BOOK REVIEW

H.A. Amankwah, *THE LEGAL REGIME OF LAND USE IN WEST AFRICA: GHANA AND NIGERIA*, (Hobart: Pacific Law Press, 1989)

The theme of the book is *prima facie* on property law. But, a careful examination or review of the book would show that the learned author had attempted in his adopted style to satisfy the doctrine of "covering the fields". By so doing, he had done a lot of spade work to show that property law is a melting port of other branches of law like: torts, equity and trust, criminal law, insurance and environmental law to mention a few. The author in this book has laid a solid foundation for interdisciplinary awareness in the areas of Economics, Architecture, Estate Management, Town and Country Planning etc. However, as will be pointed out later, five chapters of the book relate more to environmental law than land law per se.

The author has not followed dogmatically the traditional approach of writing land law, where law students and majority of legal practitioners would be lost in the forest of technicalities and legal jargons. His language is scientific, simple and the ideas are coherent. It is similar in style to Professor Omotola's *Essays on the Land Use Act, 1978,* because the legal points raised are touchy and the arguments serve as eye-openers both to the readers and courts in their dispensation of justice.

The book contains ten chapters with relevant heads and sub-heads in order to meet with the necessary requirements of its title and the needs of the readers.

INTRODUCTION

The author focuses his torch on the fact that the book would be exclusively based on the control and management of land. He is of the opinion that such legal control of land had featured prominently under the Roman Law. He made certain voyages of exploration into the British and French Colonies on the continent of Africa. For comparative analysis, the author sees similarities in the traditional control and management of lands amongst the Ashanti people of Ghana, Yorubas and the Bendel people in Nigeria. He indicates that the unwillingness of people (Africans) to adapt or accept change in custom gave the colonial government problems in acquiring lands for socio-economic developments.

His assertion that the British were always anxious to protect the rights of natives of West Africa subject to compulsory acquisition of land with compensation is food for thought in the light of the decision in *A-G of Southern Nigeria v. John Holt & Another* [1910] 2 NLR 1 where the Privy Council held that the Treaty of Cession of 1861 did not exclude the landed property of the ceded area. Much will be said about the hide and seek game played by the British people in the colonies and protectorates over land matter. The author tends to have held the strong view that one of the areas of conflict regarding the control and management of land is the question: 'who is the owner of certain lands within the colony and the protectorates, the Crown or the natives?'. The rationale behind the conflict is that the owner of the land has absolute and exclusive control over such land.

CHAPTER ONE

This Chapter has been devoted to an appraisal of the indigenous methods of Land Use Control. The author asserts that whatever might have been the diverse views of the scholars of jurisprudence about customary law, it has formed the foundation of African

Laws. He stresses that inspite of the promulgation of the Land Use Act in Nigeria there is no justification for assuming that customary law has been rendered inoperative by virtue of sections 4, 24, 29(3), 36(2), 48 and 50 of the Act. Section 29(3) deals with payment of compensation to a community upon a revocation of the right of occupancy thus recognizing communal land holding which is the preserve of customary law. Section 36(2) deals with right of occupation of agricultural land in a rural area. Section 50 defines customary right of occupancy whilst section 24 deals with devolution of the property of a deceased in accordance with the customary law of the area where the property is situated, even if the property was acquired by the deceased under a statutory right of occupancy (see *Ojomu v. Ajao* (1983) 2 SC.156

The author discusses the stool land in chapter one extensively to cover nearly all incidents of customary land holding in Ghana. It should be noted however that the term "Stool Land" in Ghana is known in Nigeria as Royal Estate of royal land. (See Elias, *Nigerian Land Law* and James, *Modern Land Law in Nigeria*). However, stool land in Ghana and Royal Estate in Nigeria do not attract the same rights, benefits and control.

In Nigeria, royal estate is not limited to waste or virgin land because in most cases it forms part of family land unless land acquired by means of conquest during the subsistence of the defunct empires of Western Sudan. On the other hand, the incumbent may not be allowed to enjoy more than the collection of palm produce and when it comes to agricultural purposes, he has mere allocation like any ordinary member of family.

