

An Evaluation of Registration of Private Land Instruments and Title in Anambra State of Nigeria

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ABSTRACT

This study evaluated the registration of private land instruments and title in Anambra State of Nigeria. Explicitly, the objectives of the study were to examine the registration of private land instruments and title in the State and identify the possible ways of improving it. The design adopted for the study was survey research design. The population consisted 32 Staff of the Ministry of Lands Awka mostly Estate Surveyors and Valuers involved in land instrument registration, as well as 7,239 successful applicants between 2008 to 2019 who had in one way or the other witnessed the rigours of the application process and whose contact information are still with the Ministry; this formed the sample size of the study. The result of the study revealed that there is a decline in the registration of private land instruments and title in the State. This showed an increased registration between the years 2016 to 2017 and a decline between 2014 to 2015. The challenges for the registration are complexity of the registration process and none provision of essential documents like cadastral maps and base maps among others. These challenges if addressed will go a long way in enhancing the registration of private land instruments and title within the State. It was recommended among others that there will be reduction in official fees chargeable for the registration of private land instruments and title within the State and fast-tracking of processes of registration to encourage ease of doing business.

KEYWORDS: Registration, instrument, title, document, process, decline, challenges, Anambra State

I. INTRODUCTION

Land title and instrument registration encompasses the careful act of keeping land ownership information and land related transactions for safe storage and easy reference. It documents and/or registers the rights or interests on a subject land. Land title registration, with formal evidence of ownership such as a Certificate of Occupancy and formal documentation of land transactions in public land registries, are essential to the efficient functioning of the land markets. For instance, land titling stimulated land markets in Thailand where titling project increased the number of households engaged in land transaction and in Davao, Jakarta, Indonesia where tenure security such as having a registered title strongly affected land prices (Feder and Nishio, 1999). Title documents provide confidence to market operators and are important aspects of security of tenure. Land registration is vital to the security of tenure and the security of tenure enhances investments in land. In particular, access to land with secure tenure is significant to urban housing delivery. This is important to Nigeria as it faces a severe urban housing shortage. The overall housing deficit is estimated at 17 million units as of 2014 (The Nigeria Housing Finance Programme, 2014). Land registration emanated from the British system in 1862 but came into use in Nigeria in 1924. (Federal Ministry of Housing and Urban Development, 2006). However, despite this relatively long history of land registration and the importance of land registration to land market operations, the level of land title registration is low (Federal Ministry of Housing and Urban Development, 2006).

Interestingly, Nuhu (2009) found a high level of compliance with land registration by landowners with 82% of the 40 respondents having their land registered. Nuhu however questioned whether the land owners had complied with what he called contemporary registration. While these studies assess the land registration processes within Nigerian context, none focused on identifying the challenges to land registration in Nigeria. There is a clear gap in the literature and as such this research is essential to addressing the lingering problems of land registration in the country. Existing research on Nigeria's land markets does not interrogate land registration issues with respect to private lands in Anambra State. Land administration in Nigeria is the responsibility of individual states in accordance with the Land Use Act, 1978. The Act vests all land within the territory of each state in the Governor of that state to hold in trust and administer it for the use and benefit of all Nigerians (Section 1, Land Use Act, 1978). Each state prescribes its own system according to its needs.

Anambra State within the tenements of the above, have assigned the registration of all documents and title relating to land to the State Land Registry (an arm of the Anambra State Ministry of Land) which was established by Sections 8 (1) and (2) of Land Instruments Preparation and Registration Law cap 75, of the Revised Laws of Anambra State, 1991 ("LIPRL") as the paramount office for the registration of all land instruments and titles within the State. As such, a title or document relating to landed property (ies) in Anambra State could be said to be registered if its records of transactions or interest is found with the State Land Registry. However, the reasons why registration rarely occurs and possible ways of improving them is what this study entailed. There are studies in Nigeria's land markets which have either investigated land registration or have alluded to it. They include Ojo (2014) who researched end-users' satisfaction on land title registration process in Akure, Ondo State found end-users' dissatisfaction as a significant factor that make the title registration process difficult. In addition, Nuhu (2009) investigated approaches to enhance land titling and registration in the Kongila neighbourhood of Minna, Niger State. Some of these studies found constraints to land registration. Babatunde, Kemiki, Abdulkareem and Fabunmi (2014); and Olanlere and Agbato (2014) found ignorance, high processing costs, delays and lengthy processes, extortion of money by officials, and government insensitivity to be obstacles to land registration.

