

# An Appraisal of Land Instrument Registration in Kaduna State under the Geographical Information System (GIS) Laws

Hassan Bala<sup>1</sup>; Sadiu Aliyu Musa<sup>2</sup>; Hussaini Bala<sup>3</sup>; Aliyu Abdullahi<sup>4</sup>; Raziqa Muhammad Shafiu<sup>5</sup>

<sup>1,2,4</sup> Department of Private Law, Faculty of Law, Ahmadu Bello University University, Nigeria

<sup>3</sup> Department of Accounting, Banking and Finance, Tishk International University, Erbil, Kurdistan-Region Iraq

<sup>5</sup> National Board for Arabic & Islamic Studies, Kaduna State, Nigeria.

Corresponding author's email: [hussaini.bala@tiu.edu.iq](mailto:hussaini.bala@tiu.edu.iq)

**Abstract:** *The law that established the Kaduna Geographic Information Service (KADGIS) is the KADGIS Law<sup>1</sup>. The main objective of the Law is to substitute the Ministry of Lands, Survey and Country Planning with the KADGIS. It also computerizes all land records and information, land management, all issues relating to title, instrument registration, searches and other land matters thereto. One of the issues that brought about the reforms are difficulties in registration and reliability of searches on registered instrument. This hinders uniformity of application as a result of numerous applications on land management and instrument registration. Hence, most of the legal actions against the KADGIS relate to revocations due to multiplicity of laws and lack of publicity. Another issue is that the details of instrument registration, priority, notice, and effect of non-registration are not provided in the KADGIS Law. The aim of this paper is to appraise land instrument registration under the KADGIS. It also makes an in-dept examination of the existing legislations, the operation and working of the KADGIS for a successful land instrument registration in Kaduna State. In order to achieve the above aim and objectives, the paper uses doctrinal research method to examine the KADGIS as an institution generally, land instrument registration, searches, search reports and certified true copy of documents. It has been found that there are uncertainty of laws to apply in respect of instrument registration in Kaduna State. It has also been found that there is a challenge of double allocation of land to different individuals. It is recommended that all laws relating to land instrument in the state should be harmonized to curb the problem of double allocation. This will also go along way in solving the problem of uncertainty of laws to apply.*

**.Keywords:** *Judiciary System, Land Instrument Registration, Kaduna State, Geographical Information System Law*

## 1. Introduction

The Kaduna Geographic Information Service Law (Kaduna Geographic Information Service Law No. 15, 2018) established the Kaduna Geographic Information Service (KADGIS). The purpose of the Law is to replace the Ministry of Lands, Survey and Country Planning with the KADGIS. Its object is to computerize all land records and information, land management, all issues relating to title, instrument registration, searches and other land matters thereto. The law recognizes good governance, transparency due diligence and best practices in land administration and instrument registration in Kaduna State.

This is an improvement on the provisions of previous laws. The KADGIS law provides for the promulgation of regulation in pursuant to the law for effective operation and administration. Consequently, the Kaduna State Land Use Regulation was made to expedite the processes of registration. It also ensures transparency and equity in processing applications by the KADGIS. There are regulations, rules and schedules for activities of the Service in the Regulation, which comprise day to day activities of the institution.

The KADGIS Law combines Geographical Information System (GIS), land registration and land management in the state. The main purpose of KADGIS is to computerize all land records in the state. The KADGIS is a corporate personality and also a parastatal under the office of the Governor. The Governing board is in charge of the Service. The KADGIS deals with interests, titles, registrations, searches and other related land management activities using the GIS (Ritchie P, 2017). The scope of this paper is narrowed down to the legal provisions applied by the Service to anchor land instrument registration, searches and other related activities..

The issues that brought about the reforms earlier mentioned are difficulties in registration and reliability of searches on registered instrument. This paper seeks to find out whether or not the coming of the KADGIS has solved the difficulties of registration and searches. One of the main problems discovered is that the Laws dealing with land instrument registration before the coming of the KADGIS are not repealed or even amended. This hinders uniformity of application as a result of numerous applications on land management and instrument registration. Hence, most of the legal actions against the KADGIS relate to revocations due to multiplicity of laws and lack of publicity. Another issue is that the details of instrument registration, priority, notice, and effect of non-registration are not provided in the KADGIS Law. The procedure of application of the KADGIS law is also left for the Service to make regulations and the Kaduna Land Use Regulation itself has been updated from time to time. This creates uncertainty in the regulation as the updates are not adequately publicized.

