THE LAW AND PRACTICE OF MORTGAGE AND REAL ESTATE IN NIGERIA: AN APPRAISAL

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ABSTRACT

Real estate and mortgage finance are important to the economy. Residential real estate is one of the largest asset classes and the largest asset held by the average family. It is therefore relevant to macroeconomics, household finance, and policy makers. Mortgages are loans that are secured by real estate and used to fund the purchase of homes. The mortgage market is vital in growth of the real estate sector as it avails funds to this market which is capital intensive in nature by encouraging savings through the institutions which in turn finance their projects. Everyone dreams of owning property someday but with the constant rise in Nigerian property prices, saving towards buying some piece of real estate seems almost impossible particularly for young people in Nigeria. Although saving towards acquiring property is one option, it may often be disheartening because each time a certain amount has been saved, one discovers that the property prices have risen and once again the asset is just out of reach. Mortgaging property may break this frustrating cycle. This article examines the law and practice of mortgage and real estate in Nigeria.

Keywords: Mortgage, Real Estate, Property, Loans, Macroeconomics

INTRODUCTION

Housing is an essential need of man, which is why it is described as a *sine qua non* of human living.[1] Consequently, the priority accorded the issue of housing is immense; to most governments,

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the availability of sufficient but basic housing for all is often stated as a priority for enhancing the social needs of the society.[2] Accordingly, habitable housing contributes to the health, efficiency, social behaviour and general welfare of the populace.[3] Apart from providing man with shelter and security, housing plays a major role in serving as an asset.[4] Real estate sector plays a critical role in a nation's welfare, as it directly affects the citizenry and performance of other sectors of the economy.[5]

Although mortgage can be created on both real properties and chattels, real properties offer more reliability as physical control of the property is hardly necessary, while its characteristic feature of immovability affords the creditor a reassuring grip on the security.[6] Land is today, the most acceptable form of security especially for long term credit as it appreciates in value, unlike other forms of security, over a period of years, and also immovable.[7] Other than creation of mortgage on a property already owned by the mortgagor, mortgage loan can be advanced for construction or acquisition of a property which in turn is used as the collateral. At all material times, collateral is

[1] M O Yakubu, 'Low-Cost Housing and Housing for Low-Income Groups', (Proceedings of the 3rd International Conference on Housing, Kaduna-Nigeria 1980) 218-223.

[2] A O Olotuah, and A O Aiyetan, 'Sustainable Low-Cost Housing Provision in Nigeria: A Bottom-Up Participatory Approach' (Proceedings of 22nd Annual ARCOM Conference, 4-6 September 2006, Birmingham – UK, Association of Researchers in Construction Management) 633-639.

[3] T O Nubi, 'Affordable Housing Delivery in Nigeria' (Paper Presented at the Southern African Housing Foundation International Conference and Exhibition, 12-15 October 2008 – Cape Town, South Africa) 23.

[4] W Poole, 'Housing in the Macro Economy' (Federal Reserve Bank of St Louis May/June 2003) 1-8; H Alhashimi, and W. Dwyer, 'Is there such an entity as a housing market?' (Paper Presented at the 10th Annual Pacific Rim Real Estate Conference – Bangkok, January 2004) 58.

[5] N Odi, 'Implications of Mortgage Financing on Housing for All in Nigeria by the Year 2020' [2014] (2)(11) *International Journal of Managerial Studies and Research*, 70–79.

[6] Odi (n 5).

[7] Ibid.

fundamental to mortgage loan underwriting, while its nature determines the quality of the mortgage, level of risk and collateral realizability.

The mortgage system was introduced in Nigeria with the establishment of the Nigeria Building Society (NBS) in 1956; a joint venture of the Commonwealth Development Corporation and the Federal and Eastern Governments of Nigeria. Following the introduction of the Indigenization Policy, the Federal Government, by the Indigenization Act (1973), acquired the NBS and renamed it Federal Mortgage Bank of Nigeria (FMBN) as a direct Federal Government intervention to accelerate its housing delivery programme.[8] The FMBN is the apex mortgage bank in Nigeria established to supervise and control the activities of mortgage institutions in Nigeria, issue licenses to secondary mortgage institutions, and collect, manage and administer the National Housing Fund,[9] among others. Currently, Nigeria has 35 primary mortgage banks[10] licensed by the Central Bank of Nigeria to undertake the activities of mortgage financing, real estate construction financing, financial advisory services, drawing from the National Housing Fund for on-lending,[11] among others.

