

UNIVERSITY OF EDUCATION, WINNEBA
COLLEGE OF TECHNOLOGY EDUCATION, KUMASI

LAND TENURE AND LAND DEVELOPMENT IN GHANA: (A CASE STUDY OF
NKAWKAW TOWNSHIP).



AUGUST, 2016

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KAYEB ISSAH

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**A Dissertation in the Department of CONSTRUCTION AND WOOD
TECHNOLOGY EDUCATION, Faculty of TECHNICAL EDUCATION, submitted
to the School of Graduate Studies, University of Education, Winneba, in partial
fulfilment of the requirements for award of the Master of Technology (Construction
Technology) degree**

AUGUST, 2016

DECLARATION

STUDENT'S DECLARATION

I, KAYEB ISSAH, declare that this thesis with the exception of quotations and references contained in published works which have all been identified and duly acknowledged, is entirely my own original work, and it has not been submitted either in part or whole, for another degree elsewhere.

SIGNATURE:.....

DATE:.....

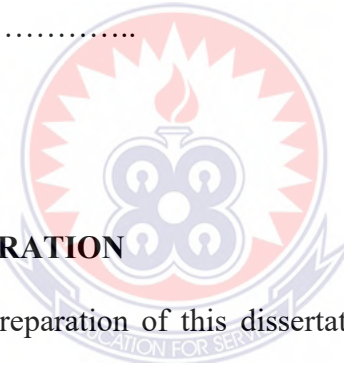
SUPERVISOR'S DECLARATION

I hereby declare that the preparation of this dissertation was supervised in accordance with the guidelines on supervision of a dissertation laid as down by the University of Education, Winneba.

NAME OF SUPERVISOR: MR. M. K. TSORGALI

SIGNATURE:

DATE:.....



ACKNOWLEDGEMENTS

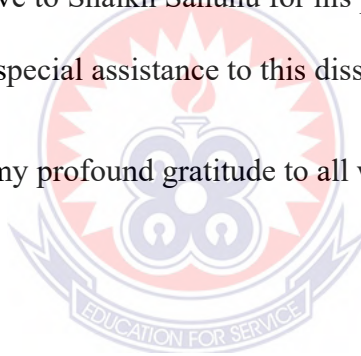
Without the support of Almighty Allah, this dissertation would not have been possible. I thank the Almighty Allah for bringing me this far.

I also recognize the helpful services of my supervisor, Mr M. K. Tsorgali for his sacrifices, suggestion and strong contribution that have brought this task to successful completion.

To my wife, family and friends, I appreciate your encouragement and prayers which have resulted in this great achievement.

I am very much appreciative to Shaikh Sanuhu for his prayers and support, Esther (typist) Yunus, Solomon for their special assistance to this dissertation.

I will also like to express my profound gratitude to all who made my education possible.



DEDICATION

I dedicate this dissertation to my wife Samira Issah Shaibu and children, Sumaiyyah Issah Kayeb, Abdul Muqsit Kayeb and those who are yet unborn.



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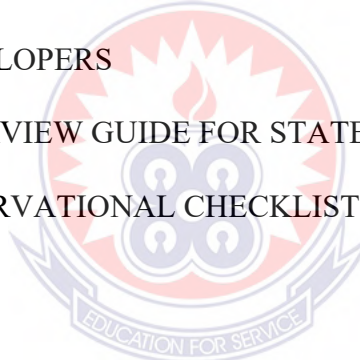
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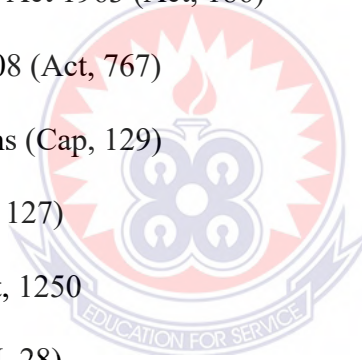
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- Marriage of Mohammedans (Cap, 129)
- Marriage Ordinance (Cap, 127)
- State Lands Act 1996 (Act, 1250)
- Ashanti Stool Act 1958 (N. 28)



LIST OF ABBREVIATIONS

CA	-	Court of Appeal
CLS	-	Customary Level Secretariat
EPA	-	Environmental Protection Agency
GDP	-	Gross Domestic Product
GLR	-	Ghana Law Report
LAP	-	Land Administration Report
LC	-	Lands Commission
LUPM	-	Land Use Planning and Management
OASL	-	Office of the Administrator of Stool Lands
TCPD	-	Town and Country Planning Department
WACA	-	West Africa Court of Appeal
WALR	-	West Africa Law Report
KWMA	-	Kwahu West Municipal Assembly

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ABSTRACT

The significance of land for building is undisputable. The concept of property right and the nature of rights prevailing on a particular piece of land and land development issues are the core of the study. The purpose of study is to investigate the challenges associated with land tenure and development issues in Ghana. Using a survey and case study research design, simple random sampling, questionnaires, semi-structured interviews, focus group discussion and observation as the field instrument, the dynamics of land tenure and development issues in the Nkawkaw area were studied. The results of the study has revealed that the activities of unqualified land surveyors and non-availability of planning scheme in the area have resulted in cases of multiple sales of land, encroachment and disputes. Land registration and the acquisition of permit before building was not their priority. Among the findings of the study is that some client out of ignorance acquired land from unauthorised source. It also showed that most of the time these clients manage to execute project either with or without approval. The study recommended that pragmatic measure must be put in place to resolve the challenges facing land tenure and development in the area. The allocation of land must be streamlined. The customary land rights in the area must be codified and Town and Country Planning Department must be empowered to enforce planning decisions. The land registration regime currently operational must be decentralized to ensure timely service delivery and cost reduction. Above all there should be more educational campaigns to inform the people on new development in the area.

CHAPTER ONE

INTRODUCTION

1.1 Background of the Study

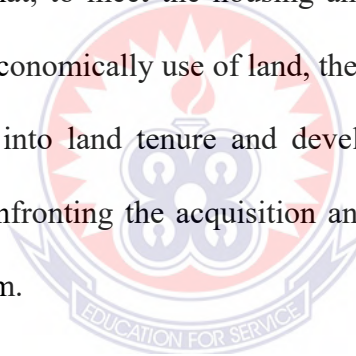
Land is a very important asset not only for sustaining livelihoods but also for generating wealth. Its significance in most sub-Saharan African countries, including Ghana, where agriculture is the mainstay of the people cannot be overemphasised. Land serves as a factor of production, generate wealth and support the livelihoods of these nations. It contributes, greatly to the backbone of most of these economies and contributes a substantial part of their Gross Domestic Product (GDP) (Commission for Africa, 2005).

Apart from that, land rights do not seem to relate only economic factors but also to political, social as well as religious aspects of their lives (Agbosu et al, 2007). With the Akan ethnic group, for example, land is woven into the very fabric of society. There is the belief that land is an ancestral heritage and, therefore, needs to be wisely used and conserved for the benefit of present and future generations. It is as a result of these reasons that land is jealously guarded and preserved among many communities in Ghana.

Land tenure is defined as a set of rules and regulations that govern the holding, use and transfer of interest and right in land (Payne, 1997 cited by Mend, 2006). Land under customary law is expressed in terms of rights established within a particular tradition. It is an acceptable fact that most disputes among tribes, ethnic groups and families result from land related problems. This has had a remarkable impact on the development activities in this country which Nkawkaw is no exception.

Development involves the process to convert natural asset to another form to suite human needs. The National Building Regulation 1996 (L.I. 1630) and local Government Act, 1993 Act 462 defines development in terms of infrastructure as any erection, alterations or execution and sitting of structures to be acknowledged before execution. In construction fields land is developed into building for different purposes. To avoid contradictory interests and to ensure safety, convenient measures are designed to check these developments.

It is important to stress that, to meet the housing and other infrastructure needs of the growing population, and economically use of land, there is therefore the need to conduct in - depth investigation into land tenure and development in Nkawkaw township to unravel the challenges confronting the acquisition and development in order to suggest pragmatic solution for them.



1.2 Problem Statement

In recent times the populations of Nkawkaw is on the ascendency. This is as a result of rural-urban migration. This has stimulated the demand for accommodation which is woefully inadequate. A lot is being done to solve the accommodation problem but these are not without challenges. One such challenge is the acquisition of land to provide the needed housing and other related infrastructure. In the construction industry, the challenge of land acquisition is much extensive. Generally, the challenges bothers on

general indiscipline on the land market, indiscriminate boundaries of stool/skin land, weak and cumbersome land administrative system.

Multiple sales of residential parcels of land are a common phenomenon of late and this create disputes and enables litigation. Also, some clients out of ignorance acquire land from unauthorized sources. What is surprising is that, most of the time these clients manage to execute the project either with or without approval of the right authorities. This has always lead to the abandonment of projects when the rightful owner is declared to the knowledge of the clients.

Again, in the development of the land most clients neglect the part played by local authorities as most of them build in unapproved development area. It is very common to see building structure under construction with such comment written on it as STOP WORK, PRODUCE PERMIT and many others.

Most clients take the law into their own hands and go ahead to build as they wish after acquiring the land. They do not consult the authorities to determine if their intended use of the land is in conformity with the approved plan of the area. These haphazard developments always lead to demolition of some structures in some areas.

1.3 Purpose of the Study

The purpose of this study is to investigate into the challenges associated with land tenure and development and suggest recommendation to address them.

1.4 Objectives of the Study

The objectives of the study are to:

- Examine the land tenure and development issues in Nkawkaw Township
- To identify the factors influencing the approval and permission to develop lands
- To suggest policy recommendation towards improving land tenure and development.

1.5 Research Questions

These specific research questions are derived from the stated objectives considered for the study:

- What are land tenure and development issues in Nkawkaw?
- What are the factors influencing the approval and permission to develop lands?
- What policy recommendation can be made to towards improving land tenure and development in Ghana?

1.6 Significance of the Study

An investigation into the land tenure and development in Nkawkaw Township is definitely significant since any building project is constructed on land. Nkawkaw where the researcher currently resides, there are a lot of issues on land tenure and development. Generally, issues bothers on indiscipline in the land market, clients manage to execute construction project on a land either with or without approval of the right authorities. This has always led to abandonment of project after the rightful owner is declared to the knowledge of the client.

