as the Land Use Act. This is because in a bid to achieve its objectives, the Land Use Act vested all land comprised in the territory of each state (except land vested in the Federal Government or its agencies) solely in the Governor of the State, who would hold such land in trust for the people and also administer such land for the common benefit of all Nigerians. understanding of this work we will critically analyze some contentious provisions of the Land Use Act.

5.1 Salient Provisions of the Act

Section 1 of the Act vests all land comprised in the territory of each state in the federation in the Governor of that State, to hold such land in trust and administer it for the use and common benefit of all Nigerians in accordance with the provisions of this Act. By this section the Governors could be said to have stepped into the shoes of the heads of communities or heads of families and the rule that the Governor's consent must be obtained for valid land transfers is similar to the Customary Law rule requiring the consent of the chiefs or heads of a family to any alienation of communal or family land.

It is therefore submitted that the provisions of section 1 are too extreme because private lands need not be vested in the Governor in order for him to administer it for the benefit of the state. The Governor could still acquire land for developmental purposes without the vesting of the state land in him. This submission agrees with the decision of the Supreme Court in **Ogunleye v Oni**¹⁴ where the court held that:

It is true that the Act is revolutionary and it was meant to streamline land use and management in the entire federation. The preamble to that decree was revolutionary enough. But I must say right now that the law should not be constructed, despite its revolutionary nature, as vesting in the "Governor" of each state the land within the state "to be held in trust and administered for the use and common benefit of all Nigerians in accordance with the provision of the decree.

¹³ R.W. James, *Nigerian Land Use Act: Policy and Principles* (Ile-Ife: University of Ife Press Ltd., 1987), p. 2; N Tobi, *Cases and Materials on Nigerian Land Law* (Lagos: Mabrochi Books, 1992), p. 170.

¹⁴ (1990) All NLR 341



Since the advent of the Land Use Act in 1978, the Certificate of Occupancy has become the trust and the main title document that most land owners hold or seek to hold. Prior to the enactment of the Land Use Act, title documents like Land Certificate, Purchase receipt and Registered Conveyance were in use and they all conferred on their holders' freehold interest in the landed properties in question, Certificate of Occupancy only confers leasehold of a specific term on its holder. Thus, while holders of a Registered Conveyance for example own the land absolutely, a holder of a Certificate of Occupancy only holds the land for a period of 99 years. This same section also subjects the holder of a Statutory Right of Occupancy to pay rent to the Governor at the expiration of his tenancy (possibly at the expiration of 99 years), thus making a land owner becoming a tenant on his land. This is unacceptable/inequitable. In fact, since the passage of the Land Use Act, the practice is that a holder of a Registered Conveyance would apply for a Certificate of Occupancy and where it is granted, it means in principle that he has converted his freehold interest into leasehold interest even though the law does not mandate a holder of a Registered Conveyance to apply for Certificate of Occupancy. Hence, Certificate of occupancy had become the most popular piece of evidence of title. Reason for this is not farfetched. It is statutorily provided as evidence of title, since the Land Use Act now vests all land in a given state in Nigeria in the Governor of such state. It then follows that whosoever lays claim to any land must do so with the consent of its owner (the Governor). Also, the financial institutions regard landed property as the most reliable form of collateral for its facilities and as such have preference for Certificate of Occupancy over other documents.

Similarly, Section 48 of the Land Use Act clarifies that existing laws concerning land registration and transfer will be subject to modifications necessary to ensure consistency with the Land Use Act. This means any laws that contradict or conflict with the Land Use Act will be adapted to align with its principles. And Section 49 of the Act also establishes an exemption for land already owned by the Federal Government or its agencies at the time the Land Use Act was enacted. This means that such land will continue to be held by the Federal Government or its respective agency, unaffected by the provisions of the Act. The term "agency" in this context includes various statutory corporations and entities wholly owned by the Federal Government.

