

BEFORE YOU BUY THAT LANDED PROPERTY:

What you should know before buying landed property in Abuja!

1.0 ENGAGE THE SERVICES OF PROFESSIONALS

A person that wants to buy landed property in the Federal Capital Territory, Abuja should engage the service of relevant professionals. The service of an experienced property or real estate lawyer is important here. The prospective buyer should 'avoid being pennywise so as not to end up being pound foolish.' Working with competent professionals in the field makes the process easy. Retaining the service of a legal

practitioner who specializes in real estate/property law is vital. This will help you acquire landed property free from physical encumbrances and mental stress.

Legal practitioners who are well versed in property law/real estate transactions know the rules and the necessary legal and

regulatory procedures guiding land acquisition and administration in Abuja.

2.0 DUE DILIGENCE

A legal professional is one person whose service you need early on. The lawyer whose service you retain must ensure he/she carries out preliminary checks by verifying the relevant title documents presented by the prospective seller.

In addition to verification of prospective seller's document(s) of title, getting a competent surveyor to physically inspect/locate the landed property is equally important.

Physical inspection will confirm the location of the property, the environment, the actual size of the land and the type as well as nature of infrastructure in the area, the security in the neighborhood or even the soil structure of the land. This is when you will know whether the land is waterlogged or suitable for purpose. The degree of



physical inspection required may depend on the nature of the property.

For instance, while physical verification/inspection is easy with landed property having a genuine Certificate of Occupancy, it may not be so easy with property having only an 'Offer' or 'Allocation'. Again, while it is, oftentimes, easy with FCDA land, Area Council land with only an "Offer" may sometimes pose difficulty when it comes to physically locating the land. Nevertheless, the professionals engaged to carry out due diligence should know how to navigate this due diligence labyrinth.

2.1 WHAT DUE DILIGENCE ENTAILS?

Due diligence includes engaging the service of a lawyer to conduct search on landed property one intends to buy or acquire. To conduct investigation/search on landed property will depend on the agency in charge of the landed property involves.



The agencies in charge of Land Administration in Abuja include the followings;

- Federal Capital Development Authority
- Abuja Geographic Information System
- Area Councils
- Federal Housing Authority (FHA)

• **Federal Capital Development Authority**

Federal Capital Development Authority (FCDA) was created by Decree No. 6 of 1976 and saddled with the responsibility of administration, planning and development of the Federal Capital City and the Federal Capital Territory itself. FCDA is headed by the Federal Capital Territory (FCT) Minister usually appointed by the President of the Federal Republic of Nigeria.

• **Abuja Geographic Information System**

Abuja Geographic Information System (AGIS) is a department under the Federal Capital Development Authority and the custodial of lands in the FCT, Abuja. AGIS' work in relation to land administration includes;

- a. Issuance of Certificate of Occupancy, Right of Occupancy including Certified True Copy of title documents
- b. Registration of different interest in landed property; Mortgage, Assignment, Sub-lease, Power of Attorney
- c. Allocation of land for different uses like residential, commercial, industrial, etc.
- d. Provision of both textual and graphical data on the FCT (land records, satellite images, aerial photographs etc.),
- e. Property search and land verification,
- f. Land allocation applications,
- g. Revenue collection,
- h. Faster updating and presentation of data (Spatial & Non-spatial),
- i. Planning of revenue generation,
- j. Land acquisition and development,
- k. Development of existing and planning of new structures,

- l. Generating of reports for higher officials / management with adequate maps.

• **Area Councils**

Area Councils function as and equivalent to local government authorities in the federating units. In the past, Area Councils could issue allocation in respect land within the FCT. Now it has been established that only the Minister of Federal Capital Territory can validly allocate land within the FCT. Nevertheless, the Area Councils lands issued in the past are preserved but subjected to recertification at AGIS under the scheme known as Accelerated Area Council and Sectional Titles Re-Issuance Scheme (AACSTRIS). Nonetheless, Area Councils could still be responsible for acquisition of area council land in FCT in relation to allocation of market land.