This study therefore addressed some of the constraints highlighted above in a bid to improving the practice.

II. REVIEW OF RELATED LITERATURE

Concept of Instrument registration in Nigeria

The history of documentation of Instruments affecting land in Nigeria seems to date back to 1883 when compulsory registration of deeds was introduced first in the colony of Lagos by the Registration Ordinance of 1883 (Oluyede, 1978). At that time, the Britain made a colony and protectorate of Nigeria, there was a multiplicity of land tenure systems in the Country. These diverse systems of land tenure existed; customary, non-customary and special system of land tenure which was applied in the former Northern Nigeria.

Customary land tenure system is a system of landholding indigenous to the people, and like all other customs, it varied from place to place. The system was pure and free from external influences, values and judgments. The basic rule under customary law is that land belongs to the villages, communities or families with the Chief, community or the family head as the 'manager' or 'trustee', holding the land in trust for the use of the whole community or family. Title to land under customary law is vested in the corporate unit. Under Native law and custom, land did not belong to a single individual. It was vested in a community as a whole, the Village or in the family (the extended family) as a group.

Land Registration: The land registration statute in Nigeria; Related concepts

The Wikipedia free Dictionary describes Land Registration generally as systems by which matters concerning ownership, possession or other rights in land can be recorded (usually with a government agency or department) to provide evidence of title, facilitate transactions and to prevent unlawful disposal. Registration therefore provides a safe and easy means of recording transactions on land since the benchmark of any transaction on land is security of title, which unregistered conveyance does not guarantee.

There are three types of Land Registration in Nigeria according to Oluyede (1978); these include;

- i. Registration of Title,
- ii. Registration of encumbrances or charges, and
- iii. Registration of Instruments

Registration of Title

This system of registration confers on every purchase a title guaranteed by the state. It differs from the other types in that;

- i. The system deals with registration of the whole title to the land and not merely each individual transaction.
- ii. The registrar not only investigates the title but also, when satisfied, guarantees it.
- iii. Registration of title normally puts an end to the usual investigation of title. Titles which may or must be registered; Freeholds, Leaseholds, State Grants and a Charge.

Registration of encumbrances

This system provides various registers in which any person claiming to be entitled to certain encumbrances on any registered land should register his claims. There is no investigation or guarantee by the registrar; all that the applicant need do is to complete a form containing the necessary particulars and file it in the appropriate registry. The object is to enable a purchaser of land to discover as soon as he makes his search of the register what encumbrances exist.

Registration of Instruments

According to Oluyede (1978), this system of registration involves the registration on public register of brief particulars of all conveyances and instruments. It is the oldest type of registration and rather limited in extent and similar to registration of encumbrances in that the registrar neither investigates nor guarantees the documents registered; but it differs from it in that a full copy of the deed must be filed with the original and the original is then returned indorsed with a statement that it has been registered.

Land Use Law Cap 77, Revised Laws of Anambra State of Nigeria, 1991.

The State Land Law, Otherwise known as Land Use Law cap 77, the Revised Laws of Anambra State, 1991 came in force on the 26th Day of August, 1991. The law is the state version of Land Use Act 1978. It provides for the vesting, occupancy and use of lands in the state and for matters connected therewith upon the Governor of Anambra State to administer for the common use of the people. Some of the provisions of this law as stated in section 3(1) postulates the designation of urban areas. However, section 4 provides the powers of the State Governor. In section 7, the law states that it shall be lawful for a Local Government in respect of land not in an urban area to grant customary rights of occupancy to any person or organization for the use of land in the Local Government area for residential, agricultural

and other purposes such as for grazing purposes and such other purposes.

Furthermore, Sections 38 and 39 provides prohibition of alienation of customary right and statutory right.

The law also made further provisions on the power of Governor to revoke rights of occupancy and compensation payable on revocation in sections 41 and 42.

Instruments and Registrable instruments

According to section 2 of the Land Instruments' Preparation and Registration Law, (LIPRL) 1991 of Anambra State, **Instrument** is defined as a document affecting land in Anambra State whereby one party (hereinafter called the grantor) confers, transfers, limits, charges or extinguishes in favour of another party (hereinafter called the grantee) or purporting to do so, any right or title to, or interest in land in Anambra State, and a certificate of purchase and a power of attorney under which any instrument may be executed, but not a will.