The stool of royal institution has been recognised by courts to be a permanent institution like the Crown. Whereas, the incumbents come and go, the institution remains forever as decided in *Quarm v. Yankah* [1930] 1 WACA 1. The major reasons for stool or royal estate are:

1. To discourage the idea of ownerless land which is analogous to English notion of *bona vacantia;*

2. To vest the power of administration, disposition or alienation of communal land in the Oba-in-Council;

3. In the case of inter-tribal dispute or war over land, the Oba is to mobilize his able-bodied subjects under a local warrior to prevent invasion.

The author then projects the customary notion of ownership of stool land *vis-a-vis* communal land that even if you make some developments on stool land with necessary fixtures, the ownership of the fixtures may not be in dispute but the grantee must know that he is not the owner of such land. He has brought out this customary law principle to appraise the difficulties in obtaining security of title to any interest in land (see *Dadzie v. Kokofu* (1961) GLR.90).

He discusses land as a sacred and religious object, thus, making those people naturally connected with any parcel of land to venture to appease the gods or goddesses of such land to supply rain, water, food crops and fertility of the soil. By their custom, it is believed that it is the forum of assembly for those who have gone to the world beyond, and it is sacrilegious for anybody to go beyond the boundary of his clan, family or a community. It is on those considerations that members of a family or a community would see their land as inalienable as endorsed by the House of Lords in *Amodu Tijani v. The Secretary Southern Nigeria* (1921) 2 AC.399, where the notion of individual ownership of land was ruled out. The author has however said that the impact of agriculture and money economy had paved the way for individual ownership of land, thus, creating mortgage and pledge of land as security for loans. In aid of individual ownership of land, the colonial governments in Ghana and Nigeria had used statutes to set aside the conservative notion of exclusive corporate ownership of land (see the

Concessions Ordinance of 1906, Gold Coast, and the *Public Lands Acquisition Ordinance of 1917 in Nigeria*). Here again section 10 of the *Public Lands Acquisition Ordinance of 1917* provided that unoccupied land if acquired would not attract payment of compensation. The current Nigeria Land Law, i.e. the *Land Use Act* talks of 'undeveloped land', thus removing the ambiguity of declaring a particular piece of land as ownerless. It may be recalled that the passing of those laws met with stiff opposition from the natives.

CHAPTER TWO

Family property and its incidents form the bed-rock of the discussion in this chapter. Here the author does not deal meticulously with the definitions of a family, the appointment of a family head etc in the traditional way of legal writers on land law. He confines himself to acquisition of family property, improvements on family land by any of the members, incidents of ownership of family land, customary leases in brief and family property as security for advances. He discusses those points under the indigenous methods of Land Use Control.

Family land can be acquired by gift, succession (either the property is devised by will or according to customary law if the owner or beneficiary of the property dies intestate) or it might have been bought by the original owner.

The head of family tends to be serving in a dual capacity i.e. as a trustee as well as a beneficiary. This trust institution like the one conferred by the *Land Use Act* on the State Governor does not strictly attract the incidents of Trust Institution as known to equity because of the little or -non-accountability to the beneficiaries of the trustee.

However the author has brought out the following legal points on the incidents of family holding: that legal action in respect of family property is to be maintained by the head of family in a representative capacity subject to the following exceptions:

1. Where there is a division in the family so that some influential members conspire to deprive other members of their legitimate benefits with the consent of the head of family, any aggrieved member may maintain an action to restore the family property to its *status quo;*

2. Where family property may suffer a loss or damage as a result of the personal or remote interest of the head of family who has neglected or refused to maintain legal action; and

3. Where it has become clear that the family head is dealing with the property as if it were his private or personal property.

On the other hand, any disposition of family property by an individual member by will is void.

Family property cannot be attached for the debt of an individual member of family as decided in *Halm v. Hughes* (1869) Sar. FCL.144 (see also *Lokko v. Konklofi* (1907) Ren.451).