The aim of this paper is to appraise land instrument registration under the KADGIS. It also makes an in-dept examination of the existing legislations, the operation and working of the KADGIS for a successful land instrument registration in Kaduna State. In order to achieve the above aim and objectives, the paper uses doctrinal research method to examine the KADGIS as an institution generally, land instrument registration, searches, search reports and certified true copy of documents. The paper concludes with findings and recommendations.

## 2. Concept and Literature

### a) Meaning of Land Instrument

Literally, instrument is a device, tool, thing or figuratively a person used as a tool for achieving a goal. In legal parlance, instrument is a formal document or writing which transfers interest in land such as deed, mortgage or lease (Land Instrument Preparation Law). The Black's Law Dictionary defines an instrument as "*a written legal document that defines rights, duties, entitlements or liabilities such as a statute, contract, will, promissory note or share certificate (Thomson R, 2016)*". The Kaduna State Land Registration Law defines instrument thus;

*a document affecting land whereby one party (hereinafter called the grantor) confers, transfers, limits, charges or extinguishes in favour of another party (hereinafter called the grantee) any right to, or interest in land, and includes a certificate of purchase and a power of attorney under which any instrument may be executed, but does not include will.*

In the case of *Ogbimi* (*Ogbimi v N.C.L.(2016) ALLFWLR*), the Supreme Court held that a written letter to transfer interest in property is an instrument, stressing further that the content is what matters not the form (*Dadem Y, 2015*). Whether or not a document is an instrument depends on the existence of features of transfer in the document and not the name given to the document. This was also the view of Onnoghen JSC (*Ogbinni v NCL, 2016*). The Supreme Court in *Oredola* identified the elements which qualify a document to be an instrument as follows:

1. The import of the document rather than the label placed on it by parties;
2. It must be an instrument of grant
3. It must convey to the grantee the grantor's entire interest in the land or residue or part thereof.
4. It must purport to confer or pass on a person as an interest or right in or over the land.

#### **b) Geographical Information System (GIS)**

GIS is an information technology system that stores all digital data in one location, it also enables retrieving and analyzing the data quickly and efficiently using coded formats . It usually comprises of three things i.e the geographical location, data and system. The geographical location of the real world is the coordinate system, data is the information while the system comprises the hardware and software systems . Mainly, GIS is used to store data, manage, retrieve the stored data and convert the data from one form to another. It also analyses or manipulates the data to get information, modelling of the data and displaying of such data as output presentations .

By the use of GIS, land instrument registration and searches have been made faster, more accurate and flexible unlike the old traditional paper and pen method which is tedious and prone to mistake. Yet, the GIS system and other technological advancements are not free from problems. In the long run, it may lead to unemployment as the computer takes over the activities performed by workers. Also, information stored for the use and benefit of the general public can easily be monopolized by few individuals particularly those that have access to the data base of the system. The problem is that liability for their mistake or misinformation cannot be ascertained particularly when they are not trained in law.

### c) Introduction of GIS Laws in land instruments registration

In the year 1999, the Federal Government directed for the computerization of all Federal lands in a bid to adopt Information Technology and Globalization. The Ministry of the Federal Capital Territory (MFCT) and Federal Capital Development Authority (FCDA) were in charge of land records and related matters in Abuja from its inception, but the records they kept are manual in nature. The Abuja Geographic Information System came into being in the year 2003 courtesy of the dedication, orders and directives of the Federal Government. This has proved to be a success because it has dealt with the problems of file tempering, illegal allocations, and conflicts in wrong or multiple allocation. The GIS used by the AGIS was later adopted and applied by some states including Ogun, Plateau and Kwara states which reform their land registries into modern online land registries. In Kaduna state, KADGIS Law and Land Use Regulations were put in place to govern the implementation of GIS and to reform the land registry into GIS modeled land registries. This was among other things that led to the birth of the KADGIS.