Although the financial system of Nigeria has grown appreciably, the mortgage sub-sector has remained evolutionary for quite some time and still struggles to find space in a rather unwholesomely hostile environment of limited systemic exposure.[12]The poor performance of the mortgage sub-sector is as a result of the contributory effect of an array of issues which include the macroeconomic variables, housing affordability index, collateral and title perfection

[8] Federal Mortgage Bank of Nigeria (2019) <https://www.fmbn.gov.ng/About/about-2.html> accessed 26 January 2024.

[9] Federal Mortgage Bank of Nigeria Act, CAP. F16 L.F.N. 2004, s 5.

[10] Central Bank of Nigeria (2020) < https://www.cbn.gov.ng/Supervision/Inst-PMI.asp> accessed 26 January 2024.

[11] Central Bank of Nigeria Revised Guidelines for Mortgage Banks in Nigeria, 2011, art 1:2.

[12] The Abuja International Housing Show, 'Today's Nigerian Mortgage Market: Lending Conditions and the Regulatory Environment', <https://abujainternationalhousingshow.com/aihs/conference-paper-aihs2019/> accessed 26 January 2024.

challenges, access to long-term funding from the capital market, cost of fund, cost of mortgage refinancing at the secondary market, judicial system, knowledge gap among the stakeholders, risk sharing mechanism between the primary and secondary mortgage markets, less industry-friendly policies, and a host of others.[13]

In Nigeria, the appreciation of mortgage practice is low and a number of factors appear to be working against its growth and development to a point where it can impact positively on the economy. There is no conscious effort to develop this important sector. Investment in the sector is still very low and this explains why after the recapitalization and consolidation of the banking sector to the tune of #25 billion, people are yet to see the impact of the consolidation on mortgages.[14] In most African societies, long before colonialism, the provision of housing or shelter was an individual responsibility and this trend obtains to the present day. From post-colonial days, it has been assumed that since we are now practicing a foreign system of government and administration, governments should now be responsible for providing all basic needs for their people. Currently and fortuitously, housing seems to be a priority for the Federal Government of Nigeria and this is captured in president YarAdua's 2020 Agenda, where the president attaches the highest priority to affordable housing for the masses.[15] It is against this backdrop that this article examines the law and practice of mortgage and real estate in Nigeria.

CONCEPTUAL CLARIFICATION

This section examines some concepts that are relevant to the article.

[13] O Benedict, 'Mortgage Services in Nigeria and the Challenges with Collateralization. <https://www.researchgate.net/publication/342097436> accessed 26 January 2024.

[14]Benedict (n 13).

[15] Ibid.

Mortgage

A mortgage involves the transfer of an interest in land as security for a loan or other obligation. It is the most common method of financing real estate transactions.[16]The Black's Law Dictionary[17] defines mortgage as a form of conveyance of title to property that is given as security for the payment of a debt or the performance of a duty and that will become void upon payment or performance according to the stipulated terms. Mortgage is simply defined in the Property and Conveyancing Law, 1959 as 'including any charge or lien on any property for securing money or money's worth',[18] while the Nigerian Land Use Act defines it as encompassing a second and subsequent mortgage and equitable mortgage.[19]

A mortgage is a conveyance of land or an assignment of chattels as a security for the payment of a debt or discharge of some other obligation for which it is given. The security is redeemable on payment or discharge of such debt or obligation, any provision to the contrary notwithstanding. Put differently, a mortgage represents a kind of security through the transfer or creation of interest in property for the discharge of a debt or some other obligation. It can also be described as a charge given by a borrower to a lender upon a part or the entirety of the former's property to securely guarantee the repayment of a loan. It is only reasonable that banks demand for security, as this is backed by law. [20]The nature of a mortgage transaction involves a Mortgagor who is the transferor of the interest in land, the Mortgagee who is the transferee of the interest in land, and the Mortgage sum (debt) which is the sum of money over which the interest is transferred.