Building on family land, expanding the existing building, repairing or renovating family property, reclaiming or redeeming family property by a member's own labour and money does not remove it from its status as family property. For decided authorities on this principle in Ghana: see *Owoo v. Owoo* (1945) 11 WACA 61. contra. *Sarteng v. Darkwah* (1940) 6 WACA 62 at 65 where building on a ruinous site of family land by a member of

family would be regarded as his personal property. (Nigeria: see *Shelle v. Asajon* (1957) FSC 65; *Adenle v. Oyegbade* (1967) 1 NMLR 743; *Bassey v. Cobham* (1924) 5 NLR.92).

The author says that the devolution of such family property in Ghana is on the immediate family and mostly within the matrilineal sector which is not the same in Nigeria. The disposition of family property must be made by the head of family with the consent of the principal members. The author reminds us of a situation where the consent of any absenting principal member can be dispensed with as decided in *Onasanya v. Shiwoniku* (1960) WNLR 166; *Folasade v. Durosols* (1943) 9 WACA 189.

The author has not thrown any light on the positions of a minor and a female member of family in relation to family property. These situations could be observed partially where a family head has neglected or refused to maintain a legal action in appropriate cases. On the other hand, the position of female members of family which had been strengthened in *Sule v. Ajisegiri* (1937) 13 NLR 147 and in *Taiwo v. Lawani* 1 ALL ALR. 703, has received another blow from the Supreme Court decision in *Chinweze v. Masi* (1989) 1 NWLR (Part 97) 254 at 259 to the effect that under customary law, a wife has only life interest in the property of her deceased husband. It appears that the Supreme Court in that case was not mindful of the constitutional provision which forbids discrimination on the basis of tribe, religion or sex.

Moreover the author points out as settled law that the disposition of family property by the head of family without the consent of the principal members is voidable while such disposition as his private property or a disposition made by the principal members of family without the consent of the head of family will be void.

However, the discussion of the control and management of family property without examining the appointment and removal of a family head, the legal roles of a minor or a female member in certain circumstances, the landlord/tenant relationship under customary law and the effect of the *Land Use Act* seems to be an incomplete job.

CHAPTER FOUR

This chapter deals with the evolution of the regulatory system of Land Use. The author (p.68) is of the view that traditionally, zoning was unknown to local inhabitants under the customary land tenure, despite the fact that he identifies the crude system of zoning in the local people before the town and country planning laws were enacted as a result of the advent of colonial administration. He identifies local environment with a conglomeration of members in residential areas based on social affiliation, blood ties and security with a view to curbing anti- social behaviour or to prevent violation of traditional norms. Moreover, according to him, Oba's Palace is always separated with a market directly in front of it and an open space for durbar. Shrines are located under special trees, along the rivers etc. Industries and trades are not separated from residential areas. Basically, agricultural areas, near or far, must be separated from residential areas.

The foundation of town and country planning, emergence of new towns and economic centres part of land use in Ghana goes as far back as 1892-1896, when the Town Ordinance and Village Sites Ordinances were enacted. Of importance, according to the author, are the *Town and Country Planning Ordinances* of 1945 in Ghana and of 1946 in Nigeria.

The factors motivating the growing need for planning as part of land use have been discussed under three important periods: the Railway Construction Era, helping transportation, commerce and growth of towns; the Municipal Corporation Era, during which the government had to control the growing towns through legislations: and Western administration and designation of towns into urbans and rural areas. In some

advanced countries, administrative headquarters may be different from commercial headquarters, e.g. Washington and New York in the US, and the Post-World War Era when returning and retired soldiers were recalling their experiences of advanced countries and beautiful cities they had visited. Thus, under the *Town and Country Planning Ordinances* of Ghana and Nigeria (1945) and (1946) bold steps were taken to establish planning authorities for the orderly and progressive development of land, towns and other areas. In a nutshell, chapters 3-8 could be seen as dealing with environmental law more than property law.

