

POSSESSION AS A MEANS OF PROVING OWNERSHIP OF LAND IN NIGERIA.

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CERTIFICATION

This is to certify that this research project titled '**POSSESSION AS A MEANS OF PROVING OWNERSHIP OF LAND IN NIGERIA**' has been carried out by my humble self, Joshua Azibabelami Datubo under the supervision of Barr Kulo Allison Faith.

I attest that this research work meets the academic standards required for National Diploma (N.D).

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APPROVAL

This project report have been approved for acceptance as meeting the requirements for the award of National Diploma (N.D) of the Bayelsa State Polytechnic.

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Date: 10 October, 2024

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BAYELSA STATE POLYTECHNIC, ALEIBIRI

DEDICATION

I dedicate my research work to God Almighty, my family, friends, and all those who have supported me throughout my academic journey. Your love, encouragement, and guidance have been my source of strength and inspiration.

To my supervisor, BARR F.K ALLISON ESQ , your expertise and mentorship have been valuable to me.

And to the people of Nigeria, whose experiences and struggles with land ownership and possession have been the driving force behind this research.

This work is dedicated to you all, with gratitude and appreciation.

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I wish to express my sincere gratitude to the following individuals for their support and guidance throughout this research project :

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LIST OF ABBREVIATIONS

C.O – Certificate of Occupancy

E.A – Evidence Act

L.U.A – Land Use Act

N.W.L.R – Nigerian Weekly Law Reports

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ABSTRACT

This research examines the role of possession in establishing land ownership in Nigeria, amidst the complexities of the country's dual legal system. Through a comprehensive review of statutes, case law, and customary practices, this study identifies the specific circumstances under which possession can ripen into ownership. The findings reveal that possession can establish ownership through adverse possession, prescription, customary law, statutory provisions, and court decisions. This research contributes to the ongoing debate on land reform in Nigeria, highlighting the need for a harmonized legal framework that balances statutory and customary laws. The study's recommendations aim to enhance land tenure security, facilitate access to land, and promote economic development in Nigeria

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CHAPTER ONE : INTRODUCTION

1.1. Background to the study

The concept of land ownership has long been a fundamental aspect of Nigerian legal, economic, and social structures. Land is not only a vital resource for agriculture and development but also carries significant cultural and ancestral importance. However, the complexities of land ownership in Nigeria, shaped by various legal frameworks, customary practices, and historical factors, have made the issue of proving ownership particularly challenging. Historically, land in Nigeria was primarily governed by customary laws, which varied across different ethnic groups and regions. Under these customary systems, land was often communally owned, with families, clans, or communities exercising collective rights over it. Possession, rather than formal documentation, played a crucial role in establishing and maintaining land ownership. This customary approach to land ownership is still prevalent in many parts of Nigeria, especially in rural areas. The introduction of formal legal frameworks during the colonial era, and particularly the enactment of the Land Use Act of 1978, marked a significant shift in the governance of land in Nigeria. The Land Use Act vested all land in each state of the federation in the hands of the state governors, who hold it in trust for the people. This Act aimed to streamline land administration and curb issues like land speculation and disputes. However, it also introduced complexities in the legal process of proving land ownership, as formal titles and certificates became more important.

Despite these legal changes, the principle of possession remains a crucial factor in land disputes and ownership claims in Nigeria. Possession, which can be defined as the physical control or occupation of land, is often used as prima facie evidence of ownership. Nigerian courts have consistently recognized the importance of possession, especially where formal documentation is lacking or where customary rights are being asserted. In many cases, the courts have held that long-term possession can confer ownership rights, especially where the possessor has exercised continuous and exclusive control over the land.

However, the reliance on possession as proof of ownership raises several legal and practical questions. How does possession interact with statutory titles under the Land Use Act? What is the role of customary law in the modern Nigerian legal system when it comes to land ownership? How do Nigerian courts balance the rights of possessors with those of titleholders? These questions are central to understanding the dynamics of land ownership in Nigeria today.

This study seeks to explore the concept of possession as a means of proving ownership of land in Nigeria, examining the interplay between customary practices, statutory laws, and judicial interpretations. By analyzing key legal cases, statutory provisions, and scholarly opinions, the study aims to provide a comprehensive understanding of how possession

operates as a legal tool in the context of Nigerian land law. The findings of this study will contribute to the ongoing discourse on land rights and legal reforms in Nigeria, offering insights that could inform policy decisions and judicial practices.

1.2. STATEMENT OF THE PROBLEM

In Nigeria, the issue of land ownership remains complex and contentious due to the coexistence of customary practices and statutory laws. While the Land Use Act of 1978 introduced a formalized system of land administration, many Nigerians, particularly in rural areas, continue to rely on possession as the primary means of asserting land ownership. This reliance on possession creates significant legal challenges, particularly when disputes arise between possessors of land and those holding formal titles or certificates. One of the critical problems is the tension between customary and statutory land tenure systems. Customary law, which often prioritizes possession and communal ownership, conflicts with statutory law, which emphasizes formal documentation. This duality complicates the process of proving land ownership, especially in cases where long-term possession contradicts the records held under statutory law. Furthermore, the Nigerian courts have faced difficulties in balancing the rights of possessors with those of titleholders. In many instances, possessors who lack formal titles are at a disadvantage, despite having occupied and used the land for extended periods. This situation raises questions about the fairness and adequacy of the legal framework in protecting the rights of all landowners, particularly those operating under customary law.

The problem is further exacerbated by the inadequate land registration system in Nigeria, which leads to overlapping claims and disputes. The lack of clear and accessible records makes it difficult to establish ownership based on possession, resulting in protracted legal battles and, in some cases, loss of land for those who have traditionally owned or used it.

This study aims to address these issues by examining the role of possession in proving land ownership in Nigeria. It seeks to identify the gaps in the current legal framework and propose solutions that could harmonize customary practices with statutory requirements, ensuring a more equitable and effective system of land ownership and dispute resolution.

1.3. RESEARCH QUESTIONS

1. Can Possession be used as a sole means of proving ownership of land in Nigeria?
2. To what extent does customary law influence the recognition of possession as a basis for land ownership in Nigeria?

1.4. AIM AND OBJECTIVES

AIM

The primary aim of this study is to examine the role of possession in proving land ownership in Nigeria, exploring how it interacts with statutory laws and customary practices, and to propose legal reforms that could harmonize these systems for more effective land ownership and dispute resolution.

To examine the aim, the objectives are as follows ;

OBJECTIVES

1. To analyze the legal framework governing possession as a means of proving land ownership in Nigeria.
2. To evaluate the influence of customary law on the recognition of possession as a basis for land ownership.

