

The Effect of Prohibition of Fraudulent Practices on Land and Property Law 2012 on Fraudulent Land Practices in Anambra State, Nigeria

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ABSTRACT

Fraudulent land practices has become a norm in Anambra state and some other States in Nigeria, thereby preventing property developers from carrying out land development without being extorted. Most times some of these fraudsters carry out this act in the name of the Government of the state. Anambra state enacted the Prohibition of Fraudulent Practices on Land and Property Law of 2012 to curb the activities of these fraudsters. The objective of this study is to examine the effect of this Law on fraudulent land practices in Anambra state. In order to achieve this, questionnaires were drafted and distributed to residential property owners, Lawyers and Estate Surveyors and Valuers in Awka, Nnewi and Onitsha, the three major cities in Anambra State. The opinion of the respondents were analysed with Kolmogorov-Smirnov Test. From the analysis it was found that the Prohibition of Fraudulent Practices on Land and Property Law of 2012 has no significant effect on fraudulent land practices in Anambra State. Based on findings of the study, we recommend among others that Government should ensure the enforcement of this law so as to curb the activities of land fraudsters in Anambra State and encourage real estate development in the State.

Keywords: Prohibition, Fraudulent, Practices, Land, Property, Law of 2012, Anambra State.

I. INTRODUCTION

Land has different definitions by different scholars. Economists view land as a fundamental factor of production upon which other factors are applied to create wealth. Lawyers view land as an immovable property which includes land and everything permanently attached to it. This is in line with the Latin maxim: *Quic quid plantatur solo*

solocedit meaning whatever is affixed to land becomes part of the land as recognised in the Nigerian Land Law as approved by the Supreme Court in the case of *National Electricity Power Authority v. Mudasheru Amusa and Anor* (1976). Agriculturists consider land as man's most valuable resource as exemplified by Bumni (1989) who insist that land is the means of life without which man could never exist and upon which his continued existence and progress depends. This is a trite assertion as all basic necessities of life are derived from land. From a socio-political perspective, land is a part of the earth's surface forming a political whole such as Igbo land, Hausa land, Yoruba land, Ijaw land. In the field of Estate Surveying and Valuation, Denman (1979) defines land as the sum total of all natural and man-made resources over which various rights can be exercised. Umeh (2007) posited that "land even though difficult to define, has its meaning fully charted and clearly focused in the physical, spiritual, socio-political, economic, abstract and legal conceptions of land." Thus, he put forward six (6) concepts of land under which a broad definition of land can be covered to include: physical, economic, legal, abstract, spiritual and socio-political. In the quest to exercise ownership right over land, land owners often encounter fraudulent actions of some indigenes in a bid to extort and defraud them before or during the development of their land. Inherent in fraud is an unjust advantage over another which injures that person or entity. It is this unwholesome act that the **Prohibition of Fraudulent Practices on Land and Property Law 2012** was enacted to curb so as to enhance property development and reduce fraudulent land practices in the State. It is the aim of this study to examine the effect this Law has on

fraudulent land practices; to what extent has it been able to reduce this illegal extortion of land owners.

II. LITERATURE REVIEW

The term “fraud” commonly refers to activities such as theft, corruption, conspiracy, embezzlement, money laundering, bribery and extortion. Although legal definitions vary from country to country, fraud essentially involves using deception to make a dishonest personal gain for oneself or to create a loss for another (United Nations, 2011).

Fraud is the intentional use of deceit, trick or some dishonest means to secure unfair or unlawful gain, or to deprive a victim of money, property, or a legal right. Fraud itself can be:

- a civil wrong (i.e. a fraud victim may sue the fraud perpetrator to avoid the fraud and/or recover monetary compensation),
- a criminal wrong (i.e. a fraud perpetrator may be prosecuted and imprisoned by governmental authorities) or
- it may cause no loss of money, property or legal right but still be an element of another civil or criminal wrong (Law.com, 2017).

Black’s Law Dictionary (1979) defines fraud as all multifarious means which human ingenuity can devise, and which are resorted to by one individual to gain an advantage over another by false suggestions or suppression of the truth. It includes all surprises, tricks, cunning or dissembling, and any unfair way which another is cheated.

What is Land Fraud?