Generally speaking with reference from the foregoing provisions, a registrable instrument is a document which transfers or creates a right, title or interest in land in favour of the grantee. But a will is expressly excluded from the ambit of registrable instruments.

Section 24 of "LIPRL" provides, that the effect of registration shall not cure any defect in any instrument or, subject to the provisions of this law confer upon it any effect or validity which it would not otherwise have had. From the foregoing provisions, registrable instruments are as follows:

- a. Statutory right of occupancy.
- b. Customary right of Occupancy.
- c. Deed of Assignment.
- d. Deed of Surrender.
- e. Deed of Mortgage.
- f. Deed of Release (of Mortgage)
- g. Power of Attorney.
- h. Tenancy Agreement.
- i. Deed of vesting Assent.
- j. Exchange of Letters.
- k. Memorandum of Agreement

Methods of Registration

There are basically two methods of land registration in Nigeria namely:

1. Registration of Instruments.
2. Registration of Title.

1. Registration of Instruments

The Law regulating Registration of instruments in Anambra State is the Land Instruments Preparation and Registration Law cap 75, the Revised Laws, 1991. One of the common features of this method of registration is that it

deals only with registration of documents (Otherwise known as instruments) affecting land in Anambra State. The law prescribed registration of any instrument executed before or after the commencement of this law. To facilitate registration, the law established in every state a land Registry under Section 8(1) of LIPRL. Sections 9(1) and 10(1) provides for the appointment of a Land Registrar whom shall be charged with the responsibilities for the registration of instruments affecting lands in the state and to keep proper registered books and file in relation thereto.

2. Registration of Title

The basic idea behind registration of title is that it confers on every purchaser a title guaranteed by the state. According to Olawaye, a learned writer,

“The system was devised to make conveyance simple, cheap, speedy and reliable by obviating most of the difficulties and hazards to which a purchaser of land is exposed under the system of unregistered conveyance”.

Usually under the system of unregistered conveyance, a purchaser must satisfy himself from the abstract of title, the deeds, and his investigation of tile, his searches and inspection of the land must ensure that the vendor has a good title. But with the introduction of this system of registration, once the title has been investigated and put on the register, proof of title becomes easier as the register becomes an evidence of title. A purchaser or any other transferee of interest in land shall not therefore require any evidence derived from the register as well as from a statutory declaration as to what do not constitute encumbrances.

The advantage of a registered title as the Supreme Court pointed out in the case of **Onagorua v. Aderemi** is that:

The purchaser can discover from the mere inspection of the register whether the vendor has power to sell the land and what the more important encumbrances are except in the case..... This binds the proprietor of registered land even though he has no knowledge of them in the register.

Otherwise, a registered owner of land is not affected by notice of any unregistered estate, interest or claims affecting the estate of any previous owner, nor is he concerned to inquire whether the terms of any caution or restrictions existing before he was registered as owner of such land have been complied with.

Significance of Registration

Section 24 of (“LIPRL”) provides the effect of registration. From the foregoing,

registration has a number of significance which includes the following:

- a) Only titled documents registered in the Deeds/Lands Registry can be tendered in the court, in proof of title.
- b) Registration confers priority among persons who may have competing claims over the same land. Therefore disputes regarding to the ownership or rights over the land might be resolve more easily.
- c) Registration confers security and certainty of title. This is applied to the principle of “Nemodat quod non habet” Otherwise referred to as the principle of indefeasibility of title.
- d) Once registered by plan, each title is given an official plan number to the land and can be used to prevent any encroachment by trespass on the boundaries.
- e) The Registered Title is simple and easy to understand; a conveyance or a Deed at common law is more complex and subject to technicalities.
- f) All financial institutions or individual will want any loan secured by a registered Title.
- g) Registration of land reduces the cost of dealings with land. Hence it makes land records simpler and protects a bona fide purchaser for value in case of fraudulent dealings.