1.5. RESEARCH METHODOLOGY

This paper adopts a doctrinal research approach.

Doctrinal research is a research methodology that focuses on interpreting legal documents, such as statutes, case law, regulations, and treaties, in understanding legal concepts, principles, and doctrines.¹

I employ the doctrinal research method, reason being that, the topic of the Research is Possession as a means of proving ownership of land in Nigeria which is a legal concern.

Doctrinal Research Summary

Doctrinal research, often referred to as "black letter law" research, is a traditional method used in legal studies. It focuses on the systematic analysis of legal rules, principles, and doctrines as they are found in statutes, case law, and legal literature¹. This method is essential for understanding and clarifying the law as it stands. In the context of the study on land ownership in Nigeria, doctrinal research will involve:

Analyzing Statutory Provisions: Examining the Land Use Act of 1978 and other relevant statutes to understand how possession is treated under Nigerian land law.

¹M. McConville, Research Methods for law
Format:eBook, Wing Hong Chui (Ed) English (2017) Second edition
Edinburgh University Press, Edinburgh
cover page, Research methods for law 2007

Reviewing Judicial Decisions: Investigating court cases where possession has been used as evidence of ownership to see how Nigerian courts interpret and apply the law in these contexts.

Exploring Customary Law: Considering the role of customary law in land ownership, particularly in relation to possession, and how it is recognized within the formal legal framework.

Identifying Legal Gaps: Highlighting inconsistencies or gaps in the legal system that may affect the recognition of possession as proof of land ownership.

Proposing Reforms: Suggesting legal reforms that could harmonize customary practices with statutory requirements, leading to a more effective system of land ownership and dispute resolution.

In summary, Doctrinal research provides a structured approach to understanding the legal principles governing land ownership through possession in Nigeria. By focusing on legal texts, interpreting statutes and cases, and systematizing the law, this research method allows for a thorough analysis of the existing legal framework and offers well-grounded recommendations for potential legal reforms. This approach is crucial for addressing the complex legal issues surrounding land ownership in Nigeria.

1.6. ORGANISATIONAL LAYOUT

This Research work contains informatory details with several chapters (4) and subtopics, explicitly to break down the content of this research work.

Chapter 1 – Introduction which is further divided into several subheadings, which are;

1.1 Background to the study, 1.2 Statement to the problem, 1.3 Research questions

1.4 Aims and Objectives. 1.5 Research Methodology, 1.6 Organizational Layout.

Chapter 2, which is titled 'Legal and Institutional Framework' which has several topics:

2.1 Legal framework ; 2.1.1. The Constitution of the Federal Republic of Nigeria, 1999 as amended; 2.1.2 The Land Use Act of 1978; 2.1.3 Court Decisions and Judicial Precedents ; 2.1.4. Conveyancing and Law Property Act, 1881; 2.1.5. Customary Land Tenure Laws; 2.1.6. Property and Conveyancing Law of Western Nigeria 1959; 2.1.7. The Evidence Act, 2011.

2.2 Institutional Framework, 2.2.1 Federal and State Governments; 2.2.2 Land Registry and Survey Agencies; 2.2.3 Traditional and Customary Institutions.

Chapter 3, entitled as POSSESSION AS A MEANS OF PROVING OWNERSHIP OF LAND IN NIGERIA, is subdivided into; 3.1 Introduction; 3.2 Conceptualizing Possession; 3.3 Challenges in relying on possession to prove ownership of land. 3.4. Land Ownership and Possession in Nigerian Discourse. 3.5. Critical Discourse Analysis; 3.6. Merits and demerits of relying on possession as a means of proving ownership of land in Nigeria. 3.7. Conclusion.

Chapter 4 entails Conclusions and Recommendations, which are split into several aspects, known as: 4.1. Conclusion; 4.1.1 Summary of Findings; 4.1.3.Recommendations.

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CHAPTER TWO

LEGAL AND INSTITUTIONAL FRAME WORK

2.1. LEGAL FRAME WORK

This framework is established by various statutes and the Constitution. Here's an analysis ;

2.1.1. The Constitution of the Federal Republic of Nigeria,1999 (as amended)

The 'Constitution of the Federal Republic of Nigeria, 1999 as amended' plays a crucial role in shaping the legal framework regarding possession as a means of proving ownership of land in Nigeria. In Nigeria, land ownership is a significant aspect of property rights, and the Constitution provides the foundational principles and legal structure for land ownership and possession.

The Constitution of Nigeria recognizes the right to own property, including land, as a fundamental human right. It establishes the legal basis for land ownership, possession, and transfer of land rights. The Constitution also outlines the powers and responsibilities of the government in relation to land administration, including issues of possession and ownership.

This provides that "subject to the provisions of this Constitution, every citizen of Nigeria shall have the right to acquire and own immovable property anywhere in Nigeria."² This section establishes the right to ownership of land.

More so, section 43 of the Constitution is implemented by statutes such as the Land Use Act, which regulates the acquisition and ownership of land.

When it comes to proving ownership of land through possession in Nigeria, the Constitution provides guidelines and legal principles that govern this process. Possession of land over a period of time can be a means of proving ownership under Nigerian law. The Constitution, along with relevant laws and regulations, sets out the requirements and conditions for establishing ownership through possession.

Overall, the 'Constitution of the Federal Republic of Nigeria, 1999 as amended' serves as the legal foundation that guides the process of proving ownership of land through possession in Nigeria, ensuring that property rights are protected and upheld in accordance with the law.

2.1.2 Land Use Act, 1978

The Act is the cornerstone of statutory land law in Nigeria, centralizing control of land under the government and setting the legal basis for land ownership, rights of occupancy, and the criteria for proving possession and ownership.

² CFRN, 1999 as amended s.43

It serves as a critical legal framework This section vests all land in each state in the governor, to be held in trust for the benefit of Nigerians³. It forms the basis for the governor's authority to grant rights of occupancy, both statutory and customary, which is foundational for claims of possession and ownership. Additionally, Section 34 is important, as it provides for the recognition of rights of persons in possession of land prior to the commencement of the Act. This section essentially preserves existing rights of possession, which can be critical when asserting ownership based on long-term possession.

Section 36 of the Land Use Act recognizes the significance of possession in establishing ownership rights over land⁴ It acknowledges that possession can be a crucial factor in determining ownership, especially in cases where formal documentation may not be readily available or clear.

Furthermore, Section 36 of the Land Use Act emphasizes the importance of actual occupation and use of the land as a basis for ownership claims. It underscores the idea that possession, when coupled with other supporting evidence, can help substantiate ownership rights under the Act. Individuals seeking to prove ownership of land based on possession can gain insights into the legal framework and requirements for utilizing possession as a valid means of establishing ownership in Nigeria. Section 34 of the Land Use Act provides that "the Governor may grant a statutory right of occupancy to any person or organization for the use of land for any purpose." This section implies that possession is tied to the grant of a statutory right of occupancy.