Land fraud can be defined as a material misstatement; misrepresentation or omission which people rely upon to illegally effect a transaction involving real estate to their benefit or to the detriment of others. It also includes when someone uses another’s property for illegal financial gain. Perpetrators of land fraud:

- accomplish illegal sales through counterfeit ownership documents;
- acquire under-secured loans through falsified value assessments;
- Perform outright theft perpetuated on legal owners and lending institutions through counterfeit mortgage satisfactions, and many other schemes (Stanfield, Underwood & Gunaskera, 2008).

N.B.: Land fraud for the purpose of this study is limited to land grabbing.

Definition of Land Grabbing

There is no complete definition of land grabbing. Its definition varies with geographical area. To develop and accept one that can be used for any geographical area, several indicators need to be taken into consideration: size, people, control, legality and usage. It is important to note that firstly, this framework can be used in any country or area to define land grabbing. Secondly, none of the five factors can be used individually to define land grabbing: a land grab is not based only on size or usage; it is a combination of several of these factors.

1. Size – What amount of area equals land grabbing?

In general, big is bad, but it is hard to know what exactly is “too big”. The amount of land considered a land grab changes depending on local plot sizes. In order to have a size to identify land grabs, people must look at land holdings in their countries and determine what the average and culturally adapted sizes are and the range that most holdings fall into. As an example, in Romania, the point when an agricultural holding no longer blends in is about 50 hectares.

2. People - Who can be considered a land grabber?

Absolutely anyone can be a land grabber: individuals, groups or companies; public or private; governmental or non-governmental; domestic or foreign. Land grabbing is not limited to certain groups or people.

3. Control - How is the land controlled?

Land grabbing is about overall control. Land grabbers can control areas in several ways including leasing land (sometimes through long-term leases from governments, called concessions), having tenant farmers or sharecroppers, or actually owning the land. Land can also be controlled through quota and supply contracts that force people to use the land in a specific way for the benefit of the land grabber.

4. Legality - Is land grabbing legal or illegal?

Land grabbing occurs both legally and illegally within current laws. Most land grabs are actually legal, meaning the deals obey national and local laws. However, these current laws do not protect against land grabs. In most cases laws at least tolerate land grabbing if not help it. These unjust and illegitimate laws encourage land grabbing and abuse human rights by allowing land grabbing to be a ‘legal’ action.

5. Usage - How is the land used and for what purpose?

Land grabbers use land in harmful ways and for exclusive purposes. Agricultural uses include monocultures and non-agro-ecological methods (which can even be organic). Other uses include land speculation, commodification, resource control and extraction (meaning local peoples do not benefit from the resources). All of these uses threaten food sovereignty, land stewardship and sovereignty, and human rights.

Based on the above-mentioned framework we can outline a comprehensive definition of land grabbing that can be widely applied based on individual countries and struggles all over the world.

Land grabbing is the control - whether through ownership, lease, concession, contracts, quotas, or general power - of larger than locally typical amounts of land by any persons or entities - public or private, foreign or domestic - via any means - 'legal' or 'illegal' - for purposes of speculation, extraction, resource control or commodification at the expense of peasant farmers, agro-ecology, land stewardship, food sovereignty and human rights (European Coordination via Campesina, 2016).

Within the scope of this study, land grabbing borders on illegality. Hence, land grabbing can be defined within these confines as the seizing of land by a person, nation, state or organization, especially illegally, underhandedly, or unfairly. Specifically, in the context of this study, land grabbing includes the unwholesome activities of some youth groups/miscreants in various parts of Anambra State, who engage in the negative conduct of obstructing, disturbing, impeding and generally preventing the needed development and improvement on land throughout the state. The unwholesome activities of these miscreants include but not limited to: forcefully dispossessing lawful owners of their landed properties, selling a particular parcel of land to several persons, extorting different fees/levies from landowners/developers before and during development of new houses, demolishing structures, employing excessive force and wounding/killing landowners/developers and site workers, carting away building materials from the site, forming multiple distinct factional groups which subject landowners/developers to multiple settlement and collecting development fee/levy before developers carry out repairs or renovation of an old house among others (Ugonabo, Egolum and Ogbuefi, 2019).