[16] B Johnson, 'Mortgage' <https://www.law.cornell.edu/wex/mortgage> accessed 26 January 2024.

[17] B A Garner (ed), *Black's Law Dictionary* (8th edn, WestPoint Publishers 2004) 1031.

[18] Property and Conveyancing Law, Cap 100, LWN 1959.

[19] Land Use Act, Cap L5, LFN 2004.

[20] C Wigwe, 'Mortgage Practice and the Law of Possession in Nigeria' <https://www.researchgate.net/publication/331546938> accessed 26 January 2024.

Waldock[21] views mortgage as a conveyance of land or an assignment of chattels as a security for the payment of a debt or the discharge of some other obligation for which it is given. Lindley in the case of *Santley v Wilde*[22] defined a mortgage as 'a conveyance of land as security for the payment of a debt or the discharge of some other obligation for which it is given'. A mortgage is a document in which the owner uses the title to real property as security for a loan described in a promissory note.[23]

Real Estate

Real estate is real property that consists of land and improvements, which include buildings, fixtures, roads, structures, and utility systems. Property rights give a title of ownership to the land, improvements, and natural resources such as minerals, plants, animals, water, etc.[24]Real estate can also be seen as the specifics of any renting agreements, buying and selling of land, and ultimately, the intrinsic nature of who owns what.[25] Real estate encompasses many variables such as land, structures on a piece of land including its associated fitting and fixtures.[26] Real estate can also be seen as; a piece of land, including the air above it and the ground below it, and any building or structure on it.

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[21] C H M Waldock, *The Law of Mortgages* (2nd edn, London: Sweet and Maxwell, 1950) 37.

[22] [1899] 2 CH 474.

[23] U Adedayo, 'Real Estate Mortgages Law and Legal Definition'. <https://definitions.uslegal.com/r/real-estate-mortgages/> accessed 26 January 2024.

[24] Real Estate, 'Land Improvements or Natural Resources'<https://corporatefinanceinstitute.com/resources/careers/jobs/real-estate/> accessed 26 January 2024.

[25] Real Estate Law <https://www.allaboutlaw.co.uk/stage/areas-of-law/real-estate-law-> accessed 26 January2024.

[26] American Planning Association, 'Planning Dictionary' <http://www.planning.org/APAStore/Sarch/Default.aspx?p=2431> accessed 26 January 2024.

DEVELOPMENTS IN THE REAL ESTATE INDUSTRY IN NIGERIA

In Nigeria, mortgage financing in the real estate industry is fortified by the Secured Transactions in Movable Assets Act, 2017 which provides for all the requirements for secured credit transactions and perfection of security interest.[27] Mortgage financing and real estate industry has gained momentum the world over. A secured lender can enforce its security if the debtor defaults on its obligations under the relevant facility agreement. These obligations can range from a payment default (principal, interest, fees or other payments) to a breach of financial or other covenants or any other term of the agreement. A lender is generally not required to give notice of the borrower's default (although the facility agreement can require this) but must give the borrower or any third party that has provided security, notice of its intention to enforce the security.[28] In Nigeria, mortgage financing cuts across different collaterals/properties including landed property. The worth placed on land and its value cannot be overemphasized. This is due to the increasing value and appreciation of the land loan. There is this assurance that it would not lose out.[29]

Consequently, it has been reported that real estate development, construction and technology sector in developing economies, Nigeria inclusive, has served as support to the global economy during periods of financial crisis in the recent years.[30] Nigeria is one of the promising developing economies with great potentials in real estate. Nigeria`s competitiveness in the global real estate market is making the country to become increasingly attractive to investors. As a matter of fact, real estate contributed about 8.7 % to Nigeria’s GDP in 2014, which is greater than the average GDP growth rate of 7.4 % in the same year. The economic crisis in Nigeria is underpinned

[27]Secured Transactions in Movable Assets Act, 2017, s3 (2) (a) (b).