The findings will aid in advancing the course of land tenure and development.

1.7 Scope of the Study

Even though the challenges are nationwide and has extended its tentacles to a larger extend. It would be limited to some few aspects to make it possible and effective. This is to ensure that the available resources and time accessible could produce positive result.

The study is based on land acquisition, dispute regulation and land development issue in Ghana and focused on Nkawkaw. It is hoped that Nkawkaw which is very sizable and have urban status in Ghana would yield the results expected if carried out nationwide.

1.8 Organization of the Study

The study organized into five chapters.

- The introductory chapter presents the background of study, the statement of the problem, purpose of the study, objectives of the study, research questions, the significant of the study, scope of the study and limitation of the study;
- Relevant literature on land tenure and development as well as theoretical and conceptual frameworks of the study are reviewed in chapter two;
- The chapter three, discusses the characteristics of the study area and the detail of research methodology adopted;
- Results from the investigation are presented and discussed in chapter four;
- The final chapter of the report presents the summary of the results, conclusions and recommendations

CHAPTER TWO

REVIEW OF LITERATURE

2.1 Introduction

This chapter reviews literature on land tenure, conduct of market and Land development in Ghana and elsewhere. It also involved the various land rights in the country as well as issues that affect land acquisition, registration, dispute adjudication and development.

2.2 Theoretical Framework

The concept of property right and the nature of rights prevailing on a piece of land and development of a particular piece of land are the core of the study of land tenure and land development. Several bundles of land are assumed to subsist in land particularly as individualization takes place (Wehrmma, 2008). Plateau (2000), notes that the individuals increase the range of rights they have in land as it become scares. Subsequently, they assert their autonomy ever over those land rights. These rights include right of use and right of transfer. Typically, rights over a given piece of land begin to be asserted in several ways. This includes choosing which crop to grow, how to dispose the harvest, which type of building to put up and exercising the capacity to prevent others from exploiting the same parcel. Plateau (2000), emphasizes that the scarcity of land makes land holders uncertain about the strength of their customary rights, as pressure increases. As a result disputes over ownership of land, inheritance and land boundaries tend to multiply.

The “Evolutionary Theory of Land Rights” (ETLR) is, accordingly, the basis of this research. Theory posits that while population pressures increase on land, more people

demand access to the scarce commodity. Agriculture then turns to be commercialized in rural area and building springing up in urban area amid increasing land values. Individuals 'acquire rights in land leading to increasing uncertainty about their land right while customary land owners make strategic move to claim new lands or protect their access (Plateau, 1996; 2000). Such difficulties lead to the multiplicity of land disputes and arising litigation cost, along with the need for more secured property rights. State or orchestrated processes of dispute adjudication and registration are sought after by land holders. Plateau (1996; 2000), reiterates that land titles registration and adjudication tends to augment tenure security. As a consequence, title holders are motivated to invest in their land. This improves transaction cost and leads to an improved market. The efficiency in adjudication and provision of clear titles reduce land disputes giving rise to a more stable and peaceful society which enhances investment in land.

The theory is said to be imperfect in that as private property rights set formalized through title registration, the expected effects on investment do not materialize. In effect, evidence shows that attempts to increase tenure security in this way have not encourage investment, a growth in activity on land market or the availability of credit by using land as collateral (Plateau, 2000). Also, it has been revealed that an active land market does not necessarily require land titling. The contrasted experience of Kenya and Rwanda prove this. In Kenya, the land market is rather inactive despite titling while in Rwanda, the land market is said to be quite active despite the illegal character of most land transaction (Plateau, 2000). The Nkawkaw area and Rwanda experience seem to be quite similar. The land market is very active but faces a lot of challenges.

It has been argued in other circle that this theory is flawed in the sense that in most part of Africa, the issues are more complex than the linear processes described by the theory. In the Western and South-Western part of Ivory Coast for instance, it was revealed that socially embedded land sales have emerged without there, necessarily being a population pressure or a full individualization of land rights (Chauveau et al, 2007) Another flaw in this theory is the idea that once a land market has emerged, it continue to operate indefinitely. This was disprove in the case of Djimini – Koffikro in Ivory Coast, where active land markets which existed had subsided (Calm and Ayouz, 2006 sited by Chauveau et Al. 2007) As a result, plot which were acquired by individuals on the land market tended to transform into family property when the purchases died.

In conclusion, the theory follows the pattern of development in the study area with some exceptions. This shift of land customary tenure system into individual land holding arrangements was quite obvious. Again, land arrangement and practice far from being static are indeed evolving freely under the pressure growing land scarcity.

Evidence shows that although investment in terms of construction work has increase in Nkawkaw area, the introduction of land registration and dispute adjudication measures by the government has not improved land tenure security.

2.3 The Customary Land Tenure System in Context

There is the argument that when society was governed by customary law, land was embodied in the right of ancient groups defined as stool or skin, family and similar

affinity groups. It was this group which owned land as a communal entity. This concept of land tenure, as put together by traditional society, has remain such that in spite of the tremendous social, economic and political changes that have occurred over the years, land remains governed by this traditional ideology a communal property (Woodman 1996; Kasanga et al., 1996).

The communal heads usually represented by Chiefs or their elders as well as family heads, administer the allodial right in the land. In the same way community members are restricted to hold right of usufructs.

The communal arrangement of land ownership therefore avail member of the community to hold derived right in land except that sometimes, it could be portion of the right the group holds in land (Bentsi- Enchill 1994; Woodman1996). Customary tenure rules govern the land tenure system in Ghana with varying tenure and management systems. These tenure systems in effect have been recognized to be diverse in concepts and practice, varying form one lineage area to the other and also location specific, but certain commonalities exist (Kasanga and Kotey, 2001; Agbosu et al., 2007). According to Agbosu (2003), despite differences in the internal arrangements for land administration and control noticeable in each tribe, there are these commonalities.

- An inherent right of the individual member of a land holding group to benefit from the land regarded as a common asset and resources.
- The recognition of certain members of the community as having control over how right to benefit may be exercised; and

- The lack of individual ownership of the soil itself, the paramount title of which was accepted by the communities as vested in the group such as the stool, the clan or family, all of which are corporate juristic entities under the allodial title, land holders include individuals, families and communities and the variations depended on the lineage. Among the matrilineal lineage such as the Akan tribe, Allodial title is vested in the stool represented by Chief. Agbosu et al.

(2007), emphasized that only vacant land belongs to the stool while allocated land was mainly under the control of the maternal lineage on the contrary, among the patriarchal lineage such as Ewes and Dangbe tribes, allodial title to land is vested in the family. Consequently, it is revealed that the patriarchy maintain a general authority over lineage land but it's leadership varies significantly among the groups depending on the level of centralization and the degree of stability (Agbosu et al., 2007). Again in Northern Region, it is held by tendaness or earth priest (Kasanga et al., 1996; Kasanga and Kotey, 2001).

Besides the lineage head granting land to members, migrants are allocated share cropping tenancies. Amanor (1999), reports that profits earned are usually shared with other elders in the lineage for development. However, the allocation of land within the lineage is not equitably shared. He noted that oftentimes the land is allocated to the wealthy members among the lineage who are expected to create more wealth for the lineage. It was also noted that the lineage heads preferred allocating land to hardworking migrant sharecroppers than to poor women and the youth who can barely produce above their living requirements (Amanor, 1999).

There is a clear land tenure difference between Northern and Southern Ghana. This is explained in terms of their varied historical integration into the colonial economy where North was made a labour reserve of the south. Evidence shows that the South was developed as an export producing zone, resulting in high rate of migration from North to the large towns and Cocoa producing areas, of south (Benneh, 1975 cited by Agbosu et al. 2007). Amanor (2001), questioned whether land tenure in the North is customary or transformed tenure based on migration and the limited commercial value of the land. He explained that the Northern Ghana itself, the differences between the land tenure system of the Northern Region and the two upper Region and also seen as a product of different colonial historic evidence of the two areas.

The statutory tenure on the contrary, came into being with the advent of colonial authority intervened in the commercial land relations that existed to favour the economic interest and that of the state through reform (Aryeetey et al., 2007 b).

This introduced state control in land relations which eventually resulted in the privatization of land parcel ; a situation typical in the urban areas of the country while the rural area still experience the customary land tenure system (Mends, 12006). At present, therefore, approximately 80% of land area in Ghana is manage under the customary tenure system with the remaining being managed as a statutory lands (Government of Ghana, 2002)

This institution in the legislative aspects of the land tenure through colonial rules created two streams of right in land; the customary law right and statutory right. The duality has

compounded the challenges of efficiency and equity in the ownership and use of land. This ambiguity therefore is what has come to be known as legal pluralism in customary law literature (Crook, 2005; Larbi, 2006; Crook et al., 2007). This is the situation where customary tenure rules and statutory laws co-existed with a complicated mix, with multiple bodies through which land disputes are resolved.

Despite all these the customary land tenure system has been recognized to be resilient against the range of market forces amid the growing scarcity of land. It has therefore been argued that strengthening the customary land tenure through a more incremental approach to reforms, especially in areas where there are difficulties, will be the way out (Kasanga et al., 1996). More to the point, the 1992 constitution of the Republic of Ghana very much recognized this concept of land tenure revealing that:

“The state shall recognize that ownership and possession of land carry a social obligation to serve the larger community and in particular, the state shall recognize that the managers of public, stool, sate, and family lands are fiduciaries charged on the obligation to discharge their functions for the benefit respectively of the people of Ghana, of the stool, skin, or family concerned and are accountable as fiduciaries in this regard” (Article 36 (81) of the 1992 constitution).”

This land tenure system co-existed with different right and interest - the allodia title, the usufruct, and various types of tenancies (Woodman, 1996; Woodman 1968; Ollennu, 1962). A detailed discussion of these interests follows:

2.3.1 The Allodial Title

This title is a real property ownership system where the real property is own free and clear of any superior landlord (USLegal.com).