Existing Law against Land Grabbing in Anambra State

On Tuesday, April 24, 2012, the then Governor of Anambra State, His Excellency, Mr. Peter Obi (CON) promulgated the **Prohibition of Fraudulent Practices on Land and Property Law** to tackle the unwholesome acts of some miscreants in various parts of the State who engage in the negative conduct of obstructing, disturbing, impeding and generally preventing the needed development and improvement on land throughout the State.

The Law prohibits and makes criminal certain conducts relating to land including:

- Any person selling land not belonging to him, to another person.
- Any person selling the same parcel of land to two or more different persons.
- Any person demanding or collecting any fee not approved by law from any person developing or improving an already existing property in the State.
- Any person willfully damaging, destroying, pulling down or removing any beacon or structure on land belonging to another person.
- Any person harassing, obstructing or assaulting any worker in a construction site with the intent to compel the worker or owner of the land to pay an illegal fee.

Penalties for Illegal Conduct

The following sections of the Law provide penalties for certain offences:

- **Section 3:** Any person who sells or attempts to sell or otherwise transfers or attempts to transfer any land not belonging to him to any person shall be guilty of an offence and be liable to:
 - (a) if it is State, five (5) years imprisonment or a fine of two hundred and fifty thousand Naira (₦250,000) or both.
 - (b) in any other case, four (4) years imprisonment or a fine of two hundred and fifty thousand Naira (₦250,000) or both.
- **Section 4:** Any person who sells or purports to sell a parcel of land to more than one person with intent to defraud shall be guilty of an offence and be liable to five (5) years imprisonment or a fine of five hundred thousand Naira (₦500,000) or both.
- **Section 5:** Any person who facilitates whether as an agent or not, the commission of the offences in sections 3 and 4 above shall be guilty of the same offences as stated in those provisions and punished accordingly.
- **Section 6:**

- (i) Any person who demands or collects any fee not approved by law from any person who is developing or improving on an already existing property in the State shall be guilty of an offence and liable to five (5) years imprisonment or a fine of five hundred thousand Naira (₦500,000) or both.
- (ii) Any person who enters State land to carry out any survey without the approval of the Surveyor General of the State commits an offence and shall be liable to five (5) years imprisonment or a fine of five hundred thousand Naira (₦500,000) or both.
 - **Section 7:** Any person who willfully damages, destroys, pulls down or removes any beacon or structure on any land or commits any nuisance on any land, building or fence belonging to another person without lawful authority is guilty of an offence and shall be liable to ten (10) years imprisonment or a fine of one million Naira (₦1,000,000) or both.
 - **Section 8:** Any person who harasses, obstructs or assaults any worker in a construction site with intent to compel the worker or owner of the land to pay any illegal fee is guilty of an offence and liable to five (5) years imprisonment or a fine of five hundred thousand Naira (₦500,000) or both.
 - **Section 13:** Any person who is found guilty of violating the provisions of this Law more than once, shall not be given an option of fine, but shall be imprisoned in accordance with the provisions of sections 3, 4, 5, 6, 7 and 8 of this Law.
- (b) Six other members, two of whom shall be recommended by the Local Government Traditional Council; and
- (c) A Secretary, who shall be a senior civil servant not below grade level 12 in the Local Government.

3. A member of the Committee shall have power to arrest any person caught violating any of the provisions of this Law and hand over such person to the Police for prosecution.

- **Section 10:** Members of the Committee shall hold office for a term of two years renewable for another term of two years and no more.
- **Section 11:** Notwithstanding the provisions of the Magistrate Court applicable in the State, the Magistrate Court shall have power to try and punish all offences provided for in this Law.
- **Section 12:** The Court shall have powers to confiscate and sell the property or attach the monies in the bank account of any violator of this Law for the purpose of using the proceeds of such property or the monies in such bank accounts to compensate or restore the victim of such violators to his former position.