[28] O Nicholas and Others, ‘Lending and taking Security in Nigeria: Overview’ <https://content.next.westlaw.com/Document/Id4aecada1cb511e38578f7ccc38dcbee/View/FullText.html?contextData=(sc.Default)&transitionType=Default&firstPage=true&bhcp=1> accessed 26 January 2024.

[29]Ibid.

[30] IMF, ‘IMF World Economic Outlook’ <http://www.imf.org/external/pubs/ft/weo/2014/update/02/pdf/0712.pdf> accessed 26 January 2024.

by a decline in the gross domestic product (GDP) and eventually the devaluation of the Nigerian currency.[31] This caused an unprecedented increase in the cost of real estate development in the country.[32] The high cost of real estate development translated into an increase in the price of real estate and consequently a drop in the demand.[33] High real estate prices in Nigeria led to a significant gap in the sector because many people still needed housing but could not afford what was available.[34]

In Nigeria, the demand for residential properties and for new developments is considered to be an important factor in the development of the economy of the constituent states.[35] But the Nigeria‘s real estate sector which is dominated by housing provision has been rated poor and ineffective amidst sound policies.[36]However, there have been a number of housing schemes launched including the initiation of the first ever National Housing Policy (NHP) in 1991, followed by the launching of the National Housing Fund Scheme in 1992. Other initiatives include the establishment and implementation of the National Housing Programme, National Site and Service Programmes, Prototype Housing Programme and Infrastructure Development Fund Projects.[37]

[31] Central Bank of Nigeria, 'GDP report for first quarter, 2016 (Quarterly Statistical Bulletin Quarter One)' <http://www.cbn.gov.ng/Out/2016/SD/2016Q1%20Reports%20Section_Part%20A_2.pdf> accessed 26 January 2024.

[32] N I Obi and O Ubani, 'Dynamics of housing affordability in Nigeria' [2014] (3)(6) *Civil and Environmental Research*, 79-84.

[33]Obi and Ubani (n 32).

[34] Central Bank of Nigeria (n 31).

[35] C F Floyd and M T Allen, *Real estate principles* (9th Edn,Dearborn Real Estate Education, 2008) 203- 233.

[36] M M Mukhtar and others, 'Critical success factors for public housing projects in developing countries: a case study of Nigeria' [2017] (19)(5) *Environment, Development and Sustainability*, 2039-2067.

[37] I A Ademiluyi, 'Public housing delivery strategies in Nigeria: A historical perspective of policies and programmes' [2010] (12)(6) *Journal of sustainable development in Africa*, 153-161, B Kabir and S A Bustani, 'A review of housing delivery efforts in Nigeria, ISA Housing Conference, "Housing Assets, Housing People", Department of Urban Studies, University of Glasgow, 1-4 September 2009.

Several policies and programmes, institutions and reforms have taken place in the Nigerian real estate sector.

THE PRACTICE OF MORTGAGE AND REAL ESTATE IN NIGERIA

Everyone dreams of owning property someday but with the constant rise in Nigerian property prices, saving towards buying some piece of real estate seems almost impossible particularly for young people in Nigeria. Although saving towards acquiring property is one option, it may often be disheartening because each time a certain amount has been saved, one discovers that the property prices have risen and once again the asset is just out of reach.[38] Mortgaging property may break this frustrating cycle.

The practice of mortgage and real estate has over the years played a part in the provision of finance for residential development in Nigeria. There is improvement in the volume of loan granted, for instance, by primary mortgage institutions (PMIs) which increased from NGN6bn in 2004 to NGN132bn in 2013; the loan and advances of money deposit banks to real estate and construction sectors which rose from NGN466.8bn in 2008 to NGN726.9 billion.[39] However, these improvements are nominal and benign compared to the overall macroeconomic environment of Nigeria as the sector represents only about 1 per cent of the GDP.[40]The Nigerian mortgage finance, like many developing countries, is dominated by primary mortgage market without a viable secondary mortgage market which makes it underdeveloped.[41]

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[38] Knowledge, Attitude and Practice of Financing Real Estate Purchase through Mortgage in Nigeria <https://azresearchconsult.com/full-project-knowledge-attitude-and-practice-of-financing-real-estate-purchase-through-mortgage-in-nigeria/> accessed 26 January 2024.