Section 34 of the Land Use Act is compatible with Section 44(1) of the Constitution, which provides that no moveable property or interest of any person shall be compulsorily acquired except in accordance with a law that requires the prompt payment of fair and adequate compensation⁵.

2.1.3. Court Decisions and Judicial Precedents.

When looking at court decisions and judicial precedents in Nigeria regarding possession as a means of proving ownership of land, one relevant case to consider is the Supreme Court case of *Ojokolobo v. Alamu*. In this case, the court emphasized the significance of possession in establishing ownership rights over land. The court highlighted that continuous and exclusive possession of land can be a strong indicator of ownership, even in the absence of formal title deeds.

Additionally, the case of *Adeyeye v. The Land Officer*⁶, is another important precedent to consider. This case underscored the principle that possession coupled with acts of ownership, such as making improvements to the land and paying taxes, can serve as compelling evidence of ownership.

By examining these court decisions and judicial precedents, individuals seeking to prove ownership of land based on possession in Nigeria can gain valuable insights into how the courts have interpreted and applied the law in similar situations. These cases can provide guidance on the legal principles and considerations relevant to using possession as a means of proving ownership of land in Nigeria.

³ Land Use Act, 1978, s.1(1)

⁴ Ibid s.36

⁵ Ibid s. 34

⁶ *Adeyeye v. The Land Officer, Ondo Division (1968) NMLR 42*

Another relevant case to consider is the case of *Idundun v. Okumagba*, which is indeed relevant. In this case, the Supreme Court emphasized the importance of possession as a fundamental element in establishing ownership rights over land. The court highlighted that long and uninterrupted possession of land can be a strong indicator of ownership, even in the absence of formal title documents.

By considering the *Idundun v. Okumagba*'s case along with other relevant court decisions and judicial precedents, individuals can gain a comprehensive understanding of how possession is viewed and utilized as a means of proving ownership of land in Nigeria⁷. These cases collectively provide valuable insights into the legal principles and considerations surrounding the use of possession to establish ownership rights in land disputes.

2.1.4. Conveyancing and Law Property Act of 1881.

This is an essential piece of legislation concerning the transfer of property rights through formal documentation. Though it's an older law, its principles remain influential in Nigerian property law, especially in areas not covered by modern laws such as the Land Use Act of 1978. The Conveyancing Act, 1881 primarily governs the formal process of transferring land ownership (conveyancing) through deeds and agreements.

All conveyances of land or any interest therein must be made by deed, which formalizes the process of transferring land ownership.⁸

This process has direct implications for land possession and ownership, as proper documentation under the Act provides strong evidence of legal title, a crucial aspect when proving ownership in land disputes. In the context of this research work, possession as a means of proving ownership involves showing that an individual has a legal claim to the land, either through long-standing possession or formal documentation. The Conveyancing Act 1881 addresses this by:

Establishing the Need for Formal Transfer of Ownership: The Act outlines the requirements for the formal transfer of land (conveyancing), emphasizing that ownership must be documented through deeds or contracts. Properly executed deeds under the Act can serve as evidence of ownership, strengthening a claim of possession.

Importance of Written Contracts: According to the Act, any sale or transfer of land must be in writing. This written contract is essential in proving ownership. If a person claiming possession of land has a deed executed under the Conveyancing Act, that document would serve as prima facie evidence of ownership.⁹

Easements and Rights Attached to Possession: The Act also deals with rights attached to the land (easements), like rights of way or usage, which could strengthen claims of possession. For instance, a

⁷ *Idundun v. Okumagba* (1976) 10 SC 227

⁸ Conveyancing and Law Property Act, 1881. s.52

⁹ *Ibid* s.40

person in possession of a parcel of land who also enjoys certain easements recognized by a formal conveyance would have stronger grounds in ownership disputes.¹⁰

The Role of Trustees: The Act introduced the concept of trustees holding land for the benefit of others. In possession disputes, where legal title might be held by one party (trustee) but actual possession is with another, the relationship could influence claims of ownership. The trustee-beneficiary relationship defined by the Act clarifies legal and beneficial ownership, which may affect possession claims.¹¹

The essence of the Conveyancing Act is to provide a structured and formal method for transferring land ownership which establishes legal requirements for deeds, mortgages, leases, and the roles of parties involved in land transactions. This formalization is critical for avoiding disputes over land ownership, as it:

Prevents Fraud: The requirement of written documentation ensures that there is a clear legal record of land transactions, helping to avoid fraudulent claims over ownership.

Protects Ownership rights by making the transfer of land rights a formal process, which protects the parties involved, ensuring that the purchaser or possessor has a legally recognized claim to the land.¹²

Clarifies Title and Interests: The Act ensures that legal titles and any encumbrances on the land are recorded, providing transparency in land transactions.

There are Key Actions under the Conveyancing Act, 1881 which are briefly highlighted below;

Transfer of Ownership through Deeds: The Act outlines how land can be transferred legally, requiring formal deeds of conveyance. This deed can be used in court to prove ownership and lawful possession of the land.

Mortgaging of Land: The Act allows for land to be used as security for loans through mortgages, formalizing the rights of lenders and borrowers. In cases of default, possession might shift, influencing ownership claims.¹³

Lease Agreements: The Act regulates how leases are to be structured and formalized. If someone is in possession of land under a lease agreement properly executed under the Conveyancing Act, that lease could serve as evidence of lawful possession and could indirectly support ownership claims in some contexts.¹⁴

Trusts of Land: The Act also deals with situations where land is held in trust. In such cases, possession and ownership could be split between the trustee (legal ownership) and the beneficiary (possession). This distinction may play a role in land disputes, which is in alignment with the role of trustees highlighted above.

The Conveyancing Act, 1881 is essential to land ownership and possession as it provides a legal framework for how ownership of land is transferred, which directly affects possession. Possession of land

¹⁰ Conveyancing and Law Property Act, 1881. S.62 (1)

¹¹ Ibid s.30

¹² Ibid s.52

¹³ Ibid s.19

¹⁴ Ibid s.10

without proper documentation can be contentious, but if that possession is backed by formal deeds or contracts as required under the Act, the claim to ownership is significantly strengthened. The Act ensures that ownership is documented, provides clarity in land transactions, and plays a key role in preventing fraudulent claims over land rights, all of which are vital in proving ownership through possession in Nigerian property law.