CHAPTER FIVE

The author deals with human habitation and planning in this chapter. Housing projects, the importance of zoning, the need for governments and insurance companies to aid the under privileged persons with housing problems have been discussed with precision. The hazardous task of solving accommodation problems in urban areas, prompted Ghana to enact the *Housing Schemes (Ashanti Colony) Ordinance of 1949* and the *Housing Loans Ordinance of 1952*. The author also refers to the *Federal Housing Authority Act, 1973,* and the *Land Use Act, 1978* in Nigeria as a means of solving housing problems in Nigeria. Nevetheless, the author is of the view that the government seems to be less concerned (despite the legislations) about the plight of the ordinary citizens at a time the well to do citizens are much more comfortable in their carved out territories.

Unfortunately inspite of these various legislations, commoners have no access to the benefits of Housing Units. The so-called *Land Use Act* purporting to be for the benefit of all Nigerians seems to favour mainly the capitalists and the rulers at any given time.

The Committee on New National Housing policy headed by Dr. S.S. Karshi as pointed out by the author is said to have made the following recommendations to the government:

1. To make available necessary statistics and data on existing housing stock;

2. The removal of the factors accounting for the willingness of the government to pay higher rents than the market dictates on houses leased to them for occupation by their officers. It is hereby submitted that such diabolical role is a product of divided loyalty and a breach of the Code of Conduct of Public Officers on the part of the erring authorities;

3. Employees should be encouraged to own their own houses under a scheme by which rent is utilized as mortgage repayment on houses they occupy. It is hereby submitted that as much as this aspect of the recommendation is advantageous to public officers, it would be better if choices other than their working cities were made to make provisions for their retirement age. Anything short of that will turn the administrative headquarters to earthly paradise while the country homes of the officers would become ghost villages devoid of any development;

4. Only political appointees should stay in government quarters. It is hereby submitted that the policy would give the politicians undue advantage over the majority of citizens;

5. Government should not embark on gigantic building projects that are yielding no profits but rather make available electricity, water scheme, good roads and infrastructural facilities. It is hereby submitted that such gigantic fruitless building projects could be seen in the building of political parties' secretariat in each of the Local Government Secretariat,

as if political parties have become part and parcel of governmental administration or productive venture; and

6. The government should promote development of a building research institute. In view of the Sixth recommendation, it is hereby submitted that the government must not only aid the Universities of Technology but give professional scholarship award and provide job opportunities whereby the professionals after their training would be able to experiment and exhibit their acquired knowledge towards nation building. This will also aid both urban and rural areas.

CHAPTER SIX

The author deals with preservation of natural resources in this chapter. First, he examines the traditional mode of preservation by the natives. Where land is given to a stranger, he may be put under covenants not to plant certain crops, not to fell trees or tamper with games without special permission from and with the consent of the grantor. The author examines the various regulatory control to preserve natural resources, eg., the *Minerals Act,* which vests ownership of Minerals and Mining Power in the State, notwithstanding that natives could lay claim to the soil. Land fallowing as a traditional mode of preserving the fertility of the soil has been referred to in the book which the Land Use Act has equally recognised.

As a means of preventing deforestation, the *Concessions Ordinance 1939* granted the Chiefs in Ghana the ownership of land under customary law as did the *Glover Settlement Act* in Nigeria. Under the *Ordinance*, the Chiefs could grant concessions to fell trees or deal in timber by an applicant. The Chiefs were not given absolute power to grant concession. A concession would be granted by the Chief while a certificate of validity would be given by the local authority. The power to grant such concession was removed by Dr. Nkrumah on political consideration, accusing the Chiefs of sponsoring opposing political party from the money received from such concession. Various decrees were promulgated between 1972 and 1977 in Ghana regulating trading in timber. For example, the *Timber Operations (Government Participation) Decree, 1972* empowered the government of Ghana to acquire 55% equity capital of shares of all the timber companies. The 1974 Decree gave the Chief Conservator of Forests power to declare forest areas as 'protected areas'. By the 1977 Amendment Decree, any area so declared a protected area cannot attract building or agricultural activities without express permission. This is a replica of Nigeria's Indigenisation Decree.. which has nothing seriously to do with land matters.