[39] CBN, '2013 Statistical bulletin' <www.cbn.gov.ng/documents/Statbulletin> accessed 26 January 2024.

[40]Ibid.

[41] A O Ojo, 'The role of secondary mortgage facility in expanding the availability of mortgage finance in Nigeria' (KTH Architecture and Built Environment: Msc Thesis, 2009); K Ukpai and Others, 'Mortgage Financing in Nigeria', (Occasional Paper No. 50, Central Bank of Nigeria, Abuja, 2013); P F Johnson, 'Developing the Mortgage Sector in

In the advanced nations of the world, particularly in Europe and America, mortgage is a critical index of economic development and growth. The Margaret Thatcher administration[42] used mortgage to move the British economy to a new level which was improved upon and sustained until the present credit crisis which could be traced to the sub-prime mortgage crisis of the past couple of years.[43] The entire American economy went on its knees following the sub-prime crisis which underscores the central role mortgage can play in the economy of any nation.[44] In Nigeria, mortgage is still at infancy and a number of factors are working against its growth and development to a point where it can impact positively on the economy. There is no conscious effort to develop this important sector.[45]

The first attempt at institutionalising mortgage financing in Nigeria was the establishment of the Nigerian Building Society (NBS) in 1956. Thereafter, regional governments set up housing corporations, savings and loans banks and cooperative banks to provide funds in the form of mortgage credit for housing development. Following the Indigenization Act of 1972 which aimed, amongst others, at promoting and transferring the ownership and control of foreign enterprises to Nigerians, the Nigerian Building Society, in 1977, was renamed and metamorphosed into the Federal Mortgage Bank of Nigeria, (FMBN) as a direct Federal Government intervention to accelerate its housing delivery programme.[46]

Nigeria through the Provision of Long-term Finance: An Efficiency Perspective' (PhD Thesis, Cranfield University, 2014).

[42] Margaret Hilda Thatcher was a former Prime Minister of the United Kingdom from 1979 – 1990. She died in 2013.

[43] S Atherton and R Mokal , 'Charges Over Chattels - Issues in the Fixed/Floating Charge Jurisprudence' [2005] (14) *Comparative Law Review*, 10.

[44] C A Ayedun and A O Oluwatobi, 'Issues and Challenges Militating against the Sustainability of Affordable Housing Provision in Nigeria' [2011] (1)(4) Business Management Dynamics, 1-8.

[45]Knowledge, Attitude and Practice of Financing Real Estate Purchase through Mortgage in Nigeria <https://azresearchconsult.com/full-project-knowledge-attitude-and-practice-of-financing-real-estate-purchase-through-mortgage-in-nigeria/> accessed 26 January 2024.

[46] Federal Mortgage Bank of Nigeria <https://www.fmbn.gov.ng/About/about-2.html> accessed 26 January 2024.

THE IMPACT OF REAL ESTATE LAWS ON THE PRACTICE OF MORTGAGE AND REAL ESTATE IN NIGERIA

Most Governments have enacted regulations for a wide range of reasons that directly and indirectly affect the supply and cost of real estate. In most cases, these regulations are deemed necessary to promote health and the well-being of either the residents or the community at large. Apart from this, Sanya[47] asserts that the housing and mortgage value chain encompasses a minimum of 50 separate job functions and thus, having a well-developed and efficient mortgage and housing sector will lead to the creation, deepening, and sustenance of numerous jobs for both professionals, and skilled and unskilled employees in the economy.

The housing sector in Nigeria is a combination of many interrelated components, which include land, infrastructure, building materials, policies, building regulations and, more importantly, the finance component. Finance in housing delivery is very important because of the huge capital requirement for housing production. As evident in developed economies, mortgage financing represents the *de facto* means of housing finance. In developed countries, such as the UK and US, the mortgage market is among the largest components of the capital markets. According to Renaud[48] and Warnock and Warnock,[49] without a functional and efficient housing finance system, a well-functioning mortgage market which is instrumental to the housing sector's contribution to economic growth and improved standards of living would be lacking.