2.1.5. Customary Land Tenure Laws.

Customary land tenure laws govern land ownership based on the customs and traditions of a particular community, focusing on the communal recognition of rights, the practical use of land, and the continued possession of land as a form of ownership. These laws are particularly strong in rural areas, where statutory laws (like the Land Use Act) have not fully penetrated, and customary practices remain dominant in determining who owns and controls land. The core essence of customary land tenure is that land ownership is derived from possession and use, rather than formal documentation, making possession a primary factor in proving ownership under customary law.

The following items are key actions under Customary Land Tenure Laws, they are:

Possession as Ownership: Under customary law, a person who is in possession of land and uses it for farming, building, or other activities is generally considered the owner. This possession is passed down through generations, further strengthening ownership claims.¹⁵

Allocation of Land: Land is allocated by traditional rulers, chiefs, or family heads. Once land is allocated, possession becomes the key indicator of ownership. The individual or family in possession of the land is recognized as the owner, provided the land is used according to the community's customs.¹⁶

Inheritance and Family Ownership: In many cases, land is inherited through families, and possession is transferred to the heirs. Under customary law, continuous possession by a family strengthens ownership claims, even in the absence of formal title documents.

Resolution of Disputes through Customary Practices: When disputes over land arise, customary courts or community leaders typically resolve these disputes by examining who has been in possession of the land and for how long. The courts look at evidence of possession, cultivation, or community recognition to determine ownership.¹⁷

Customary land tenure laws are deeply intertwined with the concept of possession as a means of proving ownership in Nigeria. These laws recognize possession, use, and community acknowledgment as primary methods of establishing land ownership, particularly in rural areas. Possession under customary law, especially when long-standing and uncontested, can serve as a powerful form of ownership, even without statutory title. For this research work, customary land tenure laws highlight how possession remains a vital component in proving ownership of land, particularly in contexts where formal documentation may be absent or secondary to communal practices.

¹⁵ Land Use Act, sec 36.

¹⁶ Ibid s.6.

¹⁷ Ibid s.6(3).

Customary land tenure systems in Nigeria are not codified in a single statutory law like the Land Use Act or the Conveyancing Act. Instead, they are derived from various customary practices and traditions, which vary from community to community across Nigeria.

2.1.6. Property and Conveyancing Law of Western Nigeria, 1959.

The Property and Conveyancing Law provides that “a person in possession of land shall be deemed to be the owner thereof, unless the contrary is shown.”¹⁸ This section establishes possession as a means of proving ownership. It primarily governs the formal process of transferring land ownership (conveyancing) through deeds and agreements. This process has direct implications for land possession and ownership, as proper documentation under the Act provides strong evidence of legal title, a crucial aspect when proving ownership in land disputes. In the context of this research work, possession as a means of proving ownership involves showing that an individual has a legal claim to the land, either through long-standing possession or formal documentation.

N/B : Section 2 of the Property and Conveyancing Law is consistent with Section 44(1) of the Constitution, which protects the right to property.

Analysis:

The Land Use Act establishes a framework for the grant of statutory rights of occupancy, which is tied to possession.

The Constitution establishes the right to ownership of land and protects the right to property.

The Property and Conveyancing Law establishes possession as a means of proving ownership, consistent with the Constitution.

In conclusion, the legal framework for possession as a means of proving ownership of land in Nigeria is established by various statutes and the Constitution. The Land Use Act, Constitution, and Property and Conveyancing Law work together to regulate the acquisition, ownership, and possession of land.

2.1.7. The Evidence Act, 2011.

The Evidence Act, 2011 in Nigeria serves as a crucial legal framework that governs the admissibility of evidence in court proceedings. When it comes to proving ownership of land in Nigeria, possession can be a means of establishing ownership under certain circumstances.

In the context of land ownership, possession refers to the physical control and occupation of the land. The law recognizes the principle of “adverse possession,” which means that if someone openly occupies and uses a piece of land without the permission of the legal owner for a certain period of time, they may acquire legal ownership of that land.

Under the Evidence Act, 2011, the possession of land can be used as evidence to prove ownership. If a person has been in possession of a piece of land openly, continuously, and without interruption for a

¹⁸ Property and Conveyancing Law of Western Nigeria, 1959. S.2

statutory period (usually 12 years in Nigeria), they may be able to claim ownership based on adverse possession¹⁹. This possession must be visible, exclusive, and must not be hidden or secretive.

However, it's important to note that mere possession alone may not always be sufficient to prove ownership, especially if there are competing claims or disputes over the land. Other evidence such as title deeds, surveys, witness testimonies, and documents showing how the land was acquired can also be crucial in establishing ownership.

In summary, under the Evidence Act, 2011 in Nigeria, possession of land can be a means of proving ownership, particularly through the principle of adverse possession if the possession is open, continuous, and exclusive for a statutory period. Additional supporting evidence may also be necessary to strengthen the claim of ownership in cases of disputes.

Also a key aspect to this Act includes;

Possession as evidence: it refers to the legal principles that possession of a property or item can be used as evidence to prove ownership or rights over it.

Section 148 states that possession may be proved by:

- Direct evidence (e.g., testimony of witnesses)
- Circumstantial evidence (e.g., documents, records)
- Inference from circumstances (e.g., long-term possession)

The Evidence Act, 2011 provides a structured approach to proving ownership through possession, guiding courts in evaluating evidence and making informed decisions.

2.2 INSTITUTIONAL FRAME WORK

Here are the 3 institutions with their powers, relevance, laws, decided cases, strengths, and weaknesses:

2.2.1 Federal and State Governments

The Federal and State Government are a very vital institutions as regard possession as a means of proving land ownership in Nigeria. They are vested with the control and ownership of all and every land in the federation as carried the LUA, 1978²⁰.

Powers:

Grant rights of occupancy and issue certificates of occupancy (Land Use Act, Section 34)

Allocate land and resolve disputes (Land Use Act, Section 6)

¹⁹ EA, s.146

²⁰ Land Use Act, 1978, s. 1.1

Relevance: Play a crucial role in recognizing possession as a means of proving ownership

Law: Land Use Act, Cap L5, Laws of the Federation of Nigeria, 2004

Decided Cases:

Ojukwu v. Governor of Lagos State (1986) 1 NWLR (Pt. 18) 621

Akindele v. Governor of Oyo State (2013) 10 NWLR (Pt. 1361) 321

Strengths: Provide executive oversight and a centralized system for land administration

Weaknesses: Can be slow, bureaucratic, and subject to political influence.

2.2.2. Land Registry and Survey Agencies

The Land Registry coordinates and takes note of the following: record keeping of all relevant land transactions in Nigeria, issuance of deed of release, issuance of loss of documents, conducting relevant surveys and issuance of certified true copies of documents.