### d) The KADGIS

The KADGIS Law establishes the KADGIS, the KADGIS replaced the Ministry of Lands, Survey and Country Planning to computerize all land records and information. The Land Instrument Registration and Searches are now digital

#### a) Powers of the Service

The KADGIS law empowered the Service to develop and maintain a database of all lands particularly with respect to title, history, location, size, use and other related issues within the state. It also empowers the Service to develop and maintain a geographic information system or such appropriate system and structures in the State for search and land management. These provisions form the basis for the introduction of GIS and implementation of computer oriented land registry system.

b) Functions of the Service

The functions of the Service include management of land, all issues relating to title, instrument registration, searches and such other responsibilities on land matters in the state. The KADGIS Law recognizes good governance, transparency, due diligence and best practices in land administration and instrument registration. It is submitted that conducting due diligence and making verification on applications will shake and ascertain the credibility of applicants and their applications to verify land instruments before they are registered. However, if scrutiny as it affects due diligence is performed after applications are made particularly at the vetting and other units after processes have begun, conflicting documents can be accepted for registration which can only be removed through other processes. It is for this reason the service faces problem of double allocation. Consequently, the first writer personally handles about four court cases that bother on double allocation in respect of one plot of land. This is a serious challenge that hinders the progress of land registration, management, and administration of land in Kaduna State

c) The KADGIS Law and Land Use Regulation

The KADGIS deals with interests, titles, registrations, searches and other related land management activities using the Geographic Information System. Issues of instrument registration, priority, notice, and effect of non-registration are not provided in the KADGIS Law. Again, details on how the law will be applicable in achieving its desired goals were left for the Service to make regulations applicable to the law . This makes the Land Use Regulation very crucial and needed to compliment the KADGIS law. Hence, recurs has to be made to the Land Use Regulation for further information or activities of the Service. It is worthy to note that the promulgation of the Kaduna Land Use Regulation is made pursuant to the Constitution , Land Use Act , Kaduna Land Registration law , Land Designation Order Tax Law and the KADGIS laws . The regulation made provisions for designation of urban land , classification of land purpose right of occupancy , property registration , re-certification and mining . Regulation on Miscellaneous regularization of Land Transaction deals with digital repository, change in ownership, size, use and purpose of land . Instruments and documents registered include Deed of

Assignment, Deed of Gift, Power of Attorney, Deed of Mortgage, Deed of Lease or Release, Devolution Order, Change of Name, Change of Land Use/Purpose, Records of Certified True Documents, Sublease and Revocation .

It is worthy to note here that the Kaduna Land Registration Law and the Landed Property Law dealing with land instrument registration are not repealed or amended in the KADGIS Law or other subsequent laws. These laws made provisions for effect of registration, priority, notice, and effect of non-registration , these are not provided in the KADGIS Law and the Kaduna Land Regulation. Aside the numerous laws on land instrument registration, the Kaduna Land Use Regulation is updated by passing new regulations which are substantially the same with slight modifications or changes . This causes wastage of intellect, time and resources on issues which would have been cured by good legislative processes.

d) Records digitization

The KADGIS embarked on digitization of the records inherited from former Ministry of Lands, Survey and Country Planning of Kaduna State , files and documents are scanned, saved and are accessible on the KADGIS Digital Data Repository . The Archive stores the files which contains all transactions including copies of Certificate of Occupancy, files, layouts, title deed plans, maps, and administrative directives while the File Tracking Management System (FTMS) is used for online file management and tracking of files movement from one location to another .

e) ADGIS Digital Data Repository

The KADGIS Digital Data Repository is the official digital data repository of Kaduna State which gather all information and data which has a geographic relationship from Ministries, Agencies and Departments, Local Government Councils, Federal Government institutions, and international and regional bodies . Using the GIS, all units, instruments and facilities are put in place for online activities, control, keeping records and other digital process on the Repository. Relevant information, reports and maps are accessed on the Repository on request . A fee is charged after which the application is approved .