Mortgage finance improves the operation of the housing market and the economy both directly by facilitating transactions, and indirectly by improving the environment in which

[47] O A Sanya, 'Real Estate Investment Trusts: A Veritable Funding Tool for Housing Development in an Emerging Market', paper presented at the 7th International Housing Financial Workshop, Lagos, August, 2011.

[48] B M Renaud, 'Mortgage Finance in Emerging Markets: Constraints on Feasible Development paths', Paper presented at Lusk Research Seminar, University of Southern California, 12 November, 2004.

[49] V C Warnock and F E Warnock, 'Markets and Housing Finance', National Bureau of Economic Research, NBER Working Paper Series No. 13081.

transactions take place. The spill-over effect of strong housing markets in the form of job creation, especially in the construction sector, improvement in living conditions, potential development of the long-term finance market for infrastructure development, freeing up of government resources to meet other socio-economic needs and, ultimately, in improved economic growth, cannot be overemphasized.[50]

The use of debt allows households to better match the timing of their housing expenditures with the flow of services they receive. Housing is a long-lived, durable asset that provides a flow of services over a long period (frequently outliving its occupants). A household can purchase more housing at an earlier stage in the life cycle using debt, as opposed to paying for it all at once through accumulated savings. Furthermore, because housing provides such good collateral, mortgages are usually the lowest-cost way for households to finance general borrowing for consumption, non-housing investment, or business formation.

CONSTRAINTS TO THE PRACTICE OF MORTGAGE AND REAL ESTATE IN NIGERIA

Although the financial system of Nigeria has grown appreciably, the mortgage sub-sector has remained evolutionary for quite some time and still struggles to find space in a rather unwholesomely hostile environment of limited systemic exposure. Available data show that the mortgage market in Nigeria has been consistently underperforming with a contribution of about 1.13% to the nation's GDP in 2019.[51] This section examines certain impediments to the practice of mortgage and real estate practice in Nigeria.

[50] K Ukpai and Others, 'Mortgage Financing in Nigeria' Occasional Paper No. 50.

[51] The Abuja International Housing Show, 'Today's Nigerian Mortgage Market: Lending Conditions and the Regulatory Environment' <https://abujainternationalhousingshow.com/aihs/conference-paper-aihs2019/> accessed 26 January 2024.

Regulatory Challenges

The Land Use Act of 1978[52] unified land tenure and land use in Nigeria and placed all land under the control and management of the Governors of the respective states as trustees.[53] By virtue of Section 22 of the LUA, any alienation of land by way of mortgage in Nigeria without the prior consent of the Governor is null and void.[54] In the case of *Savannah Bank v Ajilo*,[55] the Supreme Court upheld the decisions of both the High Court and the Court of Appeal that failure to obtain the requisite consent rendered the deed of mortgage null and void *ab initio* and the mortgage transaction illegal.

Where we are today is that Governor's consent is vital to perfecting the security of the mortgagor in a mortgage transaction. In practical terms the process of obtaining the Governor's consent is cumbersome and time consuming and though statutorily imposed on the borrower, the lenders in most cases have been forced to assume this responsibility by the fact that they stand to lose if consent is not obtained. It is also noteworthy that the grant of consent is discretionary and where this is not granted, the mortgage lender and potential investors in such mortgages are put in a precarious situation. It is anomalous indeed that even equitable mortgages are caught by the terribly misused consent provisions. The fact is that consent was introduced as a control mechanism to ensure that this is not a land of landowners and serfs.

Funding Challenges

There is a limited source of funding for developers in Nigeria. Since real estate development is capital intensive, it is inevitable that developers would need external support to finance their

[52] Cap L5 LFN, 2004.

[53] Land Use Act, 1978, s 1.

[54]Land Use Act 1978,s 51.