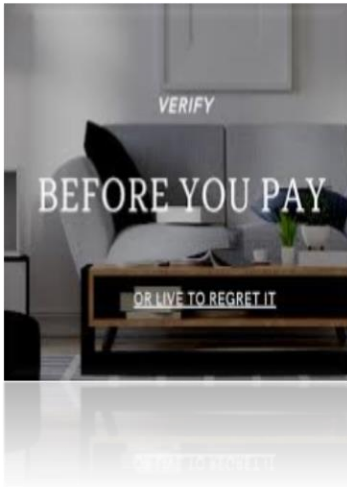
There are six Area Councils in the FCT and they are; Abuja Municipal Area Council (AMAC), Bwari Area Council, Kwali Area Council, Abaji Area Council, Gwawalada Area Council and Kuje Area Council.

• **Federal Housing Authority (FHA)**

This is a federal government agency under the relevant Ministry in charge of Housing. FHA builds houses for public interest, acquire, hold and manage immovable/landed property, construct and maintain dwelling houses, schools, communal and commercial buildings and other structures. FHA performs functions similar to AGIS but in relation to federal government owned/acquired property. Its work in relation to federal government owned/acquired landed property includes;

- a. Site and services; building plan approval; development control
- b. Survey works
- c. Estate management services
- d. Registration/perfection of interest in landed property; assignment, mortgage, power of attorney,
- e. Issuance of certified true copy of title documents
- f. Legal search etc
- g. Entering into contract for construction, maintenance or repair of any of her property etc.

In carrying out due diligence, search/investigation can be conducted in either of the above listed agencies depending on the nature of the land and interest/title on it; whether it's under the regulatory domain of FHA or FCT.



Is due diligence that important?

Yes. Investigation/legal search is for the purpose of discovering the root of title, the land use and

nature of interest in the land; whether or not there is an encumbrance on the land or to discover the genuineness of the title of the prospective seller or to know if there is any patent or latent defect on the said landed property. This can also assist you to know the outstanding charges that may have accrued on the land. It is important to know if there are any outstanding charges such as ground rent, C of O bill etc on the property before acquiring/buying it. It is therefore advisable you engage the service of a lawyer to conduct due diligence for you. Lawyers look beyond the surface and would be able to detect any apparent or inherent defect, if any, in the property beyond the glamour.

2.2 LEGAL SEARCH

As part of due diligence to be conducted, legal search is as important as the purchase price you intend to pay and you should not,



under any circumstance, make payment for any landed property in Abuja without first being satisfied with the report/result of the legal search to be conducted on such property. Upon being given a copy of the title document(s) of the property you intend to buy, endeavor to do physical inspection of the property to physically

locate the property first. If you are satisfied with the physical inspection, the next step is to verify the genuineness/legality of the title documents presented by the prospective seller and this process is what we term legal search.

2.2.1 Where do you conduct Legal Search?

Where to conduct a legal search on landed property in Abuja depends on the document of title that covers the property;

- Federal Housing Authority (FHA), if the landed property is a federal government land within regulatory domain of FHA.
- Abuja Geographic Information System (AGIS), if it is Federal Capital Development Authority (FCDA) land.
- Mass Housing Department of FCDA if the landed property falls within any of the FCDA Mass Housing Scheme.
- Area Council Zonal Office if the landed property was originally allocated by any of the Area Councils prior to the takeover of land from Area Council and the introduction of the policy on recertification of Area Councils' lands at AGIS. Note that if it's Area Council allocation, you need to check if the owner/allottee/prospective seller has done recertification of the title document
- If it is an estate land that is covered by a global C of O, you need to request the Estate Owner to conduct a legal search on the global C of O to be sure of the genuineness of the title as well as the root of title of or the connection the Estate owner/company has with the land in relation to the global C of O.

Why is Legal Search Important?



Legal search will first and foremost reveal the root of title of the prospective seller. It will reveal the nature of the land; the land use/purpose, the amount of ground rent payable and whether there is

any encumbrance on the property or any accrued outstanding charges.