Theoretical Framework, related and empirical studies

Land registration theory asserts that land activities support the economic, social and environmental development of a country, Feder and Nishio (1999). A characteristic of this is that a good land registration system should provide a country with higher land values, higher investments in land, higher output/income, the infrastructure to efficiently implement land related policies and management strategies. Land in modern parlance includes resources and buildings which are the land itself and, all appurtenances thereto on or under the surface as well as the marine environment (UNECE, 2005). This becomes essential to land registration system by providing an integral framework to aid decision makers in choices that could improve registration.

There has been several related studies in relation to land instrument and title registration, below are some literatures and empirical studies on the subject matter.

De Moura, De Losso, Bueno and Do Nascimento (2010), according to Ekemode, Adegoke, and Aderibigbe (2017), carried out an empirical study on the city of Osasco in Brazil. The study examined the influence of income on the land

title registration and formalization abilities of households in the Jardim Canaã and Jardim DR communities of the city and established that a linear positive relationship between household income and land title registration charges. The study concluded that financial considerations constrained by limited household income are important factors affecting the registration of land titles in Brazil. This study focused only on income and financial considerations and was not about ways of improving private land instrument and title registration.

Ehwi and Asante (2016) evaluated land title registration practice in Accra, Ghana, after the 2008 land administration reform involving the merger of disparate land agencies into the New Lands Commission under the overarching ambit of the Land Administration Project (LAP). Results from data collected from officials of Greater Accra Lands Commission and few title applicants, the study found no evidence of improved land title registration process, despite reduction in the time frame for title registration, this it attributed to factors such as lack of technology arising from non-digitization of the title analysis of the effects of land reform on land title registration and hence was not of ways of improving private land instrument and title registration.

Nubi and Ajoku (2009) in a study on Lagos, Nigeria, identified high cost of land title registration, slow pace of registration process and multiplicity of inter-agency responsibilities as the factors influencing land titling registration process in the study area. The study focused on the perspectives of land registry and government agencies and was not on ways of improving private land instrument and title registration.

Butler (2009) according to Ekemode, et al (2017), in an overview of the land governance mechanism in Nigeria with particular emphasis on Kano city identified land title registration and formalization as an essential component of land administration problems in the country, the study contended that the inadequacies of land title/property rights certification practice are influenced by institutional, financial and administrative factors. The study identified the requirement for Governor's consent on land transaction, high cost of land/property registration transaction and cumbersome administrative procedures as factors influencing property rights certification in Kano municipality. The study was limited to cost and requirements of land title registration and hence was not on ways of improving private land instrument and title registration.

The study by Omotoso (2011), identified in the order of importance; factors affecting land titling registration in the country. The study identify high cost associated with land registration transactions, fragmentation of land registration procedure, length of time and dearth of adequate and functional infrastructure including the use of computers at the land registry as the most significant factors influencing land title registration in Nigeria. The study's focus was not on ways of improving private land instrument and title registration. Similarly, according to Ekemode, et al (2017), Agunbiade and Rafabiford (2012) grouped the major factors influencing land title registration in Nigeria into economic including cost of transaction, inter-agency integration such as communication between agency and data creation/coordination categories. In another study by Ojo and Adebayo (2012), they investigated factors affecting the performance of land registration activities at the Ondo State land registry at Akure. Ten factors were identified, such as: efficiency of service provided, competence of staff, organizational structure suitability, staff strength to manage land information, impacts of bureaucracy on service delivery, environmental quality (office space, housing etc), number of computers in use, functional internet and intranet facility, user's friendliness service and cost of service provided by users of land registry including applicants for land title registration as the most significant issues affecting land title registration in Akure Ondo state. This study was limited to administrative and infrastructural factors.

Ojo (2014) evaluated end-user's satisfaction with land title registration process in Akure, Nigeria. The study found that users are dissatisfied with the land title registration process because of some perceived factors such as lack of transparency and accountability, non-deployment of modern technology at the land registry, long waiting period and shortage of equipments, materials and personnel. The study however, focused on administrative and land registry factors and was not on ways of improving private land instrument and title registration.