III. METHODOLOGY

A structured non-disguised questionnaire was targeted at residential property owners and professionals (Lawyers and registered Estate Surveyors & Valuers) in the three (3) cities. The questions reflect the research questions and objectives of the study. A total of 397 copies of questionnaire were distributed to residential property owners in the three (3) cities as follows: Awka (187), Nnewi (67), Onitsha (143); 292 copies were distributed to Lawyers in the same cities as follows: Awka (51), Nnewi (53), Onitsha (188); whereas 42 copies were distributed to registered Estate Surveyors & Valuers: Awka (23), Nnewi (2), Onitsha (17). 731 questionnaires administered to respondents made up of 397 residential property owners, 292 Lawyers, and 42 registered Estate Surveyors & Valuers; 706 (97%) were returned valid while the rest were either not returned or not properly filled. Out of 397 questionnaires distributed to residential property owners, 388 (98%) were returned valid. Out of 292 distributed to Lawyers, 280 (96%) were returned valid, and out of 42 distributed to registered Estate Surveyors & Valuers, 38 (90%) were returned valid. Overall, the high return rate of questionnaires suggests that the working sample (706) is representative of the population. The opinions of the respondents were presented with tables and analysed with

Enforcement of the Law

The following sections stipulates the procedure for enforcement of the Law:

- **Section 9:** The Chairman of a Local Government Council or any person acting in that capacity shall set up a committee to be ratified by the State House of Assembly which shall carry out the following functions:
 - (a) Check the activities of persons who go about exploiting land developers and property owners;
 - (b) Monitor lands and property in the Local Government Area and identify persons who are breaching the provisions of this Law; and
 - (c) Report any person who violates the provisions of this Law to the Police.
- 2. The Committee shall comprise of the following persons:
 - (a) A Chairman;

Kolmogorov-Smirnov test. In Kolmogorov-Smirnov statistics, $p > 0.05$ indicates a normal distribution, while $p \leq 0.05$ indicates a non-normal distribution (Pallant, 2011).

IV. DATA PRESENTATION AND ANALYSIS

Research Objective: To determine the effect of the Law on fraudulent land practices in the selected cities in Anambra State.

Research Question: What is the effect of the Law on fraudulent land practices in the selected cities in Anambra State?

From the opinions of residential property owners and professionals, the following response to the above question as generated from the questionnaires are presented in Table 1.

Table 1: Effect of the Law on Fraudulent Land Practices in selected cities

METROPOLIS	Area	IMPACT SCALE				
		1	2	3	4	5
AWKA	Awka Town	35	40	-	-	-
	Okpuno	29	24	12	-	-
	Amansea	28	25	11	-	-
	Isuaniocha	22	15	10	-	-
NNEWI	Nnewi	65	52	-	-	-
ONITSHA	Onitsha Town	30	35	25	-	-
	Obosi	36	-	48	-	-
	Nkpor	45	36	-	-	-
	Nkwelle-Ezunaka	47	21	15	-	-

(1: Very Low Extent, 2: Low Extent, 3: Undecided, 4: High Extent, 5: Very High Extent)

Data on the effect of the Law (Prohibition of Fraudulent Practices on Land and Property Law of Anambra State, 2012) on fraudulent land practices in Awka, Nnewi, and Onitsha (Table 1) shows that 585 out of 706 (83%) respondents are of the opinion that the Law has to a “Very Low Extent” or “Low Extent” curtailed the activities of land grabbers in their respective cities. This implies that the Law has not done enough to curb the land grabbing menace in Anambra State.

Hypothesis

H_0 : The Law has no significant effect on fraudulent land practices in the selected cities in

Anambra State.

H_1 : The Law has a significant effect on fraudulent land practices in the selected cities in Anambra State.

To test the hypothesis, the response to research question two as shown in Table 11 was used.

Test of Hypothesis

To determine the effect of the Law on fraudulent land practices in the selected cities in Anambra State, a test of normality of the distribution of respondents’ opinions was performed using the Kolmogorov-Smirnov test.