The author seems to be saying in this chapter that despite all the efforts of the government to commercialise land, it has not provided a reciprocal benefit for the natural owners of the land.

The certificate of validity under the *Concessions Ordinance* is meant to enhance security of title of any person having vested interest in the concession grant. It is pertinent to note that the issue of security of title to land is the primary concern of of the government before the *Land Registration Ordinance of 1924* and the *Registration of Title Ordinance, 1935* were enacted in Nigeria and it has been said to be one of the objectives of the *Land Use Act.*

CHAPTER SEVEN

This chapter comes under the title 'Eminent Domain and Land Use Control' which the author treats to mean the power of a constituted authority to acquire the property of its

citizens compulsorily. Here he refers to the popularity of Hugo Grotius as the originator of the concept of "Eminent Domain". In discussing this, he tries to distinguish between the powers exercisable by the state on the one hand and that of the Stool on the other hand; that the latter cannot deprive his subject of his property as the state could do. It is submitted that on that issue the author must be talking of the modern position of the Stool without adverting his mind to the epoch of the tyrants.

The excesses of the stool by not readily making land available for developments is said to have prompted the Ghana government in 1958 to enact the *Ashanti Stool Lands Act, No.28 of 1958* and vest the stool land in the State as trustee. This notion of trusteeship of a state in land matters seems to be different from the universally recognised institution of trust and its incidents.

The *Ghana Administration of Lands Act, 1962* as amended in 1974 seemed not to treat stool land as private land and the stool cannot under the Act complain of inadequate or no compensation upon its compulsory acquisition. The *Public Lands Acquisition Ordinance, 1917* and the *Town* and *Country Planning Act, 1963* are said to have conferred the same rights on the Nigeria government to acquire land compulsorily. The author refers to the arbitrary acts of the government for not paying compensation as unconstitutional, upholding the view of Professor Omotola to that effect in his *Essays on Land Use Act, 1978* (pp.34-42). Moreover, 'compensation must not only be adequate but reflect the open market value' per Butler Lloyd J. in *Commissioner of Lands v. Adeleye* (1938) 14 NLR.104.

Inspite of the power of the state to acquire the land of a citizen compulsorily, such acquisition must be for public purpose only as decided in *Ereku v. The Military Government of Mid-Western State,* (1974) 10 SC.59. The author also points out that state ownership of land is not new to the Northern people since 1903 and under the 1962 *Land Tenure Law.*

But the governments of the Northern States have been extra-careful not to step on the shoes of The Emirs. Even though, the *Public Lands Acquisition (Miscellaneous Provisions) Act, 1976* makes general provision for compensation, the Northern States have divided payment of compensation into rural and urban. A sum of N1000.00 per hectare would be paid for lands acquired in a rural area whilst N2000.00 would be paid per hectare in an urban area be it adequate or not. However, section 29 of the *Land Use Act* is not specific on the question of the adequacy of compensation.

The assertion of the author concerning the *Land Use Act, 1978* as amounting to nationalisation of lands in Nigeria is with the greatest respect difficult to buy on the following rounds: 1. The applicability of the various existing state land laws; 2. Vesting the power of administration in the State Governor and not in either the Head of State or a Federal Minister; and 3. The distinction between the powers of the State Government and the Federal Government on mineral resources and ordinary land.

CHAPTER EIGHT

The author talks briefly about environmental control in this chapter. He identifies environmental problems from the perspectives of soil erosion, the causes and effects of the various pollution agents. He does not venture to touch the legal, administrative and scientific control of the pollution agents. One finds it difficult to appreciate the purpose of discussing environmental control under these rather technical factors. This suggests that the chapter needs further research and interdisciplinary assistance when the book is about to be revised.