Thontehh and Omirin (2015) examined the form of the land title registration mechanism in Lagos, through evaluation of the features and effectiveness of the Electronic Document Management System (EDMS) used in land title/property rights registration process. The study established that while EDMS has improved public confidence in land-based transactions, centralized and consolidated file storage and facilitated the availability of online document search and retrieval

system at the land registry, it has not aided land dispute education, while low number of applications processed at the land registry is still very apparent. The study attributed these findings to the preponderance of factors such as the absence of institutional framework, high cost of land title registration and incompetent personnel lacking technical skills in the study area. This study, however, concentrated on appraising the effectiveness of EDMS in influencing land title registration at the Lagos land registry and was not on ways of improving private land instrument and title registration.

III. RESEARCH METHODOLOGY

The study employed field survey approach which involved enlightened and successful applicants for private lands instruments between 2008 to 2019 when the State Government introduced computerization of the instrument, (ALIMS – Anambra Lands Information System).

Thereafter, Likert scale was used to determine respondents agreement with the identified weaknesses and strength of the registration process which ranged from strongly disagree to strongly agree and presented in tabular form with simple means and standard deviations.

IV. METHOD OF DATA ANALYSIS

In this study, descriptive and inferential statistical tests were employed in data analysis. Descriptive statistical tools in this study include; tables, bar-charts, simple mean and standard deviation etc. Inferential tools draw conclusion that extend beyond immediate data, they have ability to test hypothesis, and these used include correlation and Regression analysis.

Data Presentation

Data collected from the sampled respondents are presented descriptively using frequency tables and percentages.

Table 1: Demographic Profile of the Respondents (n = 32)

Characteristics	Frequency	Percentage
Gender		
Male	18	56%
Female	14	44%
Educational Qualification		
HND/B.Sc	17	53%
Post Graduate	15	47%
Course of Study		
Architecture	3	9%
Building Technology	2	6%
Engineering		
Estate Management	23	72%
Quantity Surveying		
Urban and Regional Planning	4	13%
Professional Membership		
NIA	1	3%
NIOB		
NIQS	5	16%
NIESV	19	59%
NITP	7	22%
Professional membership status		
Probationer	14	44%
Associate	13	41%
Fellow	5	16%
Others		
Duration of Service		
0 - 5 years		
6 – 10 years	12	38%
11 – 15 years	16	50%
16 years and above	4	12%

As shown in Table 3, Most of the respondents are male with a percentage of 56% and

female having a percentage of 44%. While 53% of the respondents are HND/B.Sc degree holder, and

47% have their Postgraduate certificate. Majority of the respondents studied Estate management, which is 72%, Urban and regional planning 13% while 9% studied Architecture and 6% are Building Technologist. In terms of professional membership,

59% are NIESV, 22% are NITP, 16% are NIQS while 3% are NIA.

For Duration of service, 50% which is majority of the respondents have served for 11-15 years, followed by 6 – 10 years, few respondent have served for 16 years and above.