Table 2: Result of Kolmogorov-Smirnov Test

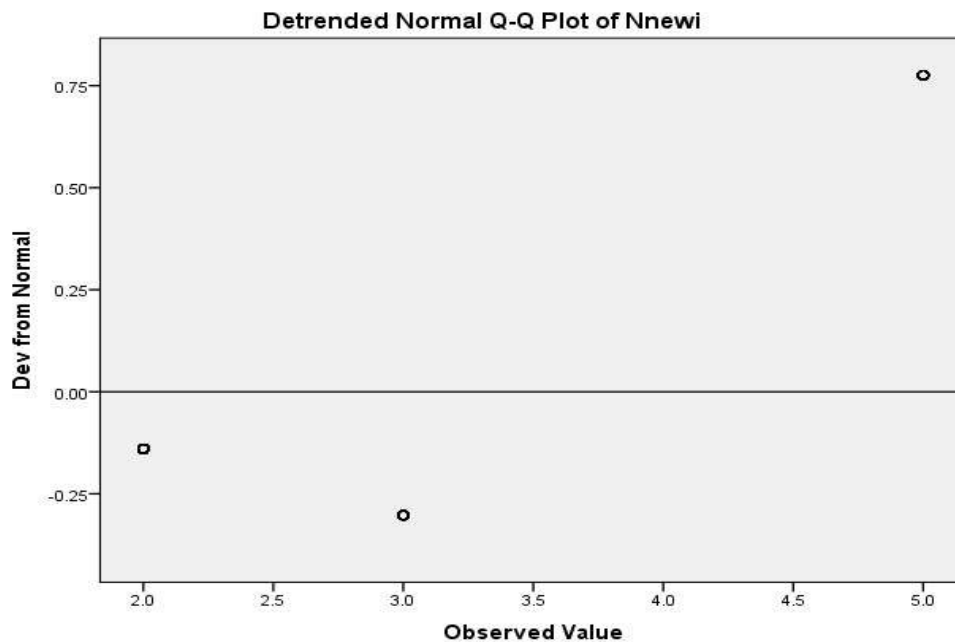
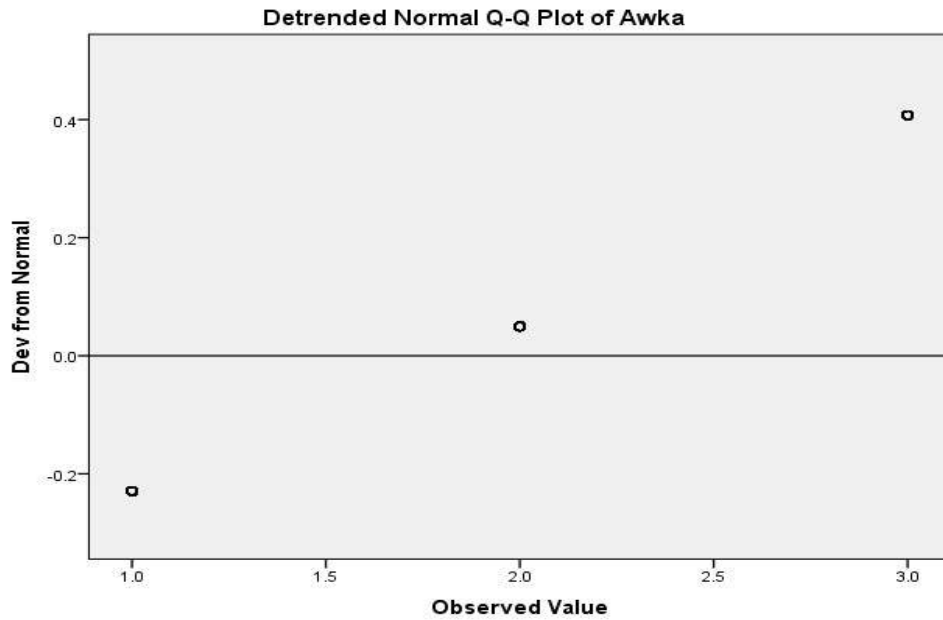
Tests of Normality

	Kolmogorov-Smirnov ^a			Shapiro-Wilk		
	Statistic	Df	Sig.	Statistic	Df	Sig.
Awka	.289	251	.000	.771	251	.000
Nnewi	.344	117	.000	.655	117	.000
Onitsha	.298	338	.000	.761	338	.000

a. Lilliefors Significance Correction

The test statistics $p < .05$ was obtained from the above result. The Sig. value of .000 suggests a non-normal distribution. The actual deviation from a normal distribution is shown in

the **Detrended Normal Q-Q Plots** below. The Detrended Normal Q-Q Plots were obtained by plotting the actual deviation of the scores from the straight line (Normal).