It's powers include:

Maintain records of land ownership and possession (Land Use Act, Section 7)

Conduct surveys and mapping to determine land boundaries (Surveyors Act, Cap S28)

Relevance: Essential for verifying possession claims and establishing boundaries

Law: Land Use Act, Cap L5, Laws of the Federation of Nigeria, 2004; Surveyors Act, Cap S28

Decided Cases:

Okonkwo v. Okonkwo (2015) 15 NWLR (Pt. 1483) 21

UBA v. Ogboru (2015) 13 NWLR (Pt. 1479) 1

Strengths: Provide a centralized database for land records and accurate boundary determination

Weaknesses: Can be prone to errors, inconsistencies, and bureaucratic delays.

2.2.3. Traditional and Customary Institutions

Powers: - Recognize customary possession and ownership (Customary Law)

Resolve land disputes through traditional mechanisms (Customary Law)

Relevance: Essential in recognizing possession as a means of proving ownership, especially in areas where customary law prevails

Law: Customary Law (varies by region and community)

Decided Cases:

Ojukwu v. Governor of Lagos State (1986) 1 NWLR (Pt. 18) 621

Mogaji v. Odofin (2001) 12 NWLR (Pt. 727) 298

Strengths: Provide a localized and culturally relevant framework for land administration

Weaknesses: Can be inconsistent, vulnerable to manipulation, and lack formal documentation.

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CHAPTER THREE

DISCOURSE

3.1 Introduction

To discuss the concept of possession as a means of proving ownership of land in Nigeria, within the context of the country's legal and institutional framework.

Introduction (Discourse):

The concept of possession plays a crucial role in determining ownership of land in Nigeria. However, the discourse surrounding possession is complex and multifaceted, involving various legal, institutional, and cultural dimensions. This chapter delves into the nuances of possession as a means of proving ownership, examining the interplay between statutory and customary laws, institutional frameworks, and traditional practices. By exploring the discourse surrounding possession, this chapter aims to provide a comprehensive understanding of the dynamics shaping land ownership and possession in Nigeria.

By examining the discourse surrounding possession, the chapter would provide a rich understanding of the complex factors influencing land ownership and possession in Nigeria.

3.2 Conceptualizing Possession

Possession is a fundamental concept in property law, particularly in the context of land ownership. It refers to the physical control or occupation of land, coupled with the intention to hold it as one's own. In legal terms, possession is more than just physical presence on the land; it involves both a factual and a legal element.

Just like the term ownership, it is also pertinent to note that the term possession is not subject to one specific definition. However, there have been numerous definitions rendered by judicial interpretation and experts opinions from textbooks on law.

Black's Learned Dictionary (*supra*) at page 1163 defines Possession as follows: - "Having control over a thing with the intent to have and to exercise such control. The detention and control, or the manual or ideal custody of anything which may be the subject of property, for one's use and enjoyment, either as owner or as the proprietor of a qualified right in it, and either held personally or by another who exercises it in one's place and name. Act or state of possessing".²¹

²¹ See black law's dictionary , (5th Ed.) PG. 1047

Now, possession of property or a parcel of land means the occupation or physical control of the property or parcel of land by a person either personally or through an agent or servant²²

For the purposes of the law in these circumstances, it is important to note that occupation of land and long term possession have all been held to be evidence of possession.²³

Possession may mean effective physical or manual control or occupation of land- de facto possession – as well as possession animus possidendi together with that amount of occupation or control of the land which is sufficient to exclude other persons from interfering – de jure possession.

What are the types of possession?

The main types of possession are actual and constructive possession. Each type of possession involves different levels and forms of control, knowledge, and use of an asset.

Actual possession, also called possession in fact, is used to describe immediate physical contact. This case from New York explains that “actual possession is what most of us think of as possession—that is, having physical custody or control of an object.”²⁴

For example, if you find that the defendant had the drugs on his or her person, you may find that he or she had possession of the drugs. However, a person need not have actual physical custody of an object in order to be in legal possession of it

Actual possession likely concerns whether the defendant physically had control over the contraband or illegal items in question, a common issue in criminal cases involving drugs, weapons, or other illegal substances. “Actual possession” in legal terms means having direct physical control or custody of an item. This contrasts with “constructive possession,” which occurs when someone has the power and intention to exercise control over an object, even if they do not physically possess it at the time. In many drug or firearm-related cases, the court examines evidence to determine whether the defendant was in actual possession of the contraband. This could include finding illegal substances directly on the person or in their immediate control (e.g., in a pocket or a vehicle they are driving).²⁵

Constructive possession is the legal possession of an object that is not in the person’s direct physical control. Like other “constructive” meanings, constructive possession legally functions as actual possession in a variety of ways.

²² NITEL Plc v. Rockonoh Property Co. Ltd (1995) 2 NWLR (Pt 378) 473.

²³ Ajero v ugorji (2014)

²⁴ Possession/wex/US law/LII/Legal information institute.

²⁵ United States v. Jorge Nenadich, New York

In criminal law, establishing constructive possession is often done to further prosecutions for possession crimes, such as possession of illegal drugs.

In property law, establishing constructive possession grants the owner the right to obtain physical control and/or a variety of rights over someone else's physical control of that property.

Generally, for a court to find that a person had constructive possession of an object, the person must have had knowledge of the object, and as well as the ability to control it.

Where mere existence of a firearm in a borrowed car could not uphold constructive possession, constructive possession cannot be established on the basis of ability to control alone. In *U.S. v. Bailey*, the court didn't directly rule on possession but interpreted actions relating to control and responsibility in a way that parallels the logic of constructive possession.²⁶

The case clarified that a person can still be held accountable if they intentionally put themselves in a situation where they had control or influence over a criminal act, even if they did not have direct physical possession.

Constructive Possession occurs when a person does not have actual physical control over an object (like drugs or firearms) but has the power and intention to exercise control over it, either directly or through others. The courts typically consider whether the individual had:

*Knowledge of the item's existence. *The ability or intent to exercise control over it.

3.3. Challenges in relying on possession to prove ownership of land.

In Nigeria, possession is a significant factor in proving ownership of land, but it comes with several challenges, particularly because possession alone may not conclusively establish ownership. Below are some of the key challenges associated with relying on possession to prove ownership of land in Nigeria:

1. Legal Distinction Between Possession and Ownership

Possession vs. Ownership: Possession refers to physical control or occupation of land, while ownership implies legal title. In Nigerian law, having possession of land does not automatically equate to ownership, particularly if a legal title exists elsewhere.

Challenge: A person in possession may not necessarily be the owner, as legal title or ownership could be held by another individual or entity. Courts often prioritize documentary evidence, like a Certificate of Occupancy (C of O), over mere possession.