5.2. Complex Relationship

A complex relationship describes a situation where two or more entities are connected in ways that are multi-layered, dynamic, and sometimes conflicting. It is characterized by interdependencies, contradictions, and non-linear interactions, making the connection difficult to fully understand or predict.¹⁵ In a complex relationship, several variables influence outcomes, and small changes in one element can create significant,

¹⁵ P Cilliers, . (1998). *Complexity and Postmodernism: Understanding Complex Systems*. Routledge.



sometimes unforeseen impacts on the whole system.¹⁶ Such relationships are common where different rules, traditions, or systems overlap, creating tension or requiring adaptation to reconcile differences.¹⁷

In the context of land law, for instance, the interaction between customary tenancy (based on indigenous traditions) and the Land Use Act (based on statutory law) forms a complex relationship, because the two systems sometimes support each other, but often conflict, requiring careful balancing and interpretation¹⁸.

6. RELATIONSHIP BETWEEN THE LAND USE ACT AND THE CUSTOMARY LAND TENURE SYSTEM

Notwithstanding that there is no direct reference to the Indigenous land tenure in the Act, the recognition and preservation of customary land law within language of the Act may imply the survival of the indigenous land tenure. Section 24¹⁹ preserves the customary law rules governing devolution of property, while section 25, which prohibits partitioning of land, expressly exempts cases which are regulated by customary law. Under section 29, where the holder or occupier entitled to compensation is a community, the governor is empowered to direct payment of the compensation either to the community or to its chief or leader to be disposed of by him for the benefit of the community in accordance with the applicable customary law. Under section 50 of the Act, a customary right of occupancy is defined as the right of a person or community lawfully using or occupying in accordance with customary law...” and occupier is similarly defined as “any person lawfully occupying land under customary law and a person using or occupying land in accordance with customary law...” this is in addition to section 48 of the Act, which preserves all existing laws relating to the registration of title to, or interest in, land subject to such modifications as will bring those laws into conformity with the Act or its general intentment. It is submitted that customary land law is an existing law within the meaning of section 48 of the Act. Indeed, it can be asserted that section 1 of the Act merely borrows and enacts the notion of corporate ownership and trusteeship under the indigenous land tenure system. The position of the governor under the Act appears to be comparable to that of the head of the community or family in relation to communal land under customary law. But this would seem to be half-truth only: when the powers of the governor are closely analyzed, the area of conflict with the head of the community can easily be identified, especially in relation to the power of management and control of the land²⁰

¹⁶M Mitchell, (2009). *Complexity: A Guided Tour*. Oxford University Press.

¹⁷J. B. Ruhl. (1996). "Complexity Theory as a Paradigm for the Dynamical Law-and-Society System: A Wake-Up Call for Legal Reductionism and the Modern Administrative State," *Duke Law Journal*, 45(4), 849–928.

¹⁸J. A. Omotala (1982). *The Land Use Act: Report of a National Workshop*. (University of Lagos Press, 2007).

¹⁹Land Use Act, Cap L5, LFN, 2004.

²⁰P.E. Oshio, 'The Indigenous Land Tenure and Nationalization of Land in Nigeria', *Boston College Third World Law Journal*, vol. 10, no. 1, 1990, pp. 79–96.



And in the case of **Otogbulu v Okeluwa**.²¹ Obaseki JSC stated that each member of the community generally within his economic capacity do acquire as he desires interests in a piece or parcel of communal land which he can transmit to his offspring and which he is entitled to protect and

7. OWNERSHIP

Ownership as a concept is the greatest interest a person can have over a property as permitted by or in respect to law. It is a right which the Constitution recognizes. By the provisions of the Constitution, every citizen in Nigeria shall have the right to acquire and own immovable property anywhere in Nigeria²². In **Abraham v Olorunfunmi**²³ Niki Tobi JCA (as he then was), defined ownership as “the totality of or the bundle of the rights of the owners over and above every other person in a thing. It connotes a complete and total right over a property. The owner of a property is not subject to the right of another person. Because he is the owner, he has the full and final right of disposition without seeking the consent of another party because as a matter of law and fact, there is no other party’s right over the property that is higher than that of his. He has the inalienable right to sell the property at any price, he can give it gratis i.e. for no consideration. The property begins and ends with him unless he transfers his ownership to a third party; he remains the allodial owner or absolute owner”