Bentsi-Enchil (1964), acknowledge two forms of the allodial title to land, the state ownership and family ownership. He further explained the state ownership as those lands in occupation of paramount stools, a common practice within the Akan community. It is based on the principle that a transfer can only be made by the chief subject to the consent and concurrent of the principle and councilors of the stool. In this regard, all transfer granted are lesser than allodial title. The family ownership on the contrary, is premised on the fact that the heads of the family held the entrusted for their members. Any transaction therefore requires the consent of the members of the family. Bentsi-Enchil (1964), further noted that it is only when outright grant is made by who community in agreement with ‘management committee’ that individual, family or other larger group can hold the allodial title.

Apart from the two major forms of allodial ownership cited above, the courts have also held that this form of ownership is possible of being vested in individual.

(Nyasemhwe and Ano V Afibiyesan (1975) G.L.R 297-300)

- **Acquisition of the Allodial Title**

There are various ways in which the community acquires the allodial title in land. In the judgment of Ollenu, in the case of Ohimen V. Adjei (2 WALR, 275 p279), it was held that “there are four methods by which a stool acquires Lands”. They are:

- Purchase by the stool;
- Gift made to the stool;
- Conquest and subsequent settlement by members of the stool and
- Appropriation of unoccupied land by pioneers and hunters of the stool land.

According to Danquah (1928), two further modes are foreclosure after a pledge or mortgage, and reacquisition of title by reversion from a grantee. The original mode for acquisition of allodial title appears to be by discovery and settlement there on. However, it was a necessity that land was unoccupied immediately before settlement. The difficulty here is the principle of customary law that there is no land without owner". This was stated by Sarbah in 1897 which was been followed by the superior courts since their inception. This principle is said to apply to events before the latter date although it is unclear how far back into history it may have extended. Perhaps this will not hold in respect of events before the early 18th century since that date title could not have been acquired by discovery and settlement on unoccupied land. However, since the courts regard all land as having been owned for at least two and half centuries, it is clear that not all lands were occupied before that time.

In number of cases the courts have determine title to such lands. Thus in *Ofori Atta V Atta Fua* (1913) D. 8 F. C. II – 16, 65), simply C.J. found that's the land in dispute had been unoccupied. He held;

“These lands being uninhabited lands situated between two paramount stools would according to native law and custom accrete to the paramount stools and the

question of boundary between the two paramount stools would be one in respect of Adjoining lands”.

The same solution was applied in the coconut plantation Acquisition, while in *Ababio V. Kanga* (1932) 1.W.A C.A 253. It was held:

“Now in the Gold Coast there is no land without an owner, all vacant lands being attached to the nearest stool in which they may be said to vest for the community represented by that particular stool”.

If no act has been done in respect to the land, then it belongs to the nearest community by the mere fact of contiguity (Ollennu, 1962). An acquisition by settlement could therefore be interpreted by the date of acquisition. If the acquisition was before the earliest date to which the “no land without an owner” doctrine is applicable, it was then by settlement on an unoccupied land. At that date all remaining unoccupied land must be deemed to have automatically occurred to the nearest communities. Here the acquisition may have been by contiguity. Where a community is set to have acquired land by occupation since that date, it must have been at the expense of another community. Therefore the basis of the acquisition in this case has not been occupation of a *res nullius*. It is submitted that such acquisition is by settlement on land owned by another community, whose acquiescence in the settlement stops it from subsequently asserting its title.

- **Loss of the Allodial Title**

An abandonment of the allodial title was the mode of losing it but currently there cannot be an unoccupied land; it can no longer occur unless the title vests simultaneously in

someone else that is by estoppels. According to Woodman (1968) the derivative modes of acquisition listed in the preceding section all involve loss of the allodial title by previous owners. Thus sale, gift, foreclosure, estoppels and conquest are modes whereby one loses the allodial title at the same time as another acquires it. In his view the allodial title could be lost.

The title may also be lost as a result of legislative enactment. In three instances, holders of allodial titles have lost them or are liable to lose them, as a result of legislation. First, the Administration of Lands Act 1962 (Act 123), S 7 (1) provides that;

“Where it appears to the president {now National Liberation Council} that it is in the public interest so do he may, by executive instruments, declare any stool land to be vested in him in trust and accordingly it shall be lawful for the (National Liberation Council) on the publication of the instrument, to execute any deed or do any act as a trustee in respect of the land specified in the instrument”

Secondly, the government’s other power of compulsory acquisition can be used to acquire the allodial title to land whether or not it is subject to the Administration of land Act. Thirdly, certain ordinances and Acts have vested specific areas of land in the state. (E.g. Ashanti Stool Lands Act 1958 (No. 28) and the Takoradi Harbour and Town (Acquisition of Lands) ordinance (CAP- 140)

It has long been possible for a community to transfer its allodial title to another community although it was impossible for an individual to own any substantial interest in that land. Thus it must have been impossible to transfer the allodial title to an individual.

There appears to be some conflict between the authorities. There, it is necessary, to investigate whether the law has changed. Again, there was the idea that when a citizen occupied vacant communal land his interest eventually “ripened into full ownership” ousting the community title altogether as noted in the case of *Lokko V. Konklofi* (1907) Renn. 450 (D.C and F.C). The nature of the usufruct, however, seems to be misunderstood. More recent cases have so often made it clear that the community retains its allodial title. This idea must be regarded as ever ruled as in *Thompson V. Mensah* (1957 /3 W.A.L.R. 240 (C.A)

The authorities on express grants therefore have to be investigated. Nevertheless, after eliminating such cases, one finds some decision of the West African Court of Appeal which seem to support the view that the allodial title can be granted to an individual. In *Okine V. Sasraku* (1930) 1 W.A.C.A. 49), the court held that a stool might sell land to a stranger, retaining nothing more than a remote chance of reversion, if the purchaser died, without successors in *Safo V. Yensu* [(1941) 7 W.A.C.A 167 at p 170] the court cited and approved a statement by the trial court that lands might belong, not to stool, but to a private individual. A case which discusses the question more fully is *Goightly V. Ashrifi* (1955), on appeal from the *Kokomlemle* consolidated cases. Jackson J. had held for reasons are mentioned below, that a stool could sell its title in land. Provided that the sale was necessary to pay off a stool debt which been unknown in the past, but that would be unjust to creditors of the stool to refuse to allow a sale in such a case. This conclusion was challenged on appeal on the ground that sales were not restricted to such circumstances in other words, that they were even easier than Jackson J. had stated. The

appeal court held: *“In our opinion the existence of a stool debt was not at the times material to this inquiry a necessary preliminary condition to the sale of stool land”* The court relied on the opinions of Redwar and CaselyHayford, to be mentioned below.

The view of Mr. Justice Ollennu is that even when the sale appears to be outright, the stranger acquires the usufruct only. The community retains a “jurisdictional interest” equivalent to its right in land in which a citizen has a usufruct.

He accepts that this is contrary to the decision in *Golightly V. Ashrifi* (1961). He argues that Jackson J.’s decision was defective in that it restricted the power to grant usufructuary interests as well as the allodial title; and that on appeal, the court and parties were so concerned to remove the restriction on grant of the usufruct that they lose sight of the fact that the allodial title was entirely inalienable to individuals. However, the decision was given by the West Africa Court of Appeal, and was part of the ration decided. It is not likely to be overruled unless it can be shown to be contrary to other authorities. There appear to be no such authorities.

Danquah (1928), considered that a paramount stool had “jurisdiction” over all land in its area, whether alienated or not. The Ashanti Confederacy Council stated emphatically that outright grants to individual were impossible, although it realized there had been attempts to make such grants (ibid). This is admitted by strong evidence, although it is possible that the law has changed since that time. It is also possible that the law is different in Ga area from that in Akim and Ashanti.

- **Right of an Allodial Holder**

There are certain rights that are enjoyed as a result of a community exercising the allodial interest in land. These include the following:

Exclusive Possession

As a concept, it denotes visible possibility of exercising physical control (corpus possessions i.e. direct control and indirect control of land), over a thing with intention (animus possedendi) of doing so to the exclusion of all others. It is presumed that although the owner may not be in control i.e. physical control, he has the intention to hold on to the land.

Use and Enjoyment

This right gives owners right to how to use the land as well as the right to the law. Thus the old customary law rule in *Ashon V. Barny* (1997) which was no longer reasonable was over turned in *Atta V. Esson* 1976 1 G L R 1 2 8

Right of Alienation

It give the presumption that the person who has the legal right or interest has the right to alienate i.e. “nemodat quod nan habet”. The holder could either give:

- The whole or entire interest.
- A lesser rights like share tenancy or customary licence
- A lease
- When the holder give part of the interest to other and part, the whole interest reverts back to him at the end of the term.

Right of Proprietorship Perpetuity

This right manifests itself most where the allodial interest is owned by a group rather than an individual as a group never dies and is in perpetuity thus allowing for the enjoyment of this right. It was noted in *Quarm V. Yankah II* (1930) 1 W A C A P. 80 per Sir George Deane C. 3 that ‘... *The concept of the stool thus, as has always been accepted in the court of this colony is that an entity which never dies, the corporation sole, like the crown and that while the occupants of the stool may come and go, the stool goes on forever,*’

The owners can have parallel right of the land together with any other body to whom they have transferred of the rights. After the expiration of the term, the exclusive right to ownership comes back to them. For example they can grant a lease after which the land returns to them.

2.3.2 The Paramount Interest

Ollennu (1962), continued to assert that, the sub paramount title is vested in the occupants of the subordinate stool or skin under the head stool or skin and it is the second highest to the allodial title. Ollennu (ibid) distinguished between the paramount and sub-paramount titles thus:

“When the paramount ultimate or absolute ownership is vested in a “stool” or “skin” having other stool or skins, tribes, Wards, quarter or sections subordinate to it, the absolute ownership by the principal stool is dependent upon subordinate stool skin, tribes, Wards or section has a very real existence, and is **sine qua non** to the paramount ownership by the head stool, skill, Ward or quarter. Unless

prices of land in state can be shown to be attached to a subordinates stool or skin, the absolute ownership in that land cannot, by customary law, be said to be vested in the paramount stool or skin.