The KADGIS File Archive is the official Repository of all Registration Books, copies of Certificate of Occupancy, land files, survey files, valuation files, layouts, Title Deed Plans (TDP), registers, and administrative policy files . The File Tracking and Management Office "FTMO" is in charge of

files movement and management using the File Tracking and Management System “FTMS” on the Repository , while the KADGIS Electronic Document Management System (EDMS) is the digital archive that stores digital copies of all paper files and documents. This is an equivalent of the hard file that enables online search to be conducted into the soft content of files.

f) Land Instrument Registration;

Under the KADGIS law, registration is not restricted to creating notices on land transactions, but rather a government policy that deals with the land, the people and the rights people acquired on the land , thus land registration in a nutshell entails linking interests or rights to parcels of land in accordance with the law(s). To register an instrument, the original instrument is submitted to Application Submission Unit with a number of counterparts together with evidence of payments for application processing and consent fees after which an acknowledgement letter will be given to the applicant containing the list of documents submitted .

The application moves to vetting unit for verification before consent is processed. The applicant is invited when further information is needed, or for purposes of accuracy, authenticity and doubt resolution . After verification and further documentation where the need arise, the Governor’s approval is sought and obtained, then the applicant is contacted via a phone call or text message to collect initial bill at conveyance unit in order to settle stamp duties, registration and other relevant charges. In case of direct allocation of land and other applications that require issuance of new Certificate of Occupancy, the applicant receives the offer letter, acceptance letter and initial bill which needs to be settled and offer accepted before application moves to Certificate of Occupancy unit for the Certificate of Occupancy to be printed .

New Digital Certificate of Occupancy replaces previous Certificate of Occupancy and is issued for every right of occupancy . All previous Certificate of Occupancy where mandated to be recertified within specified periods . Forms used for recertification and other relevant information that serve as of the guides and used by the KADGIS are provided on the KADGIS website , this is not the position under the Kaduna Land Registration Law and the Kaduna Property law , this makes the

previous of Kaduna Land Registration Law and the Kaduna Property law more complete than the KADGIS law Land Use Regulation.

g) Registration of Digital Certificate of Occupancy

All new digital Certificate of Occupancy whether from allocation, re-grant and other regularization contain the number, page and register at which the Certificate of Occupancy is registered, holder's picture, holder's particulars, particulars of the land granted and conditions of grant. The Certificate of Occupancy is sent to the Governor for his signature after print by the Certificate of Occupancy printing Unit. After the Governor's signature on the Certificate of Occupancy, the process continues and the Certificate of Occupancy is sent to the Deed registry for stamp. Deed Registrar's signature is also required and then final registration at Certificate of Occupancy's register before it is conveyed to the applicant .

h) Deed Registry

After all approvals and payments all instruments for registration move to the Deed Registry where they are stamped with the duty stamped. This is done after checking tax clearance, documents of property transaction and registration fees as the case may be before they are registered . For conveyances, stamp is placed on the original deed and all the other copies of the deed submitted. There are spaces on the stamp for feeding information used for indicating name of the person who submitted the instrument, his address, date and time of submission and the registrar's signature. Another stamp indicating the registry number, the page and the volume of the registry book on which the instrument is registered. This is also signed by the registrar. The final stamp indicates date and time of submission as date and time of submission of registration, it is submitted that this date and time are considered for priority of the interest registered.

Copies of registered instruments are kept in the appropriate files and registers while the original together with the counterparts are sent to the conveyance unit to be given back to the applicant. The stamp duties and registration fees are included in the initial bill to be settled before the document is stamped and registered in the appropriate register. The main difference between KADGIS Law and previous land registration laws is that processes are carried out on the hard files and the soft files on the date repository. This aids authentication, monitoring and serves as backup in

case the hard file is tempered, missing or other problems that can affect the hard file. The registration exercise is anchored by the use of tallies to put people on queues for them to be called on turns to be attended to.