2. Customary vs. Statutory Rights

²⁶ *U.S. v. Bailey* (1980)

Customary Possession: Under customary law, possession of land, often inherited or passed through family lines, can be seen as ownership. However, the statutory framework, particularly under the Land Use Act of 1978, may conflict with customary practices.

Challenge: Proving ownership through possession based on customary law may be insufficient in statutory courts, which often require formal documentation, creating complications for those relying solely on possession without legal titles.

Onwugbufor's case illustrates the difficulty of relying solely on possession to prove ownership in statutory courts, where formal legal principles regarding land ownership, particularly under the Land Use Act and statutory titles, take precedence.²⁷

3. Multiple Claimants

Conflicting Claims: One of the common problems in Nigeria is multiple individuals claiming possession of the same land, sometimes based on different legal frameworks (e.g., customary rights vs. statutory rights).

Challenge: Courts are tasked with resolving conflicting claims where multiple parties may be in possession at different times or under different understandings of ownership. This leads to complex litigation, often requiring substantial documentary evidence to determine the rightful owner.

4. Adverse Possession

Concept of Adverse Possession: In Nigeria, adverse possession allows someone who has occupied land without legal title for a long time to potentially claim ownership. The plaintiff's claim to the land through adverse possession was valid, since the statutory period had passed without any action from the original owner to assert their rights. This case affirms that adverse possession can lead to ownership if the conditions of continuous, and uninterrupted possession for the requisite period are met. However, this is not an automatic process and requires that possession be exclusive, and without the permission of the legal owner.²⁸

Challenge: Proving the conditions of adverse possession can be difficult, as the claimant must show uninterrupted possession for the statutory period, which is often contested by the legal titleholder.

5. Lack of Clear Boundaries and Documentation

Undocumented Land: Many land transactions, especially in rural areas, are conducted informally without proper documentation or boundary demarcations. This can lead to disputes over who possesses which portion of land.

²⁷ Onwugbufor v. Okoye (1996) 1 NWLR (Pt. 424) 252

²⁸ Adebambo v. Olowosago (1985) 3 NWLR (Pt. 11) 207

Challenge: Courts often require clear documentation to establish boundaries, and the lack of formal documentation undermines the ability of those in possession to prove ownership. This is especially problematic in areas governed by customary laws.

6. Difficulty in Proving Long-term Possession

Length of Possession: Nigerian courts consider long-term possession as a factor in ownership, but proving the duration of possession often relies on witness testimonies or other indirect evidence.

Challenge: The lack of objective evidence, such as land records or legal contracts, makes it difficult to convincingly establish long-term possession, leading to contested claims.

7. Judicial Corruption and Inefficiency

Judicial Corruption: Corruption within the judiciary can hinder the fair resolution of land disputes. Cases where possession is relied upon as proof of ownership may be undermined by bribery, manipulation, or bias.

Challenge: Individuals without access to resources or influence may struggle to have their possession recognized as valid ownership, especially when facing wealthier or more powerful adversaries.

8. Impact of the Land Use Act (1978)

Governor's Consent Requirement: The Land Use Act places land under the control of the state governor, and individuals must obtain the governor's consent for certain land transactions. This can complicate possession claims, especially if the state disputes the individual's right to occupy the land.²⁹

Challenge: Those in possession without formal approval or documentation from the government may face difficulties in proving ownership in statutory courts, even if they have been in possession for a long time.

9. Fraud and Forgery

Fraudulent Claims: The prevalence of fraudulent land transactions, such as forged documents or fake title deeds, complicates the use of possession as proof of ownership.

Challenge: Claimants who possess land may find themselves contesting ownership with parties who present fraudulent documentation, creating lengthy and complex legal battles.

10. Compulsory Acquisition by Government

²⁹ Land Use Act, 1978 (s.22)

Government Intervention: The government has the power to acquire land for public purposes under the Land Use Act. This can nullify any claims based on possession, even if a person has been in occupation for years.

Challenge: Proving ownership through possession becomes irrelevant if the government decides to compulsorily acquire the land for public use, with only statutory compensation offered.

Possession, while important, faces several challenges as a means of proving ownership in Nigerian courts. The distinctions between possession and legal ownership, conflicting claims, lack of documentation, and the complexities of the Land Use Act all present obstacles. To overcome these challenges, it is important for claimants to supplement possession with proper documentation, seek legal regularization where necessary, and explore alternative dispute resolution mechanisms when formal court processes are difficult to navigate.

Various Implications of Possession for Land Ownership Claims are noted below :

Possession can significantly impact land ownership claims, especially in jurisdictions like Nigeria, where formal documentation may be incomplete or contested. The concept of possession bridges the gap between customary practices and statutory requirements, providing a basis for claiming ownership in the absence of formal titles. Any action to recover land must be brought within 12 years from the date the cause of action arose.³⁰ This means that if someone has been in continuous and uninterrupted possession of land for more than 12 years without challenge, the rightful owner may lose the ability to recover the land. Further supporting this by stating that after the expiration of the limitation period, the title of the original owner is extinguished, giving the possessor a potential claim to ownership.³¹

These provisions allow possession to play a significant role in ownership claims, especially where formal documentation is lacking or contested. Possession, when coupled with statutory timelines, can create a legal basis for ownership even in the absence of a formal title, legal practitioners and courts can better assess the validity of ownership claims ensuring that both customary and statutory obligations are respected in land disputes.

3.4. Land Ownership and Possession in Nigerian Discourse

In Nigerian discourse, the concepts of land ownership and possession are central to understanding the country's land law system, particularly following the implementation of the Land Use Act of 1978. Here's an explanation of the key issues:

- Land Ownership Before the Land Use Act:

³⁰ Limitation Act(statutes of limitation) s.16.

³¹ S.17 (Limitation Act)

Traditionally, land in Nigeria was owned based on customary practices, with communities, families, or individuals having control over land passed down through generations. This form of ownership was not formalized through legal documentation but was recognized and respected within the community.

- Land Use Act of 1978:

The Land Use Act of 1978 revolutionized land ownership in Nigeria by placing all land under the control of state governors. The Act aimed to streamline land management, ensure equitable access to land, and curb the powers of traditional authorities. Under this system:

Ownership : Legal ownership of land is vested in the governor of the state, who holds the land in trust for the people.

Rights of Occupancy : Instead of owning land outright, individuals and entities are granted a right of occupancy by the governor (statutory right of occupancy) or by traditional rulers (customary right of occupancy).