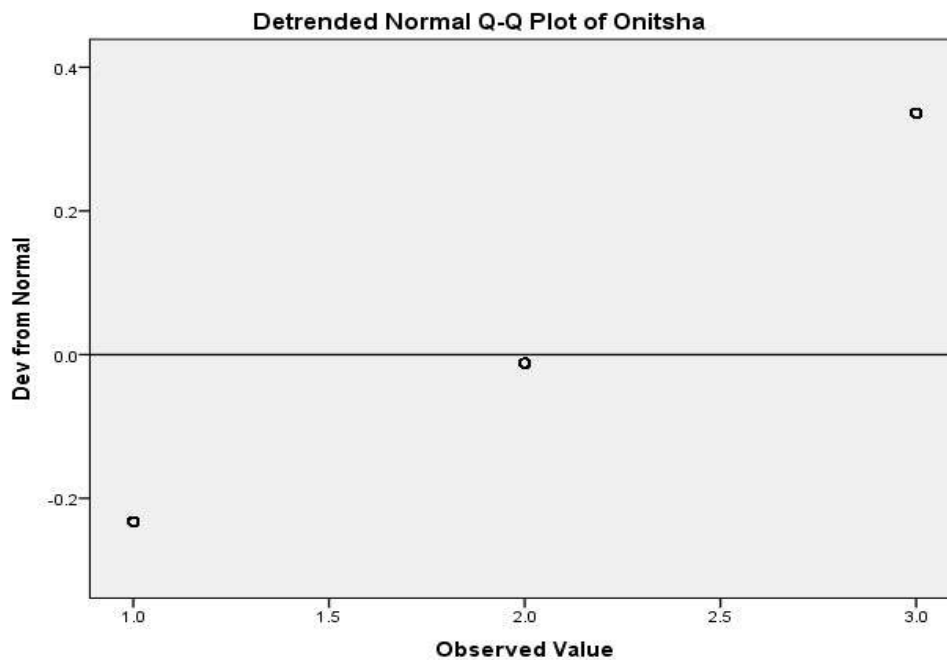


Figure 1: Detrended Normal Q-Q Plots of Akwa, Nnewi, and Onitsha

Figure 1 shows that respondents' opinions of the effect of the Law on fraudulent land practices in Awka, Nnewi, and Onitsha deviates from a normal distribution. The observed values represent the respondents' opinions of the effect of the Law on fraudulent land practices in the selected cities. All the scores lie outside the Normal (0.0) which indicates that the effect of the Law is insignificant. It can be deduced that the Law has no significant effect on fraudulent land practices in the selected cities in Anambra State. Therefore, the null hypothesis was accepted and the alternate rejected.

V. SUMMARY OF FINDINGS, CONCLUSION AND RECOMMENDATIONS

5.1 Summary of Findings

The results of the analyses and test of hypothesis revealed that the Prohibition of Fraudulent Practices on Land and Property Law of Anambra State, 2012 has been of no significant effect in curbing fraudulent practices on land in the selected cities of Awka, Nnewi, and Onitsha. Fraudulent land practices, particularly land grabbing has continued with no restraint in almost every urban area in Anambra State despite the introduction of the Law which was promulgated to specifically checkmate the activities of land grabbers in the State. It appears that law enforcement agents are conniving with these touts

to perpetuate their motives (Ugonabo and Egolum, 2019). It is regrettable that even with the enactment of Prohibition of Fraudulent Practices on Land and Property Law of 2012, these youth associations are still fully operational in their various towns.

5.2 Conclusion

It could be deduced from the foregoing discourse, that this law is a deserving solution to an aggravating socio-economic menace confronting real estate developers in Anambra state. Comprehensive review of the law incorporating rigorous implementation mechanism as obtained in Lagos state Law would curb the the menace of fraudulent land practices and improve real estate development in Anambra state.

5.3 Recommendations

From the findings, this study recommends that Government at all levels shall ensure the enforcement of the Prohibition of Fraudulent Practices on Land and Property Law of 2012 so as to encourage developers and protect them from being extorted by land fraudsters in the state.

Government should create enabling environment for communication/meeting to create public awareness, enlightenment and advocacy where required on the provisions and significance of the Law.

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