If you have not involved a legal practitioner up this stage, you are risking your money. If the prospective seller is not the original allottee of the land, the lawyer conducting the legal search will be able to know. If there are other documents presented by the prospective seller such as Deed of Assignment, Conveyance, Power of Attorney etc. the lawyer will verify the documents and investigate if they have any connection whatsoever with the first allottee.

If the prospective seller is not the original allottee of the landed property, whatever interest/title the prospective

seller has on the property, his interest/title must have a link/connection with the first allottee. There should be no break in



the chain/root of title of the first allottee to the previous owners (no matter their number) up to the prospective seller. The lawyer conducting due diligence knows also that he should also request for the outstanding bill in relation to the property from the customer service or other relevant department of the registry the search is being conducted so as to ascertain the outstanding charges that might have accrued on the property.

2.2.2 How to Conduct a Legal Search at AGIS?

- Write an application to conduct a legal search
- Attach to your application for search a copy each of the title document of the property on which to conduct search
- Check the title document (Certificate of Occupancy) to help you determine the amount you are paying for the legal search; the C of O is either for commercial or residential purpose and this determines what amount to pay for the legal search.
- Generate remita number and make payment using the remita number at Sun Trust bank or any other designated bank(s)

- After the payment, you will be issued a print out/stamped teller at the bank.
- Take the printout/stamped teller to AGIS (finance desk) to convert it into AGIS receipt.
- At AGIS (customer services desk) relevant questions. Also, check whether or not there is any outstanding debt of ground rent or any other charges on the property at finance desk also at AGIS.
- Request for outstanding bill on the property at finance desk. If there is any accrued outstanding bill on the property, the owner/prospective seller would need to clear the outstanding bill/debt before legal search is allowed on the property. If there is no outstanding debt or the outstanding bill has been cleared,
- Attach the AGIS receipt to your application for legal search along with other necessary title documents and submit for sighting.
- The original of the title documents attached to your application must be presented for and physically sighted by a designated officer at AGIS before your application for search is processed.
- The person to present the original of the title document for sighting must present valid means of

identification; National ID, Driver's Licence, International Passport etc.



- After the physical sighting of the original of the title document(s) you will be requested to check back for

the search report. **The Search Report** contains information about the latest/current status of the landed property on record. It is the outcome of the search report that should determine whether or not you should proceed with the transaction.

2.2.3 How to Conduct a Legal Search at Federal Housing Authority (FHA)

- Write an application to conduct a search.
- Make payment for search at the FHA Mortgage Bank or any other designated bank or online via remita

- Attach the payment receipt to your application together with the copy of the title document(s), letter of consent from the owner/allottee of the property, data page of the owner/allottee's international passport or any other recognized valid means of ID
- Submit the application physically at the FHA
- After submission of the application you will need to follow up the application as the application will go through different phases moving from one office/officer to another office/officer.
- You will be going to FHA from time to time to trace/follow up the application
- After your application is approved, a day will be scheduled for you to do the search manually at the designated office at FHA.

2.2.3.1 **What to look for when conducting the search**

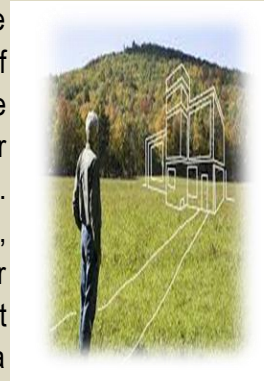
- Encumbrance: whether the allottee has used the property to secure a facility (loan, pledge, charges etc.) in which case there should be a registered Deed of mortgage in the file or whether there is any Deed of Assignment/transfer indicating that the interest in the property has been sold/assigned/mortgaged to another person. If the allottee earlier used the property to secure a facility and a mortgage was registered on it and the allottee/owner claim he has fully liquidated the loan, there should be a Deed of release/discharge of the mortgage in the file.
- An up-to-date receipt of payment of ground rent or any other applicable charges
- The amount of ground rent payable per annum and check whether there is an outstanding ground rent.
- Check if the prospective seller is the first allottee of the property, if not, what connection does the prospective seller have with the first allottee on record?