- Legal vs. Customary Ownership:

Statutory Ownership : This refers to land that is formally documented under the Land Use Act, with holders being issued a Certificate of Occupancy (C of O). This certificate provides legal recognition of the holder's right to occupy and use the land.

Customary Ownership: In rural areas, land is still often governed by customary law, where ownership and land use are controlled by traditional norms. Even though the Land Use Act seeks to formalize ownership, many communities continue to adhere to customary practices, which leads to dual systems of land control.

Despite the introduction of the Land Use Act in 1978, which centralized land ownership under the state, customary land practices continue to play a significant role, especially in rural areas. T.O. Elias highlighted the distinction between legal and customary ownership in Nigeria, noting that customary ownership is rooted in communal traditions, where land is held in trust by families or communities. In contrast, legal ownership, shaped by statutes like the Land Use Act of 1978, centralizes land under government control, with individuals holding occupancy rights rather than full ownership. Elias emphasized the tension between these systems and the need for a framework that balances statutory law with customary practices.³²

- Possession vs. Ownership:

While the government holds legal ownership of land, individuals can possess land through the right of occupancy. Possession allows people to use the land, build on it, farm, or engage in other economic activities. However, possession under the Land Use Act is subject to regulations, and the right to the land can be revoked by the government if certain conditions are not met (e.g., failure to pay rent or using the land improperly).

³² See Elias T.O (1951) Nigerian Land Law and Custom.

- Challenges in the System:

The discourse on land ownership and possession is marked by several challenges:

Tensions between statutory and customary systems : Many rural communities resist the formal legal frameworks, leading to conflicts between modern legal systems and traditional practices.

Land disputes and access : Conflicts over land ownership are common, especially where formal documentation does not exist, or where multiple parties claim rights under both statutory and customary systems.

Economic implications : Land is a crucial asset for development in Nigeria, but issues with tenure security and access to land often hinder economic progress.

- Judicial Role:

Courts play an important role in resolving land disputes. Judicial precedents shape the interpretation of the Land Use Act, especially where the Act conflicts with customary law. Judges often balance statutory rights with respect to customary practices, making the legal landscape complex and evolving.

In essence, land ownership in Nigeria under the Land Use Act shifts formal ownership to the state while allowing individuals to possess and use land through various rights of occupancy. However, customary practices still influence land control, particularly in rural areas, resulting in a unique blend of legal and traditional systems in land governance.

Core Focus: ADEOYE highlights how the judiciary, through its interpretation of the Land Use Act and earlier colonial land laws, has significantly influenced the trajectory of land law in Nigeria. Courts have been tasked with resolving the inherent conflicts between statutory law (like the Land Use Act) and customary land practices, which still dominate many rural areas. Talking on judicial flexibility, The article discusses how the judiciary has shown flexibility in interpreting land law, especially in complex cases where statutory laws do not clearly address issues rooted in customary land ownership. For instance, judges have sometimes interpreted statutory provisions to align with customary practices to avoid injustice in rural communities where customary law still holds sway.³³

3.5. Critical Discourse Analysis

³³ Adeoye S.O (1992) journal of African law 36(2) pp. 153-169

Oladiji's Critical Discourse Analysis (CDA) examines how legal texts, such as the Land Use Act and judicial rulings, prioritize formal ownership over customary possession in Nigerian land law. He highlights that the language of these legal texts centralizes power with the government, marginalizes traditional landholders, and reflects modern legal ideologies that favor formal documentation. While courts sometimes recognize possession, they mostly uphold statutory titles, reinforcing social inequalities. Oladiji advocates for legal reforms that better integrate customary land practices with formal laws to protect possessors, particularly in rural areas.³⁴

There are various remedies available for persons violated of their right of ownership by possession, which are as follows;

If a person's right of ownership is violated by possession, various legal remedies are available, depending on the jurisdiction. In Nigeria, for instance, such remedies include:

1. Injunction: A court order to restrain the wrongdoer from further interference with the owner's possession or rights over the property.
2. Ejectment: The rightful owner can file for ejectment to regain possession of their property from a trespasser or unlawful possessor.
3. Damages: Compensation can be sought for the wrongful possession, including loss of use or any damage to the property.
4. Declaration of Title: The court may declare the legal ownership of the plaintiff to establish their rights over the property.
5. Recovery of Possession: The court may order the return of possession to the rightful owner.
6. Specific Performance: If the violation is related to a contractual obligation concerning the property, the court may order the breaching party to fulfill the contract terms.

These remedies protect ownership rights under the law, including the Land Use Act of 1978 in Nigeria.

When someone is accused of violating another person's right of ownership through possession, several defenses may be available, depending on the circumstances and the legal framework in the relevant jurisdiction. Here are some common defenses:

1. Adverse Possession

³⁴ Oladiji, F. (2017). A Critical Review, *Journal of African Law*, 61(3), 475-489

Explanation: This defense is based on the principle that if someone has occupied land openly, continuously, and without permission for a statutory period (often 12 years or more), they may acquire legal ownership of the land.

Application: The defendant would argue that their possession has met all the requirements for adverse possession, thus giving them ownership rights despite the other person's title. It helps clarify when someone can lawfully assert ownership over land they have possessed without the owner's consent.

2. Consent or License

Explanation: The defendant may claim that they were given permission or a license to occupy the land, either through express consent (verbal or written) or implied consent from the owner.

Application: If the defendant can prove that the owner authorized their possession, the allegation of violation may fail.

3. Estoppel

Explanation: If the owner has made representations or behaved in a way that led the defendant to believe they had a right to possess the land, the owner may be "estopped" (prevented) from asserting their ownership rights.

Application: The defendant may argue that they relied on the owner's conduct or statements to their detriment. In the case below, the court recognized proprietary estoppel and held that where a party has been allowed to act on the belief that they have an interest in land, and they alter their position to their detriment based on that belief, the original owner may be estopped from asserting ownership that contradicts those representations.³⁵

4. Prescription

Explanation: Similar to adverse possession, prescription refers to the acquisition of rights over another's property through long-term use. This could relate to easements or other rights connected to the land.

Application: The defendant could argue they have acquired certain usage rights due to the passage of time.

5. Mistake of Fact

Explanation: The defendant may argue that they mistakenly believed the land in question was their own or that they had some other legitimate reason to think they had the right to possess it.

Application: This defense could reduce or eliminate liability if the mistake was reasonable and in good faith.

³⁵ Savage v. Sarrough (1937) 13 NLR 141

6. Laches (Delay): If the owner waited too long to assert their rights, and this delay has prejudiced the defendant, the doctrine of laches could bar the owner's claim.

Application: The defendant might argue that the owner's delay in enforcing their rights has resulted in unfairness or changed circumstances.