Most of the problems arise due to revocations problems. The cases of *Abubakar Danlami v Governor of Kaduna State and 3 ors* , *Mrs Queen Benedicta Burnell v Governor of Kaduna State and 2 ors* , *Wadata Industries Ltd and 1 or v NSCDC and 5 ors* and similar pending cases against the Service are mostly bordered on challenging the procedure of revocation. In some cases there are assertions that developed properties are revoked on ground of failure to develop , while other assertions are that the holders have applied for or have collected their new digital Certificate of Occupancy and continued to pay ground rent on the properties before they came to know that their properties have been revoked previously for alleged default of ground rent . It is however worth noting that one of the conditions for a valid revocation is that the holder needs adequate notice to that effect

The legal setback in the KADGIS is that of multiplicity of laws in land administration and instrument registration. Forms that provide guides and steps applied by the Service are provided on the KADGIS website and not the KADGIS law or Land Use Regulation. Therefore, they cannot be easily enforceable, likewise some actions affecting peoples interests in land are not mandated to be publicized. There is need for amendments of such procedure to aid in complying with the laws, proper record keeping and publication of some actions that are detrimental to the rights of holders of right of occupancy to limit legal actions, public outcry and distractions.

i) Systematic Registrations

It was discovered that the parcels of land registered in the regular registration process are fewer than expected . This is as a result of the amount of money spent and numerous processes involved . Therefore, the Systematic Registration was introduced which was found to be faster, less expensive and more land parcels are captured in an area . This is because a uniform process for registration is carried out in order to accommodate numerous similar applications on a subsidized amount of money for a period of time. After the scheduled period, interested applicants can only register their rights and interests via the regular registration process . Systematic Property Recertification and Systematic Property Registration are among the Systematic Programs. The most

prominent Systematic program is the Systematic Property Registration known as the “SPRP” under the SPRP, land holders in an area are approached by the KADGIS and the whole land in the area are registered uniformly after sensitization.

j) The SPRP

The SPRP is a government initiative carried out according to a fixed plan, the process is carried out uniformly in an area for a span of period. Unlike other registration exercises, funding and community participation are required to achieve success in SPRP. The applicants’ information and documents are snapped at the field and brought to the relevant unit of the KADGIS to be entered into the data base. The holders’ details together with the properties descriptions are later displayed in the area for corrections and objections. This helps to scrutinize the activities. Failure of applicants to participate means any applicant interested to have his property registered must to go by the regular registration process.

Instruments or transaction documents used on the property transactions are among documents submitted for SPRP registration, i.e title document through sale, gift, and inheritance. Allocation are also required here together with valid means of identification. Where any such documents is not available, sworn affidavit can be used in addition to valid means of identification. The program is done in public, owners, neighbors, elders and traditional title holders are there for scrutiny. After the documents are snapped at the field and entered into the KADGIS data base, the originals are given back to the holders while the process continue online using the soft documents.

The program is faster, cheaper, easier and more transparent because the entire map and names of holders are placed for public observations to enable corrections and objections. After the period for corrections has lapsed, the applications are approved and certificate of occupancy of the holders are printed, executed and registered before they are issued. We submit that the SPRP has come to be very reliable due to community participation, public display for correction and objections before every Certificate of Occupancy is issued, and the procedure and public notice in this process is also commendable.

k) Searches

Any person intending to conduct search makes application to the Deed Registrar, the application is submitted together with receipt of N10,

000 evidencing payment for search Application Processing Fee , after the application is approved, the applicant would be notified on the schedule for the online search in which he is given access to the soft file content from the data base to view on the computer for 20 Minutes (Search and Sighting) . Where 20 Minutes are exceeded he would be charged N5,000 for each additional 20 Minutes , A careful look at the KADGIS Law and the Kaduna Land Regulations reveals that the KADGIS permit only online access to its records which is very limited in timing and scope unlike what is obtainable under the Kaduna Land Registration Law . The Lagos State Lands Registration Law is a contemporary to the KADGIS Law, but the Lagos State Lands Registration Law gives registered persons and groups access to data repository for searches . All they need is to register and pay necessary fee for either fresh registration or renewal of the registration , similar opportunity is not provided in the KADGIS Law. If this similar opportunity is provided, we submit, it would give more access to the information and reduce the workload of the KADGIS because searches can be conducted in other recognized places.