- If the prospective seller is not the first allottee, does he/she share any relationship with the first allottee on record? What document links the first allottee to him/her on record? Is there any traceable root of title on record from the first allottee to the prospective seller?

3.0 PURCHASING THE LAND

Once the result of the due diligence including the report of the search is satisfactory then the prospective buyer and the seller can decide on payment terms. Once this agreement is reached, the buyer must ensure his lawyer prepares all the necessary but appropriate documents. If it is a developed property, a Deed of Assignment can be prepared/executed straight; if it is an undeveloped property, a Power of Attorney can first be drawn up and subsequently a Deed of Assignment appropriately etc. While executing the document of transfer, the lawyer should also ensure the seller gives to the buyer all document(s) needed/required for the buyer to be able to register/perfect his/her interest/title at AGIS or FHA as the case may be. Parts of the documents needed are consent letter from the seller, means of Identification of the seller etc.



4.0 PERFECTION / REGISTRATION OF TITLE TO LANDED PROPERTY



Once the appropriate document(s) of transfer has been prepared and executed between the buyer and the seller, and the ownership, interest, title in the landed property has passed to the buyer, the

next step is for the buyer to register his/her interest/title

in the property at the appropriate land registry; either at AGIS or FHA depending on the nature of the landed property. The service of a lawyer is also needed here to navigate through the registration process. This process is the same as seeking the appropriate consent required for any alienation of interest in land required by law. There are certain documents to be submitted for a buyer to perfect/register his/her interest/title in the landed property. At AGIS for instance, these include;

- a. the title document,
- b. consent letter from the seller,
- c. means of Identification of the seller,
- d. payment up-to-date of the ground rent,
- e. payment of outstanding bill,
- f. tax clearance certificate,
- g. utility bills etc.

The perfection/registration of title enables the buyer to



register his/her title/interest in his/her name on record at the appropriate land registry (AGIS or FHA) against the property as the

current owner of the interest/title in the land. Once the buyer's interest/title is registered on record, subsequent legal searches on the property will reveal the buyer as the current owner of the property.

5.0 CONCLUSION

Property/real estate is one of the most profitable business/investments in terms of value. It is even more profitable in Abuja. However, as profitable as property/real estate is, due diligence is necessary before one should venture into it. Money invested in buying any landed property is worth safeguarding but without due diligence, money invested in real estate may result in huge loss no matter the amount. Engaging the service of an experienced professional, especially a lawyer, would help one to avoid pitfall that may result in premium tears.

What shall it profit a man who, in a bid to save cost, refuses to engage a lawyer to do due diligence for him before buying property and end up buying one with encumbrances? 'Pennywise' and 'pound foolish', right? Be a smart investor. Stop bad habit, engage a lawyer today!

Disclaimer: the reader should kindly note that the above doesn't constitute specific or any legal advice at all especially in relation to the subject of discourse and the writer shall not be held liable for any liability arising from any form of reliance on the above by anyone whatsoever. Legal advice; general or specific should be sought in relation to any property/real estate transactions or documentation.

Written by



Aisha Bello Mohammed
Associate, Amofin Solicitors



Toheer Olaitan Jimoh
Associate, Amofin Solicitors

Edited by



Kazeem A. Oyinwola Esq. LL.B, BL, LLM
Managing Partner, Amofin Solicitors

Contact us for information:

AMOFIN SOLICITORS

Legal Practitioners and Consultants

Head Office

Abuja:
Suite B05, Peace Park Pl
No. 35, Ajose Adeogun Str
Utako, Abuja.

Tel: 09027210128

info@amofinsolicitors.com.ng / amofinsolicitors@gmail.com

www.amofinsolicitors.com.ng



Branch Office

Ilorin:
143, Ibrahim Taiwo Road,
Obitech Building Ilorin,
Kwara State.

08034987270