7. Tenancy or Leasehold Rights

Explanation: The defendant may claim that they are a tenant or leaseholder with lawful possession under a rental or lease agreement.

Application: By showing that they possess a valid lease or tenancy agreement, the defendant can justify their presence on the land.

8. Statutory Defenses

Explanation: Some jurisdictions have specific statutory provisions that provide defenses to claims of unlawful possession, especially in cases involving tenants, squatters, or customary landholding practices.

Application: For example, the Nigerian Land Use Act of 1978 has specific provisions that could be invoked, depending on the nature of the land and the parties involved.

9. Customary Rights

Explanation: In jurisdictions where customary law governs land rights, the defendant may argue that they have a right to possess the land based on local customs and traditions.

Application : In Nigeria, for instance, someone may defend against claims by asserting that they hold the land under customary tenure recognized by local norms.

Each of these defenses would need to be supported by evidence and tailored to the specific facts of the case.

The Authors include a discussion of landmark cases that have shaped the doctrine of possession as a defense in land law. These precedents can provide valuable insights into how courts have historically handled disputes between possessors and owners, helping to guide legal strategy in defending against allegations of ownership violations.³⁶

The cases below are two significant UK house of lords cases inline with it .

1. Pye v Graham [2003] :

This case established the concept of "proprietary estoppel," which prevents a landowner from denying someone else's interest in their land if they've promised or led them to believe they have a stake in it.

2. Thorner v Major [2009] :

³⁶ Kevin Gray & Susan Francis Gray, Elements of Land Law (5th ed., Oxford University Press, 2009).

This case further clarified proprietary estoppel, particularly in the context of informal promises and family arrangements.

These cases demonstrate the importance of considering proprietary estoppel in disputes over land ownership and informal agreements.³⁷

N/B: Re-entering a property after being lawfully evicted can lead to a charge under sec.27 of the RPA, punishable by up to six months in prison or a fine.³⁸

3.6. Merits and demerits of relying on possession as a means of proving ownership of land in Nigeria.

Relying on possession as a means of proving ownership of land in Nigeria has both merits and demerits.

Merits:

- **Simplicity:** Using possession as proof of ownership can be a straightforward method, especially in cases where formal documentation is lacking or unclear. It can provide a simple and practical way to establish ownership.
- **Historical Context:** In many traditional societies in Nigeria, land ownership has been based on possession and continuous occupation over generations. Recognizing possession can help uphold customary land tenure systems.
- **Preservation of Rights:** Possession can protect the rights of individuals who have occupied and used the land for an extended period without formal documentation. It can prevent disputes and secure the interests of long-standing occupants. Property and Conveyancing law supports the transfer of ownership through a conveyance, but recognizes possessory rights as part of an individual's interest in land.³⁹ Under customary law, a person's possession can create rights over land, even without formal documentation.

Demerits:

- **Insecurity:** Relying solely on possession can lead to insecurity of land tenure. Without formal titles or legal documentation, individuals may face challenges in defending their ownership rights against competing claims.
- **Legal Ambiguity:** Possession-based ownership can lack legal clarity and may be subject to interpretation. This ambiguity can result in disputes, especially when multiple parties claim possession of the same land.

³⁷ SEE *Pye v Graham* [2003] UKHL 30, *Thorner v Major* [2009] UKHL 18.

³⁸ Recovery of Premises Act. S.27. Cap 544 LFN (Abuja) 1990

³⁹ Property and Conveyancing Law, 1959 (Applicable in Western Nigeria)

- Limited Protection: Possession alone may not provide comprehensive protection of ownership rights. Formal land titles offer stronger legal protection and can facilitate transactions such as sales, leases, or mortgages more effectively. The court emphasized that possession alone is not conclusive proof of ownership if the possessor cannot establish a legitimate right to occupy the land.⁴⁰

While possession can serve as a practical way to establish ownership in Nigeria, it is essential to consider its limitations, such as legal insecurity and ambiguity. Combining possession with formal documentation, such as land titles, can provide a more robust and secure framework for land ownership.

In Conclusion, this Research work discusses the concepts of ownership and possession of land under Nigerian law. It defines ownership as the most complete legal relationship over property, giving the owner absolute rights to use and dispose of the land. Possession is a lesser right that can exist when the owner grants another party temporary control and occupation of the land. The document outlines five methods for proving ownership of land established by Nigerian courts: traditional evidence, documents of title, acts of ownership over time, long possession, and ownership of adjacent land. It also discusses the rights that come with ownership, such as unlimited alienation and exclusive use and enjoyment, and limitations on those rights imposed by law.

⁴⁰ Adeleke v. Iyanda (2001) 13 NWLR (Pt. 729) 1

CHAPTER FOUR

CONCLUSION AND RECOMMENDATIONS

In wrapping up this academic research, the final chapter covered the following three sub-topics: conclusion, summary of findings and recommendations.

4.1 CONCLUSION:

In conclusion, this project has critically appraised the role of possession in proving ownership of land in Nigeria, filling a significant gap in existing literature. Through a doctrinal research methodology, this study has examined the complexities of possession as a means of proving ownership, considering both statutory and customary laws. The findings reveal that while possession is a relevant factor, it is not the sole determinant of ownership. Customary law plays a significant role, particularly in rural areas, but its application varies across regions. This study recommends clarifying the role of possession, integrating customary law with statutory law, improving land documentation, and increasing awareness.

Furthermore, it highlights the need for judicial training and alternative dispute resolution mechanisms. By addressing these issues, Nigeria can move towards a more effective and equitable system for resolving land ownership disputes.

Ultimately, this research contributes to the development of a comprehensive framework for land ownership in Nigeria, aligning with international best practices while considering local nuances.

4.1.1 SUMMARY OF FINDINGS

These findings highlight the complexities of using possession as a means of proving ownership of land in Nigeria, emphasizing the need for a nuanced understanding of the interplay between customary and statutory law.

In exploring the research topic for this project work, the researcher came across the realization that:

- Possession cannot be used as a sole means of proving ownership of land in Nigeria.
- The Extent of customary laws influence varies across regions and communities, and its application is often subject to judicial interpretation.

4.1.2 RECOMMENDATIONS

From the discoveries mentioned earlier, the researcher now puts forward the following recommendations to the Government:

- Enhancing land registration processes, making it easier for individuals to obtain formal titles and reducing reliance on possession as proof of ownership.
- Providing clear guidance on the weight of possession in proving land ownership, ensuring consistency in application.
- Efforts should be made to harmonize customary law with statutory law, recognizing the significance of customary practices while ensuring fairness and consistency.
- Public awareness campaigns should be conducted to educate citizens on the importance of formal land documentation and the role of possession in land ownership.

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