7.1 Communal Ownership

This is another method of land ownership by which a community or a group owns a piece of land. The groups have to be larger than the family which is the smallest land owning unit. This system of land ownership has been practiced in different ways in different parts of the world. For instance, in our very own continent Africa, this type of land ownership is practiced among the African Tribes. The tribes control the land and the Chief of the tribe and the Priest are endowed with the power to distribute the land between the masses but the farmers are not empowered to take any kind of decision regarding the land. The power to take any decision regarding the land lies with the Chief or the Priest. One of the main characteristics of ownership by native law and custom is that it lacks the individualistic connotation of ownership in the modern system. The notion of individual ownership is quite foreign to native ideas²⁴, agricultural and industrial development projects. The demand for land became even more compelling in Nigeria when new states and local governments were created and new Capitals for the states and local governments needed to be developed. Following from this, the Federal and State Governments in Nigeria as well as statutory corporations have had occasions to exercise their powers of compulsory acquisition of occupied and unoccupied lands. This informed the promulgation of the Land Use Act by the Federal Government in 1978.

²¹*Obi v Mbionwu* (1981) 6–7 SC 99 at 116.

²²CFRN, 1999 (as amended), s. 43.

²³*Nkwo v State* (1993) 1 NWLR (Pt. 155) 53 at 74–75.

²⁴*Amodu Tijani v Secretary, Southern Nigeria* (1915–1921) 3 NLR 24 at 59–60.



8.0 LAND TENURE SYSTEM

In simple terms, land tenure refers to holding of land. However, it has been defined as "the relationship, whether legally or customarily among people as individuals or groups, that define the means through which access is granted to rights to use, control, and transfer land; it determines who can use land for how long and under what conditions"²⁵ as the "terms and conditions on which land is held, used, and transacted"; "the set of rules that determine how land is used, possessed, leveraged, sold, or in other ways disposed within societies. The rules may be established by state or by custom, and rights may accrue to individuals, families, communities, or organizations" the status of individuals or groups in relationship to property. This can either be freehold, leasehold, conditional, collective, or communal" "a systemization of the rules which function by specifying what different classes of persons may or may not, must or must not do, with reference to the occupancy, use, abuse, or disposition of land, defining the privileges and obligations, rights and duties of persons in relation to each other, with reference to land" as "the mirror of human relationship with land, indicating the nature, manner, and extent of landholding, including the control, use, and management of land."²⁶

8.1 Land Tenure System prior to the Land Use Act

Years before the advent of colonialism, Nigeria - as it will later be known as - practiced two different land tenure systems, what obtained in the northern parts different from that of the southern parts. For the north, consequent of the Fulani Jihad, land was held by the Emir who in turn gave it to the people. Whilst in the south, land belonged to the "village, community, families with chief or headman of the community as the manager or trustee holding the land for the whole village, community or family; absolute ownership was vested in the community as a whole, the headman or chief never regarded as the owner but rather care-taker performing pure administrative functions in a representative capacity under customary law.²⁷The customary law rules applying in the south, varied from community to community. But, with the coming of the colonial masters, and the introduction of the received English Law, the Nigeria land tenure system experienced some sort of confusing system, as some writers would say.

8.2 THE COMPLEXITY RELATIONSHIP WITH THE LAND USE ACT

The Land Use Act of 1978 vested all lands in the state governors, who hold the land in trust for the people. Under customary tenancy, land is typically owned and managed by traditional authorities or families, but the Land Use Act introduced a statutory framework that often disregards these customary arrangements.²⁸

²⁵Food and Agriculture Organization (FAO), *Land Tenure and Development*,
a<<http://www.fao.org/docrep/005/y4307e/y4307e05.htm>>accessed 10 May 2015.

²⁶I.O. Smith, *Sidelining Orthodoxy in Quest for Reality: Towards an Efficient Legal Regime of Land Tenure in Nigeria* (Lagos: University of Lagos Press, 2008), p. 4.

²⁷I. O. Smith (n 26).

²⁸N.B. Udoekanem, 'The Impact of the Land Use Act on Customary Land Tenure in Nigeria: A Critical Appraisal', [2013], *Journal of African Property Law*, 11 [1], 43–65.



This results in legal conflicts, as customary landlords and tenants struggle to align their traditional practices with statutory requirements. As such, customary tenants and landowners frequently encounter difficulties when attempting to register land or obtain formal documentation.