CHAPTER NINE

Here the author discusses taxation and the land use control. He is of the view that the traditional or customary land tenure knows nothing about taxation. That despite the fact that Ishakole and tributes are being paid by tenants, they are a means of acknowledging the superior title of their landlords which is not the same thing as payment of tax.

He is of the view that the tax to be paid is ad valorem i.e. it depends on the (current) value of such land and where situated. Thus, the *Land Use Act* has divided state land into urban and rural areas. The author refers to the *Oyo State Land Use (Declaration of Urban Areas Fees and Forms) Regulations of 1978,* under which the towns and villages in the state have come under categories A, B and C. Such division would affect tenement rates payable and the various fees upon an application for certificate of occupancy as well as rents under the *Land Use Act* and the various rent control Edicts.

He is further of the view that such discrimination would defeat the principle that for a tax law to be constitutional it must apply uniformly. It is submitted that uniformity in such circumstance deals with uniform subject matter in the same environment. The interests of the rural dwellers would be jeopardised if a house owner in a rural area who is living with his immediate and extended family free of charge should be made to pay a tenement rate equivalent to what a landlord in Broad Street, Lagos, would be asked to pay. Such tax legislation will be unreasonable.

He is also of the view that since the National Council of State has not made any regulations under section 46(1) of the *Land Use Act,* the constitutional validity of the State Governor making regulations under section 46(2) of the *Land Use Act,* is in doubt. It is hereby submitted that:

1. The Act has expressly spelt out the areas in which the entities can make regulations. In so far as the powers of control and management of land in a state are vested in the State Governor and not in the National Council of State the Governor cannot remain aloof otherwise, he will not be able to bring the Act into effect and it will remain an ordinary paper work.

2. Subsection two of this section is to make the Governor's regulations under the Act supplementary and not complimentary to any regulations made by the National Council of State. The regulations made by the Governor as well as any such regulations made by the National Council of State can be declared ultra vires the enabling Act, on grounds of inconsistency. In effect, the issue of constitutionality of a regulation made under an Enabling Law does not arise unless the Enabling Law itself is in conflict with the Constitution which may render the Enabling Law and the regulations made thereunder null and void.

Another serious extra legal point raised by the author is that governments should not take chance with land owners by taxing land, the products of the land and the anticipated profits without any financial, and technical assistance to boost the ego of land owners or occupiers as the case may be.

CHAPTER TEN

Here, the author discusses the strategy for land use maximization. References have been made to the views of some schools of thought on this subject-matter. Majority of them tend not to favour individualization of land tenure on the ground that it would not aid the growth of agriculture with the steady growth of population. He seems to support the school of thought which advocates for a drastic change in the ownership of land for

economic development. He is in favour of bringing land under state control for redistribution in order to settle people who are ownerless agriculturally. He refers to a similar situation in 1949, under the *Native Authority (Control of Settlement) Regulations*, when Schendam was established in the North. References are also made to the Agricultural Settlement Scheme for School leavers embarked upon by the governments of the defunct Western and Eastern Regions of Nigeria in the late fifties. He attributes the failure of the scheme to the experimental nature of it ie giving land to immature school leavers when the programme called for skill, experience and selfless services.

It is hereby submitted that there is a danger inherent in the state taking absolute control of lands in black Africa. The abuse of power of political rulers as a result of political immaturity embedded in tribalism, nepotism, egocentricism and religious intolerance are the accelerators of the anticipated danger. This type of situation could be observed between the federal and state governments during the Second Republic. Moreover, majority of the political rulers are hiding under the *Land Use Act* to acquire lands indiscriminately for their private uses to the detriment of the true natives. The purpose of land use control must not be seen as an instrument of oppression which could be used to throw out the people from their home foundation to rehabilitate the opportune few who have access to the corridor of power. This situation if allowed to happen is an invitation to chaos. Profitable developments must be gradual not drastic.