On the basis of the above, it is commonly expressed that the allodial title is frequently vested in both a head stool and its sub stools or constituent families and in such circumstances rights may be exercisable variously by the head stools, by the appropriate sub-stool or family, or by both either jointly or in the alternative (Woodman, 1968). According to Josiah – Aryeh of interest in analysed by the great writer, his views have not been generally followed and this title was left out of account in the scheme of interest incorporated into the land Title Registration Law, 1986 (PNDCL 152)

2.3.3 The Usufruct or Customary Freehold Interest

This is a real right which gives the holder (referred to as usufructuary) in his personal capacity the right to the use, enjoyment and the fruit of property own by another person (www.bissetts.com).

According to Pomevor (2014), the usufruct title in Ghana is the highest type of land ownership or a subject or individual member of a family can hold in stool/ skin or family. It is an interest in the land held by sub groups and individuals who acknowledge the land to be under allodial ownership by a larger community of which they are members: This applies to:

- Families and individuals subjects of a claim in part of the clan's land,
- Families and individuals subjects of a stool in part of the stool land.

It is therefore a very substantial encumbrance on the allodial interest. This term was quoted from the Roman law usufructus and was subsequently adopted by Woodman (1996). It is called “determinable estate” or of the fact that it is a type of absolute ownership, which may be determine under certain conditions without affecting the community ownership. The term “customary free hold” was first proposed by Bentsi – Enchill and was adopted by Ghana law Reform Commission in its recommendation for reform of the Ghana land law in 1973. This title is a mere qualification or burden on the paramount, radical or absolute estate that is vested in the stool of skin. In the case of *AmoduTijani V. Secretary Government of Southern Nigeria* (1921) 2 A. C. 399 the pricing council described the determinable or usufructuary title as follows:

“A very usual form of native title is that of a usufructuary right, which is mere qualification of or on the radical or final title of the sovereign (Stool) is a pure legal estate, to which beneficial rights ,may not assume definite forms analogous to estate(Ollennu, 1955).”

The Supreme Court also describes the usufruct as “*a species of ownership co-existent and simulators with the stool’s absolute ownership*”. This was held in *Awuah V. Adututu* 1987 – 88 2G L R 191 C. A). other terms given to this interest in customary law freehold, possessory title or the usufructuary.

- **Origin of the usufructuary Title**

As noted by Asante (1969), when people settle down to farm as the main economic activity, and stool subject reduced portions of land into their possession for the purposes

of cultivation, they developed the concept of the subject usufructuary right to stool land, that is to say the right to occupy, till or otherwise enjoy an unoccupied portion of stool land to appropriate the fruit of such user. This right of beneficial user in no way derogated from the allodial title of the stool: to use Lord Haldane's words, the usufructuary right was "*a mere qualification of or burden on the radical of final title of the sovereign.....*" (Tijani V. Secretary). Southern Nigeria (1921) 2 A.C. 399 p. 403). The traditional idea, a draw sharp distinction between the subjects' right of beneficial user in the stool's land, and the stool's absolute ownership thereof. An Ashanti say runs. "The farm [meaning the farm produce] is mine; the soil is the Chief's (Rattray, 1929) the user, however long, could never ripen into ownership see *Kuma V. Kuma* (1938) 5 W.A.C.A 4 (P.C) There was no equivalence of the Anglo-American idea of prescription. As a consequence of this scheme no land could be ownerless, usufruct as noted, was not a species of ownership but it consisted of perpetual right of a beneficial user in re-alienated stool land. Stool subjects had an inherent right to a usufruct in any occupied portion of state land (Ollennu, 1962; Woodman, 1996)

Accordingly, the bare facts of effective occupation or cultivation by a subject were enough to establish his usufructuary interest without the necessity of formal grant by the stool. But second form of acquisition was by express grant by the stool. Such grants were usual in the case of town lands, where strict supervision of allocation of parcels was necessary for the purpose of town planning. Finally, a subject could transfer his usufruct to a fellow- subject (Ollennu, 1962; Woodman, 1996). The usufruct was usually held by corporate body –the sub-stool, lineage or family but there was doctrinal prohibition of its

acquisition by an individual. The greater incidence of corporate holding was a result of economic convenience; traditional social process employed-co-operate Endeavour to accomplish the formidable tasks clearing and cultivating large tracts of impenetrable forest lands and collective efforts of kinsmen invariable resulted in the creation of corporate or family property (Woodman, 1996). But there was nothing to prevent an enterprising individual from establishes his own private concern by his own incited exertions. In an agricultural economy where subsistence depended on full and extensive exploration on land, public policy leaned towards literal appropriation of land by families and individuals alike. The usufruct was heritable and devolved on the family of the subject or his death intestate (Ollennu, 1962; Woodman1996).

It elapsed upon express abandonment, of the land in question of failure of successors, where upon the stool resumed its dominium free from encumbrances. The security of the subject's usufruct was reasonably assumed. The stool could not alienate it to another person without the usufruct's consent. Nor did the stool's dominium carry the right to divest the subject of his interest except for a recognized and specific Public cause. No compensation was payable in consequence of such dispossession, but inclination and opportunity for such divestiture ware extremely rare in olden times. (Ollennu, 1962; Woodman 1996).

The usufructuary had an exclusive right to the possession of the land subject to his usufruct, which was fully guaranteed against invasion by other subjects. User of the surface of the land was virtually unrestricted. The usufructuary could cultivate, build, or

enjoy the land in any manner he chose provided he did not invade the stools right to the mineral and treasure- trove (Ollennu, 1962; woodman, 1996).

- **Rights of a usufructuary Holder.**

According to Ubink (2008), the holder of usufructuary interest is entitled to the enjoyment of the following and benefits;

Right of Possession

It is a right in rem and exclusive and is a potential perpetual term allowing the bearer to possess for an indefinite period of time. It is potential because it is possible for the term to end. This right of possession cannot be divested by the stool / family to another part or for public purpose or stranger holding the land (see *Robertson V. Nii Akramah II (1973) 2GLR 445, Mensah V. Asamoah (1975) 1GLR 225C. A and Ohimen V. Adjei 1957 2WALR 275 and recently Mansu V. Abboye 1952-33 GLR1313, C.A*

Use and Enjoyment

The owner is entitled to all economic trees he plants. However, the allodial owners are entitled to all trees growing naturally on the land.

As regards natural growing trees, the usufruct can also use them for his personal purposes only. Ollennu and woodman (1985), made this quite clear, when they stated.

“Another important incident of the determinable title is the palm and cola nut and other economic trees of the land. In all parts of Ghana where the Oil palm tree

and other species of palm grow, it is the owner of the determinable title in land, alone who is vested with the right to harvest the fruits, to fell the palm trees or to tap wine from them. Neither the owner of absolute title nor the owner of the sub-absolute title can go upon land to harvest cola nut, palm wine or fell psalm tree for psalm wine. They may request the owner of the determinable title to supply so many ports of palm with or quantity of palm nuts or cola nut as customary services, but they are not permitted by custom to go upon land in possession of a subject to take any of these things.’’

Asante (1961), also shares the same view but further goes to include timber, He indicates that:

“It needs hardly be stressed that the usufructuary is entitled to income of the land. This may take the form of prescribed proportion of agricultural produce under an abunu or abusa tenancy, or rent accruing for a lease, or the consideration for the grant license or the brute product of the land arising without the intervention of labour such as palm nuts, cola nuts and timber’’. ”

Right of Alienation

According to Pomevor (2014), the title holder can grant. However he can not grant anything higher than what he holds as this will result in advert claim. The holder on his own accord can decide to grant a lesser, right at all of his right to another person in the old law, the holder needed consent from the allodial owner before making the right to alienate. But is now a settled principle in Thompson V. Mensah (1957) 3WALR 240, that no recognition is given to the allodial title in the transaction. The court stated inter alia, that the correct statement of native custom is that an usufructuary title can be

transferred without the consent of the allodial owner provided the transfer carries with it an obligation upon the transferee to recognize that title holder and all the incidents of the subjects right of occupation, including the performance of the customary success to the allodia owner. [See also *Total oil product V. Obeng* (1962) 1GLR 228; *Nana Asante V. Atta Panyin* (1971) 1 GLR 166 and *Robertson V. NiiAkramah III* 1973 1 GLR 445 CA.]

It is important to note that when alienation is without the consent of the stool, it is only voidable, not void and can be set aside only when the stool acts timely (see *Buour V. Bekoe*) Where the usufructuary uses the interest as collateral in securing a loan and be defaults in paying, the property can be seized and sold to defray the debt. It was held in *Lokko V. Konklofi* (1907) Renn 450, that the usufructuary can be used as collateral to ensure a loan. In his judgment, Sir Branford Griffith said interalia that:

“.....assuming the land to be stool land, the subject still has a valuable interest in the land. I see no reason why this property should not be seized and sold in execution and on that ground; I am of the operation that land should not be released.”

Right to an Action in Trespass

The holder of the usufruct can maintain an action in trespass against the stool and can impeach a grant made by the stool without his consent. This has been decided in *Awuah V. Adututu* (1987 – 88) 2GLR 191, C.A.

Heritability of the Usufructuary Title

According to Bentsi-Enchill (1964), it is well settled in customary law that the usufructuary interest is heritable. This means that in the event of the death of the

usufructuary holder, his interest will devolve on his next of kin, where the subject is a member of the land owning group “.....the interest descend to the next of kin of the holder and remains with him for as there are kinsmen to take” (Per Ollennu J, in *Makata V. Akorli* (1956) 1 WALR 169). In the case of a stranger usufructuary, the interest is also inheritable. In *Mensah V. Asamoah* (1975) 1GLR 225 C.A, Archer J.A delivering judgment indicated that, case law has settled that:

“Land only becomes abandoned if either the stranger died intestate without successor to take or if the land is as effectively and voluntarily abandoned without an intention on the part of the grantee returning to it. The mere absence or death simpliciter of the stranger was not enough to constitute abandonment most co-exist with such intention”.

Since this a potentially perpetual interest, it passes on the death of the holder according to the ordinary rules of inheritance [see *Golightly V. Ashrifi* (1955), *W.A.C.A* 676; *Budu II V. Caesar* (1957) *G. L. R.* 410 ; *Kwao II V. Ansah* (1975) 2 *G. L. R.* 176].