[55] [1989] 1 NWLR (Pt 97) 305.

project. But the huge interest rate of commercial banks is a turn-off to most developers. The long list of developers on the waiting list for Federal Mortgage Bank loans and other Federal Government loans is discouraging. There is little awareness on alternative source of funding and procedure for obtaining foreign loans for real estate development. Though the recent Nigerian Mortgage Refinance Company established to bridge the funding of residential mortgages gives stakeholders in the sector a glimmer of hope, its effect is yet to be felt.[56]

There is also what is described as both the bad credit creation and funding profile of our sources of finance in Nigeria. The emphasis was hitherto a race to the bottom of deposit base without a focus on true banking which is mobilisation of funds for distribution to deserving sectors. Now, banks turned attention to short term funds and short-term financing. There were for the most part no reliable long-term funds to finance mortgages in the real sense which also required long term funding. It is worthy of note that the Nigerian Mortgage Refinance Company has adopted an innovative structure under which capital may be raised for its refinancing activities by issuing long-term securities to institutional investors, however this is merely a drop in the bucket in relation to the possibilities of a strong and vibrant secondary mortgage market.[57]

Socio-Cultural Challenges

Some of the social and culture of Nigerians do not encourage mortgage financing. Nigerians typically have poor savings culture and lack credit culture.[58] This denies the mortgage institutions from having the needed deposits to fund their mortgages. Similarly, some Nigerians are debt averse

[56] E Ekpenyong, 'An Analysis of the Challenges and Prospects in Real Estate Development in Nigeria' <https://www.mondaq.com/nigeria/land-law-agriculture/366364/an-analysis-of-the-challenges-and-prospects-in-real-estate-development-in-nigeria> accessed 26 January 2024.

[57]K Ajayi and T Oluleye, 'An Overview of the Legal Framework for Housing Finance and Securitisation in Nigeria' [2016] (7)(2) *The Gravitas Review of Business & Property Law,* 78.

[58]P F Johnson, 'Developing the Mortgage Sector in Nigeria through the Provision of Long-term Finance: An Efficiency Perspective' (PhD Thesis, Cranfield University, 2014).

and may consider mortgage as inferiority. There is also the problem of mistrust and lack of confidence on the mortgage institutions by Nigerians,[59] which discourages them from patronizing the institutions. Mortgages have some elements that are contrary to religious principles. This makes some Nigerians to boycott the products. Similarly, the attitude of Nigerians toward mortgage financing is poor.[60] The level of awareness among Nigerians on mortgage financing is also low.[61]

Bribery and corruption also have a negative effect on the sector. There are instances where developers who have not satisfied the preconditions for allocation of land are granted allocation while those who are qualified are denied. Low compliance to regulatory and environmental laws is the cause of the incessant reports of collapsed buildings and other ecological problems. Some staff of regulatory bodies prefers to take bribe rather than ensure that developers obtain the requisite permits and conform to statutory construction standard.[62]

CONCLUSION/RECOMMENDATION

Around the world, real estate investment is given concerted attention due to its critical role and contribution to national economy and socioeconomic development of nations.Real estate sector is one of the most critical sectors that if reformed will propel growth and alleviate poverty in Nigeria.

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[59]A O Ojo, 'The Role of Secondary Mortgage Facility in Expanding the Availability of Mortgage Finance in Nigeria' (KTH Architecture and Built Environment: Msc Thesis, 2009).

[60] K Ukpai and Others, 'Mortgage Financing in Nigeria' (Occasional Paper No. 50, Central Bank of Nigeria, Abuja, 2013.

[61] P N Ezimuo and Others, 'Sources of Real Estate Finance and their Impact on Property Development in Nigeria: A Case Study of Mortgage Institutions in Lagos Metropolis' [2014] (2)(2*) British Journal of Environmental Research*, 35-58.

[62]Ekpenyong (n 56).

With the right reforms and political will, the real estate sector will trigger a momentous economic growth and development because of high demands for real estate products induced by the growth in working age population in Nigeria. Everyone dreams of owning property someday but with the constant rise in Nigerian property prices, saving towards buying some piece of real estate seems almost impossible- particularly for young people in Nigeria. It is recommended that for real estate firms to thrive in Nigeria, enactment and enforcement of favourable government regulations is important in order to correct inequitable mortgage financing practices that could lead to default and foreclosure consequences. There must also be a stable and well-regulated Capital Market which is the backbone for the secondary mortgage market.