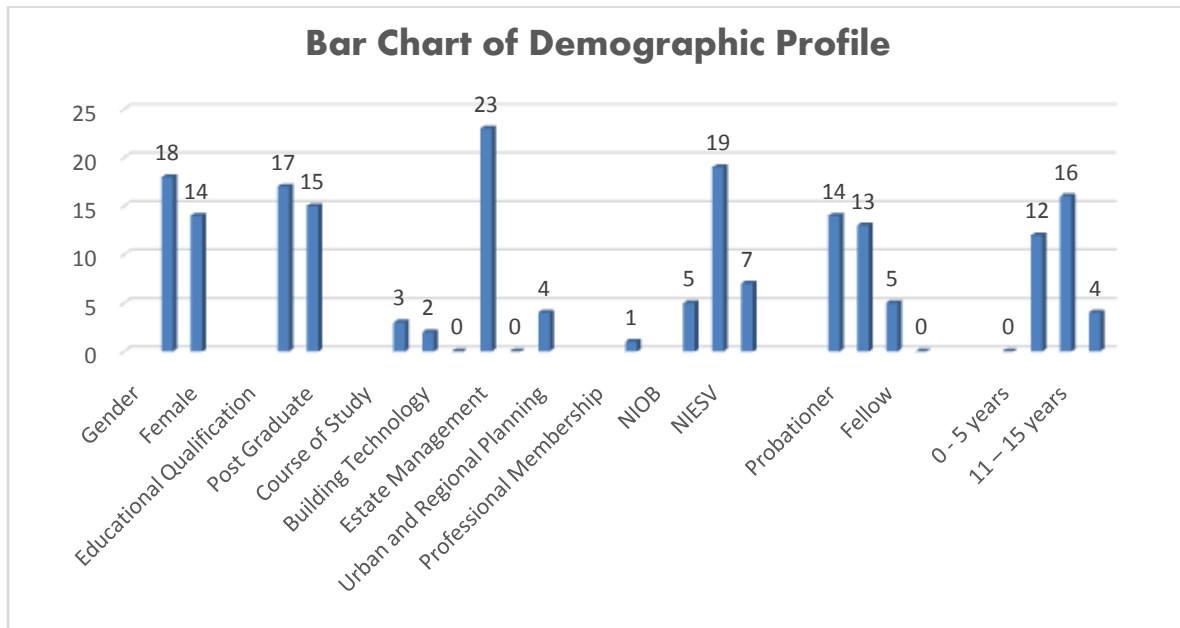


Fig 1: Bar Chart of Demographic profile of respondents

Testing of the Research Hypotheses

The two hypotheses formulated for this study were tested by using simple linear regression analysis based on the rejection of Null hypotheses if significance level is less than P value of 0.05 otherwise do not.

Hypothesis one

The data collected on an evaluation of registration of private land instruments and title in Anambra

state of Nigeria using questionnaire were used to test hypothesis one of this research work.

Ho: The reduction in official fees will not improve registration of private land instruments and title within Anambra State.

H1: The reduction in official fees will improve registration of private land instruments and title within Anambra State.

Table 2: Model Summary

Model	R	R Square	Adjusted Square	Std. Error of the Estimate
1	.978 ^a	.956	.954	.17074

a. Predictors: (Constant), The reduction in official fees

Table 3: ANOVA^a

Model		Sum of Squares	df	Mean Square	F	Sig.
1	Regression	18.974	1	18.974	650.892	.000 ^b
	Residual	.875	30	.029		
	Total	19.849	31			

b. Predictors: (Constant), The reduction in official fees

Table 4: Coefficients^a

Model		Unstandardized Coefficients		Standardized Coefficients	t	Sig.
		B	Std. Error	Beta		
1	(Constant)	.957	.103		9.261	.000
	The reduction in official fees	.658	.026	.978	25.513	.000

A Simple linear regression was conducted on a five-point Likert- scales from “Strongly Agree” to “Strongly Disagree.” These questions were divided into two sections i.e. Independent Variables dimensions and dependent Variables dimensions to determine the extent to which the reduction in official fees will improve registration of private land instruments and title within Anambra State. The results of the regression indicated that there is strong positive relationship between reduction in official fees and Improving registration of private land instruments and title within Anambra State is ($R=0.978$, $R\text{-Squared}=0.956$, $\beta = 0.658$, $p<0.05$). Thus, the Null hypothesis based on the decision rule is therefore rejected. With the linear regression model, the R square, the coefficient of determination, shows only 97.8% variance in evaluation of registration of private land instrument and title within Anambra state, this indicated that evaluation of registration of private land instrument and title within Anambra state can be accounted by reduction of official fees. Also the Anova Table confirm that the regression model is significant.

We therefore reject the null hypothesis at 5 % level of significance and conclude that reduction in official fees will help improve registration of private land instrument and title within Anambra state.

V. CONCLUSION

The study has evaluated the registration of private land instruments and title in Anambra State and found out its many challenges such as non-digitalization of registration system, high registration fees, complexity of the registration process, poor ease of access to land registry, none provision of essential documents like cadastral maps and base maps, poor land registration laws, among others. It is relative to the findings of Okoyeiji (2021) in which he stated that it takes a long period on the average of 1-2 years to register land instruments in Anambra State as well as a high cost which he placed on the average of ₦500,000.00 – ₦1Million.

Recommendations

Based on the findings and conclusion, the study made the following recommendations;

1. The official fees chargeable for the registration of private land instruments and title within the State should be reduced.
2. The fast-tracking of the entire processes of registration to encourage ease of doing business.
3. The total computerization/digitalization of the Lands registry to ensure easy access to records and data.
4. Creation of awareness to the general public on the benefits of registration of private land instruments and title.
5. Digitalization of the entire geographical and cadastral map of the state for improved records and search.
6. Training and retraining of staff from time to time to be at par with current best practices.
7. A review of the Anambra State Instruments and Property Registration Law.

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