l) Search Report and Certified True Copy of Documents

An applicant is charged N10, 000 for the search report where a person needs a specialized report, N30, 000 is charged . Whenever a copy of any document in the file is sought, N10, 000 application processing fee is charged. After approval the applicant is also charged N10, 000 per each page of the Certified True Copy of any of the documents in the file . We submit that this amounts are outrageous and too exorbitant. Again, the copies of the required documents are certified by the Deed Registrar and recorded before they are issued to the applicant. We submit that the amount expended on the search or getting a Certified True Copy of a document cannot be afforded by all persons and same ought to be reduced. Likewise, processing the Certified True Copy of documents and registering same might cause hardship where they cannot be obtained at required time due to workload. However, even though the above systems have helped in record keeping among others, they have not been effectively utilized to solve the problem of double allocation.

### 3. Conclusion

The The KADGIS Law establishes the KADGIS to replace the Ministry of Lands, Survey and Country Planning to digitize the land records in the state. The Law is accompanied by Land Use Regulation which was made pursuant to the law. Land instrument registration records in the KADGIS include hard and soft or digital

process. This enables physical and online processing, recording and monitoring processes. Land instrument registration is anchored through programs which includes property registrations, both regular and systematic, recertification, regularization, application for Right of Occupancy, direct allocation and revocation activities. Instruments to be registered include Deed of Assignment, Deed of Gift, Deed of Mortgage, Deed of Lease Deed of Release, Devolution Order, Revocation Order, Subdivision, Change of Name, Change of Purpose, Merger and Extension.

Conducting search on registered instrument is restricted to online search via the data repository using the GIS technology. This has reduced fraud because it has reduced the chances of customers and staff tempering with the file intentionally, mistakenly or mischievously. Wear and tear have also reduced to the barest minimum. This is largely because the persons outside the staff of the KADGIS do not have access to the hard file and the search is conducted by sighting the soft document on the computer. Applicants can also apply for certified true copy of documents as the need arises but subject to specific charges.

In view of the foregoing analysis the paper has therefore made the following findings.

1. KADGIS Law has not provided. for effect registration, non-registration etc;

The effect of registration, priority, notice, and effect of non-registration are not provided in the KADGIS Law and Kaduna Land Regulation. Forms applicable for registration are also left from the laws. This is despite the fact that the Kaduna Land Use Regulation is updated regularly by passing new regulations. This again causes wastage of intellect, time and resources on issues that would have been cured by good legislative processes.

2. Uncertainty of laws to apply;

Applicability of numerous laws to govern land instrument registration led to uncertainties and duplication of provisions giving room for picking and choosing legal provisions suitable to persons in offices.

3. Double allocation of land to different individuals

KADGIS is anchored by the use of tallies to put people on queues for them to be called on turn to be attended to. However, there is still room for fraud because most at times the service deals with individuals except in the Systematic Property Registration Program which involves community participation and the publication of information for public scrutiny. Consequently, cases of double of multiple allocation of one plot of land to two different individuals still exist at KADGIS.

4. Registration of land instrument is yet to improve.

Digital Data Repository is a great achievement, but the guarantee expected by registering land instrument is yet to improve because of limited timing and restrictive scope of the search. Unlike what is obtainable under the Kaduna Land Registration Law. The Lagos Land Registration Law similar to the KADGIS Law gives registered persons and group access to data repository for searches, similar opportunity is not provided in the KADGIS Law.

In view of the above findings and to have a more vibrant regime for land instrument registration, the paper makes the following recommendations:

- i. **Harmonization of laws.** To curb the problems of uncertainty of laws to apply as well serve time energy and resources, the State Government should facilitate and finance its Law Reform Commission to harmonize the applicable laws relating to land administration and instrument registration in the State.
- ii. **Procedure for registration needs to be amended.** In order to ameliorate the problem of double allocation, the law should be amended to for a procedure that ensures due diligence before registering a particular land. Hence, KADGIS law provide for adequate, notice and other forms of publicity of vital. This will give the public chance to scrutinize information and make objections when the need arises.
- iii. **Improve registration of land instrument.** The Service should make provisions in the Land Use Regulations to improve the scope of searches by giving adequate opportunity to qualified persons and groups access to data repository for searches after complying with laid down procedure and paying necessary registration fees.

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