According to Woodman (1996), its right to the land, power of alienation and security of tenure right constitute the customary freehold interest.

Rights to Compensation

In *Owusu V. Manche of Labadi*, it was held among other things that the subject of a stool acquire usufructuary which did not derogate from the stool's dominion, and where as

such usufructuary were entitled to a share of the compensation “upon its distribution in accordance with native custom”, the stool was the proper authority to receive the compensation.

Rights to Customary Service

The duty of the usufruct is to render customary services to the stool.” *These services were eligible not in consequence of proprietary arrangement between stool and subject, by virtue of the political and kinship ties binding them” (Asante, 1965)*

- **Mode of Acquiring the Usufructuary Interest**

The usufructuary title may be acquired through the following means:

Implied grant from a stool (*see shipman V. Adjei, Brunce V. Quanor, Oblee V. Amuah, Budu V. Caesar*)

Express grand from a stool (*Armatei V. Hammond*)

Transfer from stranger or from a subject another subject or from a subject from a stranger (*see Kotey V. Asare stool*), such a grant to a subject or stranger being one under customary law is effective from the moment it is made, and a deed subsequent executed by the granter may add to, but cannot take away from the effect of the grant already made under customary law.

- **Loss of the Usufructuary Interest**

The usufructuary interest may be lost through the following means:

- Where there is failure of successor to whom the properties devolve of death of holder (*Mansa V. Abboye [1982-83], G L R B 13, C A*)

- Abandonment (*Mansu V. Abboye* [1982-83], GLR 1313, CA)
- Adverse claim (*Total oil products V. Obeng* [1962] 1 G.L.R. 228)
- Breach of Term
- Forfeiture
- By consent of the usufructuary (*Mansu V. Abboye*)
- Extinction by operation of legislation.

- **Present State of the Usufruct of Customary Freehold Interest**

The usufruct has undergone some form of development. According to Agidi (1976), at the initial stage of settlement, the stool was the absolute owner of all and without any encumbrances on its title. Before the indigenous economy became predominantly agricultural a stool subject could not claim rights of permission over any part of the land. Every member of the tribe had equal right to wonder over and hunt upon the land which belonged to the group. This has, however, changed with the advent of settled agriculture where members have right to the use of stool land i.e. right to occupy till enjoyed and occupied part of the stool land (Agidi, 1976). This was a burden or qualification of stool allodial title. The customary usufruct was perpetual and heritable. It subsisted as long as the subject continued to use the land and will only revert to the stool upon abandonment. The usufruct could be held by individuals and families alike and at any rate what belongs to an individual will one day become a family.

The customary usufruct underwent a second change with the advent of the tree cropping farming. Commercialization of agriculture led to commercialization of land and

subsequently birth of an agricultural land market. The question was whether the subject could not alienate the usufruct without the previous consent and concurrent of the absolute owner (Golightly V. Ashrifi).

Asante (1975) Observed that the usufruct in stool land has matured into a, “freehold” owing to the impact of modern economic and social phenomena. The security of land holding as corporate entities has also followed the same line of development. The usufruct then becomes heritable and persists in perpetuity to ensure security of tenure.

2. 3. 4. Licence and Tenancies

When land becomes scarce and more valuable, it was held that the granter could impose conditions. At first, a number of standard tenancy terms were developed, and grantors (usually communities) could offer one or a choice of these to strangers who sought the use of land (Opoku, 1963). The movement of a restricted number of tenancies with fixed terms towards a system depending on the individual negotiated contract results from the growing complexity of commodity production and exchange relations and consequential need for more variable arrangements for the user enjoyment of land. As noted by woodman (1996), the terms are not necessary set by process of prior bargaining between legal equals. There may be same social standards determining the appropriate terms.

An indication of the types of interaction which occurs and the type of relationship which emerge was given by Iassey J. A. *In Mensah V. Blow (1967) G L R 424, CA*

“This kind of tenure or holdingis the result of a contract or an implied agreement. It has certain important characteristics features about it. These are (1) (The owner or lessor as he is sometimes called) of the land must be willing to allow occupation and use of land provided the license does not set up an adverse claim to his title or right to possession(2) sometimes the nature of the grant of the licensee to pay tribute or rolls or provide customary services as an act of acknowledgement of the lessor’s paramount or superior title to the land. In some cases where the products of the land in which tribute is levied are what may be called natural or food products, the question of tribute is determined by agreement before the licensee goes to the land; on the other hand, if it is production of cash crops like cocoa or timber, it is the usual practice to determine the quantum of the tribute by agreement after permission to occupy the land has been granted..... (3) The circumstances of the long occupation by the licenses are such that it often difficult to determine whether the customary tribute has been provided or demanded(4)

“The licensee only has the right to use the land equally with the grantors, and it is understood according to customary practice, that throughout the period of the occupation the licensee at custom has a present right of possession and user over any portion of the grantor’s land where the right of the grantors is not ousted. In other wards title and right to enjoy the land of the latter remains unimpaired, and the granting of the license or permission to occupy the grantor’s land without paying tribute or tolls is not to be regarded as surrender by the owner or lessor of claims or rights in the land.....”

The term “licence” and “tenancy” are used here without drawing a strict distinction between them. Woodman (1996), use the term “tenancy” of the interests held on terms set predominantly by standard categories, which the term “license” is used for the interest held on expressly negotiated terms. However, given the negotiability of all terms today, the two categories merge. With tenancies, Canssey P. in the case of *Akrofi V. Weresi and Ano* describe tenure in land as follows;

“It is a common form of tenure throughout the country for a landowner who was an unoccupied virgin or forest land, which he or his people are unable to cultivate, to grant the same to a stranger to work on in return for fixed share of the crops realized from the land. In such case, the tenant farmer, although he has no ownership in the soil, has a very real interest in the usufruct of the land.

The arrangement may be carried on indefinitely, even by the original grantee’s successor, so long as the original terms of the holding are observed”.

- **Forms of Tenancy**

- Share Tenancy**

It is a form of land Lord-tenant relation at customary law. This is because it was founded on contract between the land owner and the tenant. It is one of the most important lands holding arrangement in customary law. It is extensively used in agriculture (Commercial farming) and inland fishing (Lower Volta). There are various forms with the most popular being. Abusa (breaking into three (3) or 2:1 or 1/3): Abunu : According, to the definition Aboby Jackson J. “The custom of Abusa is that in exchange for the permission to cultivate the land, the tenant will pay to his landlord 1/3 of the profit made by him [Kofi V. Sasu (1998) D.C (Land) 48-51,91].

Abunu: under this system, the cost of making the farm is in the first instance, borne by the landlord and the farmer tenant is the placed in charge of the farm to maintain and improve it. As the landowner tenant farmer does not contribute to the cost of making the farm, he then gets half ($\frac{1}{2}$) of the farm produce Legal Position of Share Tenancy. The share tenancy does not create and pass any legal interest in the property to the tenant. The divisional court declared in *Quafio V. Asuku* (1944) D.C (Land) 39 – 47, 81 that “..... *the tenancy consisted of not more than a right to cultivate the land which is property of the landlord and he take proceeds thereof paying the landlord a portion of such proceeds*”. Also in *Manu V. Ainoo* (1976) 1 GL R 457 C. A., the court of Appeal declared that the tenant only has “*the right to cultivate the land and to partake in the proceeds. He does not acquire title or estate in or a share of the farm*”. According to the court the tenancy is created in respect of the share of the proceeds only. The ownership of the land remains always in the landlord. This is the biggest flaw of share tenancy as the tenant cannot use the land as collateral security because he has no legal interest in it (Pomevor, 2014)

Incidental Right of Share Tenancy

A share tenant may have the right to enjoy any of the following incidental right as a result of the tenancy. These rights are to be enjoyed exclusively by the tenant and the landlord cannot at any instance, without prior knowledge of the tenant prevent him from enjoying them.

Security and Quiet Enjoyment: This simply means the right to keep possession of the property and use it without claims from the grantor. Thus the grantor uses the property for his benefit and free from claims and disturbances from the landlord. However, in the enjoyment of economic trees, the principle in *Atta v. Esson* holds. Further, the right to cultivate and use the land as well as his right to part of the proceeds is protected. This can be defended by a court action against the landlord as hold in *Manu V. Ainoo (1976)1 G. L. R. 45 7 C.A.* A landlord cannot as well, unilaterally vary or alter the terms of the tenancy. In *Akofi V. Weresi (1951) 2 W. A. L. R. (257)*, the court upheld the order of the lower court restraining the defendant landlord from demanding a half share of the farm proceeds. Furthermore, the landlord was ordered to enter into a written agreement with the tenants.

Right of Alienation:

According to customary law, the tenant has no right to alienate the land. However, he has the right to dispose of the tenancy into vivos (thus in his life time), but with approval of the landlord who may exercise the right of pre-emption (first choice). In the case where the tenant has tied his interest to another agreement and defaults in the latter, could his right to certain share in the land detested or sold to defray the debt? The case of *victor V. Hammond (1938) D.C (Land)*, it was held that, “*An abusa tenancy was attachable but since the judgment dept was private, the tenancy could not be seized and sold in execution*”

Heritability

With customary law, share may be passed on to the next of kin of the tenant in fulfillment of the necessary procedure prescribed by custom which has to be adhered to. However, where the parties agree that it shall not be passed, so shall be (Akrofi, Wiresi and Manu Ainoo]

Loss of Share Tenancy

Share tenancy is of potentially perpetual duration since it is heritable unless circumstances result in the terminated of the tenancy. It can be terminated:

- Where there is abandonment;
- Where there is adverse claim by the tenants against the landlord

[Bokitsi concession (1902) serbah's FLR 152];

- Where there is a breath of a term especially where the term is a condition;
- Where there is failure of a successor;
- Where the farm falls into ruin, either, by natural causes (e.g. devastation by swollen shoot disease) or through neglect by the tenant.