The author's view that the *Land Use Act* in Nigeria cannot be repealed, abrogated or amended since it has been entrenched in the Constitution cannot be taken as gospel truth for the following reasons:

Seminars, at government level are currently being held, on the likely amendments of *Land Use Act*, to make it benefit majority of Nigerians. When an institution is created, the regulatory control of such institution is the prerogative of the legislature subject to not enacting a law that will be inconsistent with the provisions of the Constitution on the subject matter. What is difficult is to repeal the *Land Use Act* entirely without going through the procedure laid down by the Constitution. The amendment of the provisions of the *Land Use Act,* being adopted as an Act of civilian parliament can be done by parliament in the ordinary sense of legislative amendments. Moreover, it is settled law that a previous parliament cannot enact a law to bind its successor.

After thorough reading and examination of the book, I am convinced that people of different disciplines like lawyers interested in property law, estate managers, economist and town and country planners should benefit from the reading of this book.

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STATUTORY REVIEW

REFORMING CUSTOMARY LAND TENURE SYSTEM: THE EAST SEPIK (PNG) LAND AND CUSTOMARY LAND REGISTRATION ACTS (1987)

In May 1987, the East Sepik Provincial Government passed two legislations, the *Land Act* and the *Customary Land Registration Act*. The power to enact both legislations undoubtedly derives from the Organic Law on Provincial Government (Chapt.1) ss.27 and 28 of which set out the subjects of concurrent legislative powers between the National Government and Provincial Governments, especially "land and land development". In time of conflict however national laws prevail (see A.J. Regan, 'Provincial Powers Over Land' in *Customary Land Tenure*, (Waigani: IASER, 1989, forthcoming; Jim Fingleton, 'The East Sepik Land Registration', *Ibid*; Tony Powers, 'Policy Making in East Sepik Province', *Ibid*; and Kathy Whimp, 'Inconsistencies between Provincial and National Laws', *Ibid.*).

The potential for conflict is greatly minimised by the Land Act's delineation of State Land (National or Provincial) which it leaves to the regime and preserve of the received common law or non-customary law especially the law of leases, thus leaving every other land which is not the concern of the *National Land Act* (Cap.185) subject to customary law.

Flowing from the strategy of identification of State Land by the *Provincial Land Act* which follows in the main the essential provisions of the *National Land Act* (Chapt. 185), the *Provincial Customary Land Registration Act* provides a machinery for the registration of group title or ownership and individual title or an interest lesser than the group absolute title. This Act effectively takes over the task designed to be undertaken by the long-abandoned *Land (Tenure Conversion) Act* (No.15, 1964). In respect of group title, provision is made for both systematic (Part IV) and sporadic registration (Part V). But while group title under a system of systematic registration (Customary Land Register Area) is *conclusive* evidence of the absolute title of the group (a Torrens inspired position) because the Provincial Land Management Committee would have been satisfied that this is the case, in a system of sporadic registration, registration of group title is only *prima facie* evidence of the facts stated therein as at the date of entry in the register.

And the foregoing leads us to perhaps the most crucial aspect of the *Customary Land Registration Act*, ie. that an interest so registered is not taken out of the regime of customary law but remains *subject* to customary law, a position which is the direct opposite of the effect of registration under the *Land (Tenure Conversion) Act*. And while this interest cannot be defeated by an adverse claim based on custom, it is only evidence of the facts stated therein as at the date of registration. And since custom continues to apply to the land and given custom's nature of adaptability to change to meet changing circumstances, it is possible that with time the ownership of the registered interest and the land may become modified, thus effectively undermining the tenant's security of interest. However, the burden of proof lies on he who asserts a change in the state of facts at the time of registration, a position which provides the registered interest holder *some* comfort. An added safeguard for the registered interest is that it takes precedence over an unregistered interest.

These two legislations provide a model for the decentralisation of land matters. And given the current trend in the National Government to involve local landowners in concession grants, they have arrived not a moment too soon. The rest of the Provincial Governments are watching the experiment with avid eyes. It is reported that already