Having considered the complexities of the Land Use Act 1978 in relation to customary tenancy in Nigeria, the following points are pertinent

a. **Simplified Land Tenure System:**

The Act introduced a more uniform and simplified land tenure system, reducing disputes and promoting a more equitable approach to land ownership.

b. **Vesting of Land in the State Governor:**

The Act vests all land in each state in the Governor, who holds it in trust for the people,. This means the state government has the primary responsibility for land allocation and management.

c. **Potential for Land Scarcity:**

While aimed at preventing land monopolies, the Act's centralized control and complex procedures have contributed to land scarcity, particularly in urban areas.

d. **Land Use Planning and Control:**

The Act empowers state governors to manage land use and allocation, ensuring it aligns with development goals and reduces the risk of uncontrolled urbanization.

e. **Compensation for Land Acquisition:**

The Act mandates compensation for individuals whose land is acquired by the government for public purposes, ensuring fairness and preventing land disputes.

f. **State Governor's Power to Revoke Rights of Occupancy:**

The Act grants the state governor the power to revoke rights of occupancy, which can lead to challenges for landowners and

9.0 CONCLUSION

The Land Use Act 1978 is an Act to vest all Land comprised in the territory of each State (except land vested in the Federal government or its agencies) solely in the Governor of the State, who would hold such Land in trust for the people and would henceforth be responsible for allocation of such land in all urban areas to individuals resident in the State and to organizations for residential, agriculture, commercial and other purposes while similar powers will with respect to non-urban areas are conferred on Local Governments.

This power conferred by the Land Use Act on the Governors of each simply transferred the ownership of all lands to the State, which is to hold the land in public interest. The individual citizens or corporate bodies



thereafter hold the possession of such lands and could continue holding such lands as if the holder has the statutory ownership of such land.

It is certain that with increasing hardship in the Nigerian society and the fast rate at which land holdings available to persons, families and communities are being depleted, the battle over land would intensify and for the government institutions that used to benefit from free allocation of land for their purposes that are commercial or quasi commercial in nature, may no longer enjoy business as usual, as titles as the Act's provisions may not align with such practices. The Act's emphasis on certificates of occupancy as the primary form of land title can marginalize and complicate matters for customary tenants who lack the resources or knowledge to navigate the bureaucratic process. This situation creates ambiguity surrounding land ownership and tenure, particularly in rural areas where customary law remains dominant. Consequently, customary tenants and landlords may face difficulties when attempting to navigate the complex statutory frameworks of the Land Use Act, that do not fully recognize their arrangements.

10.0 RECOMMENDATIONS

In light of the persistent tension between customary tenancy and the Land Use Act, it is recommended that a more integrated and harmonized approach to land administration be developed in Nigeria. Specifically:

1. **Legislative Reforms:** The Land Use Act should be reviewed to more explicitly incorporate customary land rights and tenure systems. Amendments should recognize and formalize customary tenancy relationships without undermining traditional authorities and practices.
2. **Customary Land Registration:** A parallel system of land registration should be developed for customary holdings, allowing communities and individuals to register their interests without losing the communal or traditional character of their land rights.
3. **Public Awareness and Education:** Both customary landowners and tenants should be educated on their rights and obligations under both customary law and the Land Use Act. This would reduce conflicts and promote compliance with legal processes.
4. **Judicial Sensitivity:** Courts should continue to adopt a flexible, context-specific approach that respects and protects customary landholding patterns, while ensuring that statutory provisions are fairly interpreted in ways that do not extinguish indigenous rights.
5. **Strengthening Alternative Dispute Resolution:** Given the communal nature of landholding under customary law, mechanisms such as mediation and arbitration, involving traditional leaders, should be encouraged to settle land disputes amicably without resorting to protracted litigation.



6. **Protection of Customary Tenants:** Clear policies should be established to protect the rights of customary tenants, ensuring that their occupancy rights are respected and that forfeiture of such rights only occurs following due process and fair hearing.
7. **Documentation of Customary Laws:** Each community should be encouraged to codify their customary landholding rules to reduce uncertainties and conflicts in the application of customary tenure practices.