- **Cash Tenancy**

In early times, where crop farming was the predominant pattern of agriculture in some regions, the possibility of land acquisition by strangers generally called for possession of some definite qualifications, such as permanent residence in the town or village for about a year during the stranger demonstrates his co-operation in all aspects of community life (Woodman, 1996). With the introduction of commercial agriculture, many farmers

turned to crops like cocoa, oil palm, sugar cane, lime and pineapple land become a scarce commodity and strangers were willing to pay large sums of money to their landlord who really welcomed the opportunity for easy money. The basis for land acquisition has been modified and now acquisition seems to depend very much on the size of the customary “drink” a prospective tenant is able to offer.

Formalities for Acquiring Cash Tenancy

The prospective stranger tenant first is introduced to the village or family headman on whose land he would like to establish his farm. The introduction is made through an elder of the village community or family, and must be made through an elder of the village community or family, and must be made with customary drinks. The amount offered for this negotiation drink varies from area to area (Woodman, 1996).

Generally, however, it is either a bottle of schnapps or a sum of money or both. But in most cases, valuable consideration prevails. The stool occupant then appoints a day on which the stranger is to meet him and his elders for the decision and the terms under which the land would be offered. Before the appointed day, the headman finds information about the tenant as to whether he is a hardworking and honest man. At the meeting, the tenant must convince them of his readiness to use the land within the shortest possible time (Woodman, 1996). After the negotiation the tenant has to pay drink money. But in the case of a subject (stool member), he only pays a nominal sum as ‘aseda’. After negotiation, an elder is delegated to demarcate the land to the tenant.

Before the demarcation all farmers in the vicinity are summoned to indicate their boundaries so that the stranger could be properly shown the extent of land allocated to him. Quite often, large growing trees and stones are used to define the area.

Land is leased to the tenants for varying periods depending on the type of crop to be grown. But in some cases, durations are not stated. According to a study conducted by Wright (1977), the annual rent payable depends on one of the following:

The acreage require; the availability of land in the area; the reputation of the farmer in the locality, the live existing between the stranger's hometown or kinship group and that the area he intends to farm.

2.3.5. The Customary Licence

This is considered one of the most common significant land holding arrangements at customary law. It confers a right to occupy and use land subject to agreed terms. It may be granted by a member or subject to another member or subject. On the other hand, it may be granted by a member to a stranger. It may also be granted for valuable consideration or in gratis. Customary licenses can be created through a contractual arrangement between parties or through "legislation". There are mainly two forms of licenses:

- Short term license (sowing tenure)
- Long term license

- **Short Term Licence**

It is permit for cultivation of annual crop (it is an agricultural tenancy for crops growth over a season). It does not give the licensee the right to put up a structure on the land. Where he desires to do this, he needs a fresh license from the licensor. Quite often, it is given in gratis. However, it may be granted for valuable consideration either in cash or kind.

The license cannot be revoked unilaterally until the end of the season. In addition, where the crops are still on the land, the permit (license) cannot be revoked. The arrangement is for the season only and thus on the expiration of the period, the permit expired or can be determined (Pomevor, 2014)

Heritability

The seasonal license is not heritable as the arrangement is personal to the license. However, on the death of the licensee before harvest time, his successor shall be entitled to harvest the crop. The license arrangement determine immediately. In *Nyasemhwe V. Afibiyesem (1977) 1 G. L. R. 29, the court held that a sowing license is not heritable but concluded that if the sowing tenant, however, dies before his seasonal crops are gathered, his successor is entitled to reap them. And as soon as the crops are gathered in, the tenancy ceases.*

Alianation:

The licensee has no right of alienation. However, has the right to dispose of the crops which he has cultivated to any person of his choice at any time and nothing more.

- **Long Term License**

It is a permit granted for agricultural or building purposes. Where it is granted for building purposes, it is simply referred to as a building license unlike the seasonal license, the licensee here does not need separate license for building permit. It may be granted for valuable consideration or in gratis – incidental rights under long term license include the right of possession free from disturbances. According to Bannerman J. in *Tenewaah V. Manu* (1962) 2 G. L. R. 143, “*when the exercise of the right conferred by the license involves nothing beyond, there can be no reason to urge against the existence of a power to determine the license at the will of the licensor.....*” Long term license has no time certainty. Possession is therefore potentially perpetual. For instance in *Kumah V. Kumah* (19 381 W A C A 45) (P.C), the licensee and his successors were in possession for six generations while in *Mensah V. Blow* (1967) G. L. R. 434 (C.A) The licensee and his successor were in possession for fifty years.

Thus the court of Appeal in this case described the long term license as annual tenure thus, from year to year capable of being enjoyed until terminated or enduring for so long as the licensee or his successor recognized and did not dispute the title of the grantor.

2. 3. 6 Pledge

It is a security transaction whose effect is similar to that of a mortgage. A pledge is delivery of possession and custody of a property by a person to his creditor to hold and use till redemption by payment of debt or discharge of obligation. According to Ollennu (1962),

“Pledge in customary law is the delivery of possession and custody of property real or personal, by a person to his creditor to hold and use until the debt due is paid, an article borrowed is reformed or replaced”

In the past, customary law allowed pledging of both landed property and chattels as loan and in the distant past, humans were used. However, the pawnbrokers ordinance (CAP 189), abolished the pledging of chattels and placed them on commercial basis (Ollennu 1962)

- **Essential Requirement and Features of a Pledge**

The essential requirements and features of a pledge are:

- The pledge is placed in possession of pledge land.
- The pledgee has the right to the use and enjoyment of the land without accounting to the pledgor. The pledgee has no access to any thing on the land (the pledgee is entitled to the rights belonging to the pledgor formally)
- The pledgee may cultivate economic trees on the land at his own cost. In the event that the pledgor is ready to redeem the pledge, he will have to settle the cost involved.
- A pledge is redeemable at any time. Influx of time does not change the position of any of the parties.

- **Alienation of Pledge**

A pledge is one form of alienation of land or interest in land. In pledge the legal implication is that the pledgee may use it, not answerable to every deterioration which is

the natural consequence of such user. Any right title or interest in land capable of ownership except annual tenancy may be pledged. The arrangement allows the pledgee in possession of the pledge land (Property) and give absolute right to use and enjoyment of the proceeds of land without liability to account for the proceeds or interest proceeding thereof. Example, one can harvest economic trees and fell palm to trap palm wine. The position of the law is that customary pledge is not alienable. A pledge of land is not entitled to sell pledge land except upon an order of a court of competent jurisdiction.

2. 4 The Conduct of Land Markets in Ghana

The study of land market is premised on how people who do not belong to the allodial land holding community acquire land. The significant is the process through which derived right can be accessed for use. Besides accessing land through the lineage, derived rights may now be acquire through various means including: leasehold, tenancies and various forms of share cropping arrangements (Aryeetey et al., 2007a). As explained earlier, land ownership in Ghana can generally be categories into customary ownership and state or public ownership with customary ownership estimated to account for about 80% of the total land area in the country (Government of Ghana, 2002). The land under this communal ownership is held in trust for the community as well as an arrangement established according to the customary practiced of a particular area. The allodial title holders therefore hold the land in trust for subjects of stool, skin, clan or families in accordance with customary law. These dual land tenure arrangements function with state institutional support in land administration. The most important of these public agencies include the:

Land commission: The land commission was established by the 1992 constitution of Ghana and land commission Act 2008, Act 767. The coming into effect of the land commission Act 2009, Act 767 consolidated four of the state land sector agencies. This is part of the reforms under the land Administration project (LAP) The project intends to develop a sustainable and well-functioning land administration system that is fair, efficient, cost effective decentralized and enhances land tenure security (World Bank, 2003) Prior to the coming into effect of this law, autonomous bodies performed various roles in land administration under strained circumstances service delivery by these agencies had been characterized by lack of co-ordination between agencies whose mandates were often unclear and this resulted in overlapping and duplication of functions.

With the administration of vested lands, for example, there was an overlap of function between the lands commission and office of the administrator of stool land (Sittie, 2006). In addition, all the agencies undertook separate inspection of properties instead of sharing data and information, thus making land administration costly. Moreover, their operation was challenged as a result of weak human resources and poor data on lands in the country. The poor nature of legislative and equipment had showed the preparation of base maps, which were of particular importance in land matters.

In the area of land title registration in particular, some analysis pointed out that the importance had been significant. They express their skepticism about the success of title registration and partly blamed it on a defect in its design and implementation. (Kasanga

and Kotey, 2001). All these challenges had led to the creation of an omnibus body under the new lands commission Act 2008, (Act 767).

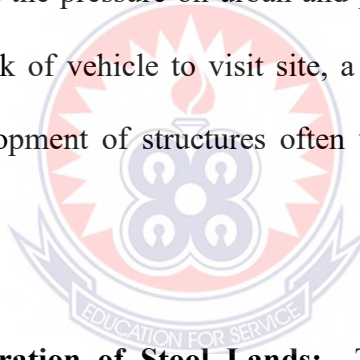
The new autonomies body had four main division mandated to perform the functions, which used to be performed by the collapse institution. This division includes the public and vested land Management Division; Land valuation Division; Survey and Mapping Division and the land Registration Division. As the name suggest, they will be performing the functions of the dissolved institution namely:

- Management of public lands;
- Advice government on policy to ensure that development of land is co-ordinate with the relevant development plan;
- Registration of titles and deeds to lands;
- Provide survey and mapping services;
- License practitioners and cadastral survey;
- Promote community participation in sustainable land management;
- Provide law and land related valuation services;
- Impose and collect levies, fees, charges for services rendered;
- Establish and maintain a comprehensive land information system and
- Promote research into all aspect of land ownership, tenure and the operations of the land market and the development processes.

It is hoped that the setting up of new body would help to ease out these challenges and reduce the cost of land administration in Ghana. Nevertheless, it is important to state that the success of the new body will depend on how the resources allocated to it are

prudently manage for, as well resourced land commission will certainly bring an improvement in land administration in Ghana.

Town and Country Planning Department: To address the physical planning problems that emerged with urbanization especially, the Town and Country Planning Development (TCPD) was established but it has not been able to resolve the problems. The TCPD is responsible for the formation of land development standards, coordination of land development activities and the approval of settlement development plans. Over the years it has developed urban biases in its activities in an attempt to keep up with the high rate of urban development and the pressure on urban and peril-urban lands. The department is handicapped by the lack of vehicle to visit site, a shortage of trained personnel and poor data planning development of structures often without permits with its attendant implications.



Office of The Administration of Stool Lands: The Office is responsible for the establishment of stool land account for each stool, collection of stool land revenue and the disbursement of such revenues to beneficiaries, as specified in the 1992 constitution, Article 267 (6). The formula for disbursement of stool land revenues as spelt out in the constitution has been a source of agitation: 10% of the revenue accruing is paid to the administrator of the stool lands to cover its administrative expenses and the remaining revenue is then equated to 100% and then disbursed as follows; 25% to the stool for maintenance of its status: 20% to the traditional authority and the 55% to the local Government Authority for development projects.

The Courts: The court is most one of the important Institution in land management. They, therefore play a crucial role in the determination of land disputes of all kinds- boundary dispute, land titles etc.

Their role in ensuring certainty regarding land transactions and title is very crucial; unfortunately the court system in Ghana suffers from a number of problems which have made it impossible for it to perform its role in land adjudication. Unfortunately the court system in Ghana suffers from a number of problems which have made impossible for it to perform roles in land adjudication. According to Kasanga and Ketey (2001), these include congestion in the court resulting from poor case management, shortage of judicial and other staff and antiquated system of trial and procedure (involving the writing down of the entire evidence by the judge in long hand), and corruption. The result is that many land cases take several years to go through the court system. There is therefore, a backlog of land cases waiting to be heard, resulting in uncertainty, in security and countless unresolved land disputes (Crook, et al. 2007)

National Development Planning Commission: Among other things, this commission is expected to be involved in human settlement studies and plans. The commission as created by the present Act, appear on paper to play coordinating role yet it is clear from its function that it is directly involve in the area of planning of both spatial and economic planning of the entire county. According to Kasanga and Kotey (2001), the only new commendable planning concept introduced by the Act 481 is the “public hearing”. This

is to allow people who will be affected by large – scale and other miss developments to object if they so desire.

Environmental Protection Agency: The EPA has regulatory and enforcement powers through the Environmental Protection Agency Act, 1994 (Act 1196). It performs several functions to safeguard the Environment, including the prescription of standards and guidelines relating to the pollution of air, water and land and the discharge of waste and toxic substances in the environment.

It is significant to reiterate that most of these agencies perform land related functions. Though the lands commission, office of the administrator of stool lands and the Town and country planning Department are core agencies. They have however, not been that effective as a result of the many challenges they face. They need to be provided with the requisite resources to function more efficiently, more importantly, the performance must be monitored regularly within a regime where sanctions and reward will be applied.

The basis of land transaction in Ghana is established by the Administration of land Act, 1962 (Act 123). The Act stipulates that any transfer of stool land or rights over stool land is not valid unless it is executed with the consent of the land commission. The 1992 constitution adds concurrence to the consent. Thus, any stool land that is transferred to a non-member of the stool without the consent and concurrence of the lands commission is considered null and void. Also, transferred of land is recognizable by law only if the conveyance Decree of 1073 (NR CD 175) is duly adhere to. The decree makes it clear

that transfer interest can only be done with written document signed by the person making it or his duly authorized agent. The decree however makes some exemptions to the compulsory writing of instruments. For example, agreements less than three years and agents makes under customary arrangements are not supposed to be in writing. This Act of conveyance rubbished in section 7 (1) of PNDCL 42, also sought to bar any cash dealings in land without the consent of the lands commission. The law categorically prohibits any person who does not have the property rights under customary law to engage in any kind of transfer either for cash or kind. To have all agreement valid must register their interest in line with the land Title Registration law, 1987 (RNDCL 152) or Land Registry Act, 1962 (Act 122) depending on the geographical location.

2.4.1 Land Registration in Ghana

Land registration is the procedure for securing various interests and right that prevail in land tenure. There are two systems of land registration, the Deed Registration and Title Registration. The Deed Registration has operated since colonial time. The land registry Act, 1962 (Act 122) governs the procedure for Deed registration. Section 36 of the act defines instrument which could be registered as any writing affecting land situated in Ghana, including a judges certificate and memorandum of deposit of title “deeds” it, however exclude the registration of oral transactions. The act further states that an instrument, other than a judge’s certificate and a will which purports to transfer one interest in land was not valid unless it was registered.

On the contrary, the registration was introduced in the country under the Title Registration law, 1986 (PNDL 152) to give certainty and facilitate the proof of Title so as to render dealings in land simple and cheap, and to prevent fraud purchasers and mortgagees. This system of land registration provides a kind of state guarantee to any individual, who is registered. However, it is applicable only in areas which have been declared registration districts by the minister and, so far, only Accra and Tema in the Greater Accra Region and part of Kumasi in the Asanti Region is declared (Gambian 2002). Section 19 of the law 152 identifies the interest in land that can be registered as

- Allodial Title held by stools, skin, families or individuals;
- Customary Freehold interests held by individual or families under the customary system;
- Individual freehold interest held by individuals;
- Leasehold interest which are more than two years.
- Holder of customary tenancy. Such as ‘Abunu and “Abusa”;
- Concessions;
- Mining Leases

The introduction of land Title registration was to deal with the problems of uncertainty in land titles and transactions and thereby improve land administration. However more than two decades after the introduction its impact has been negligible. The system suffers from a number of design and implementation defects (Kasanga and Kotey, 2001; Somevi, 2001 and Sittie, 2006) they are as follows:

- As has been indicated, the Allodial Title is ultimate Title and therefore the root of all interest held by stools, skin and families. Even though PNDCL 152 provides for registration of this interest, it does not provide for the registration of the numbers of land owing group fit to deal with such lands. This has increased the objection being raised when documents are published.
- Registration fees are based on property values title registration unattractive. This is considered as excessive as compared to the deeds registration which is based on a nominal fee.
- There is also the difficulty in coordinating with other land sector agencies. Access to vital records on land ownership is made difficult creating the situation where one person has a title to a land with the other person has a deed. This has complicated land disputes which have clogged the law courts.
- Also the preparation of parcel and cadastral plans has delayed the registration process. The land title registry has no control over all those processes, ensuing in a cumbersome registration process.
- Public education before the introduction of the land title registration was in adequate even up to date. This was mainly through the distribution of flyers and brochures notwithstanding the fact most Ghanaians are illiterates. There is therefore the situation where there is default in distinguishing between the deeds and title registration and their effects.

2.4.2 Land Acquisition under the Customary Tenure System

In spite of the fact that the laws that govern land transfer are clear they are mostly not complied with. The transfer of land rights is mostly govern by the decision of stools families, heads and individual land owners and is fraught with a lot of imperfections and distortion (Kasanga et al., 1996). Although traditional land transactions transfer rights from suppliers to purchasers, formal documentations that give legal right to the occupant is usually a secondary issue. The law is very clear on requirement for making transaction valid. Its execution is though the problem. In rural areas, acquisition of land is mostly made either through contract or oral agreement and the transaction is most cases are not registered with the Lands, commission. In fact the situation is not different in peri – urban and urban areas. Transactions are done informally or by customary tenure rules without going through the due process of the law (Kasanga et al., 1996). This has resulted in a typical situation where majority of urban areas have houses built and occupied but the free holder rights are not officially recognized (Larbi et.al., 1995; Antwi, 2002) these unlawful practices according to Antwi (2002) have resulted in:

- Unresolved title disputes between customary owners and the government.
- The general lack of registered documents in the market;
- The absence of a reliable database of ownership; and
- The ineffectiveness of courts in resolving land disputes.

The failures and lack of discipline in customary acquisition of lands have been attributed to the flaws or the state land management system and lack of enforcement of existing

legislations. Kasanga and Kotey (2001) for instance, outlined the following interest problems, and weaknesses of state land management:

- The state land machinery is inequitable, unjust, inefficient and unsustainable.
- The ability to settle land problems, promote efficient land markets and secure economic and financial returns from lands is weak.
- Weak legal regime and institutional arrangements.
- Capacity constraints, lack of support Services, low morale, endemic corruption at all level and in all agencies.

They further suggested that the duplication of functions and lack of coordination of the various land administration agencies including the land valuation Board, lands commission, and office of the Administration of stool lands, Deeds Registry and Land Title Registry have complicated the situation.

2.4.3 State Land Acquisition

The right compulsory land acquisition is vested in the President to exercise on behalf of the people of Ghana. Regrettably, the exercise of this right by governments particularly for urban expansion has to some extent undermined tenure security. Overwhelming evidence suggest that government have not had the capacity to bring land under state ownership and state management to the best use. Nonetheless, large tract of land continue to be under state ownership. Antwi (2002) noted the unoccupied state land of high potential often lacks investments and is subject to bureaucratic red tape, non-transparent processes of allocation and corruption.

The practice of compulsory acquisition is regulated by two pieces of legislation – the state land Act, 1962 (Act 125) and the administration of Lands Act 1962 (Act 123). While the state Lands Act facilitate governments to acquire customary or private lands in the interest of public, the Administration of Land Act ensures that Land is vested in the president in trust for landholding community. The government therefore takes over the management of the land while the ownership still remains with oral owners. The land commission is delegated to manage these lands.

The state land Act, 1962 (Act 125) allows for the prior publication of all interest and encumbrances that have been compulsory acquired. Those the expropriation affects are paid lump-sum compensation as the law stipulate with the amount determined by land valuation Board. In the case of vested lands under the administration of lands Act, however, there is twin ownership where the title is transferred to the state, whilst the beneficial interest rest with the community interests rest with the community. The government does not therefore pay any compensation. However any income accruing is paid into the respective stool or family land account and is disbursed to the community according to a constitutional sharing formula.

Other instrument governing compulsory acquisition include the Lands (Statutory Way Leave) Act, 1963 (Act 186), which deals with lands acquired for roads highways and other utilities, and the Public Conveyance Act of 1996 (Act 302), which deals with stool lands declared as selected areas for certain purposes.

Private developers can apply for compulsorily acquired lands for specific purposes, if the government is no longer interested in the Land. Access to such lands is open to all Ghanaians in theory. However, the procedure for acquisition is cumbersome and often not advertised. Kasanga and Kotey (2001), observed that public and vested lands are not usually put on the market for disposal purpose. Where it is done, according to them, the beneficiaries of these land allocations by the lands commission are mainly senior civil Servants, politicians, top Army and Police Officers, contractors, business executives and land administrators. Undoubtedly it is precisely these categories of people who have the measure, contacts and power to acquire public lands that are being disposed off.

This and many other situation like the improper procedure of acquisition often without notification, and the payment of compensation to land owners have created serious discontent and conflict between chiefs, family heads and communities on one hand and the government on the other. According to Kotey (2002),

”Legislation prior to the 1992 constitution is made little or no provision for meaningful consultation with the owners of the land or the people who interest would be affected by compulsory acquisition. In most cases they are also not involved in the process of site selection even after the decision on compulsory acquisition has been taken. Furthermore, neither the community in which the land is situated nor the wider public is in any way consulted or offered an opportunity to express a view on the necessity or desirability of a proposed acquisition or site selection. Normally, the first time the landowners become compulsory

acquisition is through the publication of an Executive instrument, or when they see workmen moving onto land in accordance with the Executive instrument.

The government inability to manage compulsory acquisition issues has led Chiefs and family heads, together with their youth to agitate for payment of their compensation or a return to them of the right to use and manage the unutilized portion of the acquired lands.’’

Antwi (2002), Observed these procures on the government are strongly felt in peri-urban and urban area where land is fast becoming a scarce and valuable commodity as a result of Rural-urban population growth.

The FAO (2000) cited by Aryeetey et. al. (2007a), reports indicate that:

- Some land owners “re-entered” their lands and started charging exorbitant prices for land acquired by developers for housing and other socio-economic uses;
- Some have engaged in multiple sales of the same pieces of land to different purchasers;
- Some, wanting to maximize returns from their land sales, have sought to extend their boundaries, leading to a lot litigation to established ownership of land;
- The incidence of unapproved and haphazard developments and associated environmental problems is rising, as those with usufruct right use inexperienced or dishonest surveyor and planners to sell plot to interested buyers;
- Increasing encroachment and growth of slum-like dwellings, migrant settlements within and along the peripheries of the urban centers; and

- Growing uncertainties about title to land, affecting the migrants and investors confidence in the land market.

Evidently the Greater Accra Region is the hardest hit in terms of the negative effect of compulsory acquisition and vested lands. There is the belief that over half of all Ga lands are either vested in or compulsorily acquired by the government (Kotey, 2002).

2.4.5 Land Transaction in Southern Ghana

The evolution of land tenure towards a market exchange is far ahead in southern Ghana. Though transactions in land for agriculture also involve relation with capital or labour, terms are clearer in respect of duration and payments. The growing of scarcity of land may lead to fragmentation, as in the upper East Region, or a situation where some family members (usually the youth) decide to access land with their own labours. Kasanga and Kotey, (2001) argue, that, increasing scarcity of land has led to the growth of land transactions through markets. This has allowed migrants to acquired land right though purchase or share tenancy arrangements.

In the West Region, land rights have been strongly individualized so as to allow permanent alienation of land that formally could be transferred only to other family members. Otsaka et al. (2001), cited in Aryeetey et al. (2007a), find that population pressure induces institutional innovation in the direction of individual ownership. Individual ownership is a step towards the development of land market because it gives the land owner control over the land and rights of transfer, which are limited non-existent

in joint ownership tenure system such as communal, clan or family ownership. Indeed, Otsaka et al (2001) cited in Aryeetey et al. (2007a), concluded that land scarcity stimulate land transactions.

Kasanga and Kotey (2001), report that following the alien compliance order of 1970, share tenancies were extended from Cocoa growing area of Brong Ahafo Region to food crops which have also become commercialized. The application of sharecropping to food crops provided landlords with produced for sale, probably in place of cocoa, the production of which had become difficult because of labour shortages. There was also the increasing incidence of short term renting and leasing of land in the Brong Ahafo Region. The land transaction is largely based on verbal agreements, with family members acting as witness (Kasanga and Kotey, 2001).

With land relations there is the need to distinguish between arrangement of reciprocity and those of contractual obligations. Amanor (1999), explained that while the formal is more with kin, the incidence of contractual relations between kin is increasing, and is usually among the first signs of the evolution of land market. Substituting migrant share tenants with local share tenants drawing from land-deficit youth from outside the kin group is another sign of the evolution of land tenure systems towards relation. In Ashanti Region land tenure is gradually moving away from family and share cropping arrangement to short term rental and hiring, thus introducing increased insecurity and reduced investment incentives (Kasanga and Kotey, 2001)

They again noted that peri-urban land markets are driven by demand although traditional land holders need cash for litigation and to maintain stools, chiefs, queen mothers and their elders (Kasanga and Kotey, 2001). As land for residential plots expands in peri-urban area, agricultural land, usually for the minority groups are lost. Kasanga and Kotey (2001), concluded from their research in the Ashanti-Region that communal lands are fast changing into individual indigenous people to migrants in the form limited leaseholds. Even for indigenous people, ownership is shifting from customary freehold interest, along with the rights security they provide to more insecure leaseholds. These changes affect both agricultural and residential lands. Indigenous people are therefore losing the security of tenure they have hitherto enjoyed under the customary system.

The peri-urban land market growth has also led to the transfer of land from the poor to the rich creating the problem of landlessness in villages that have been studied. Similar trend have been observed in peri-urban area in other cities and towns of Ghana (Kasanga and Kotey, 2001). In Accra, in particular, the evolution of land markets with more cash-based transactions has been driven by the agriculture, monetization of economy, among other factors (Kasanga and Kotey, 2001).

The fact that agriculture is being commercialized has driven changes in tenure systems towards market exchanges. Amanor (1999), reports that there was no land market in Akyem Abuakwa in the early 1880s when “Dwabem refugees” first settled on Akem Abuakwa lands. However the influx of migrant Cocoa famers from Akuapem and Krobo

areas by the late 19th Century, land sales became more common. The development of Oil palm in Krobo land also drove land tenure systems towards outright land purchase.

With the case of Anloga in the Volta Region, individual interest is paramount in the management of land. The interest of clan therefore has been maintained over the years. Nonetheless, Ayivor (2001), revealed that shallot introduction as cash crop expanded the tenure arrangements to include share cropping, tenancy pledges and outright purchases indicative of a transaction from communal to individual land ownership.

2.4.6 Land Tenure and Dispute Regulative

Largely, lands in Ghana are still held under the communal tenure where stools, skins, families and individuals hold various rights in land. The tenure of the communal tenure and the rights there in along with the much statutory interference has complicated land tenure and management in Ghana. This Scenario where customary tenure rules and statutory laws co-exist complicated with multiple bodies through which land disputes are resolved has come to be known as legal pluralism (Larbi, 2006; Crook et al. 2007). As a result of this and the persistent commodities of land in Ghana, pressure on land has been exposed which, among other things, result in dispute over land. This is complicated by the inefficiencies in the land market and its attendant problems like the multiple sale of land by unscrupulous land owners, lack of registered documents on the land market; absence of reliable database of ownership: ineffectiveness of the court in resolving land disputes (Antwi, 2002). Indeed security of land tenure is constrained with disputes and conflicts on land which derails investments.

The nature of dispute and conflicts on land varies as what triggers it. According to Aryeetey et al. (2007b), the following are the nature and types of disputes and conflict discovered in Ghana:

- Boundary conflicts usually between different stools and or between individual;
- Dispute between chiefs and individual farmers over the rapid conversion of farmland into residential plots without consultation and adequate compensation;
- Inter-family and intra-family disputes over family land boundaries, the division of plots and proceeds from lands sales and the right to use certain parcels of land;
- Dispute between local people and chiefs over lands allocation practice and lack of transparency and accountability in land transaction.
- Compensation payment from government acquisition being delayed or inadequate;
- Dispute over multiple claimants compensation payments;
- Dispute between government institutions and subjects of particular stools / individuals;
- Dispute between private individual developers and stools / families/ individuals. Aryeetey et al. (2007b), further noted that major land base conflicts that have power to destabilize society and frustrate investment thereby retarding economic developments also include:

- Conflicting claims to territorial lands arising from disputes histories and /or boundaries between ethnic groups as well as a town and village occupying contiguous lands;
- General “indiscipline” especially in the urban land market where there is rampant land encroachment and appropriation by people of wealth and power, multiple land sales arising from the greed of traditional rulers as well as unapproved land unreliable cadastral maps;
- Compulsory acquisition by government of large tracts of land which are under-utilized or misapplied, resulting in landlessness and communal unrest among the youth; and
- Tenure insecurity due to conflicting interest between landlord and tenants.

The impact of land related conflict or disputes are indeed far reaching and affecting individuals, communities and the nation as a whole. Conflict and their attendant violence have negative consequences not just for personal safety but also on productivity. When they occur, productive capital is destroyed and the concern for safety keeps people away from productive activities. Tettey et al. (2008), reported that about 34% of rural respondent and 15% of their urban counterparts revealed that their equipment, and hence farm were destroyed due to conflict over land. The study also revealed that 40% of respondents have been personally affected by land conflicts. This percentage varied from 40% in rural areas 35% in urban areas and 23% in peri-urban areas. Crook (2005), on the contrary, identifies that land dispute were not the major cases found in the state courts as many people perceive. He argued that rather intra-family disputes mainly bordering on

inheritance disputes among different sides of the family among the children of the deceased or between widow and the children, unauthorized disputation of family land by an individual member, and property dispute between divorces constituted about 52% of the total cases. Those cases which borders on problems of land tenure like double sales and unauthorized disposition of land by somebody without proper title, illegibly caused by lack of boundary definition and registration of ownership accounted for only 13% of the total cases (crook, 2005).

There are numerous ways of resolving land dispute in Ghana and the choice depends on the disputing parties. Numerous as these options may be, they can be classified basically into formal and informal dispute resolution procedures.

The formal dispute resolution mechanism includes the state courts and those procedure used by the land sector Agencies.

The informal producers include customary arbitration by the chiefs' court and now the use of Alternative Dispute Resolution (ADR) mechanisms. Apart from the chief's court, there is the use of arbitration procedures involving family or lineage elders, respected community leaders or special individuals cheap and relatively easy to obtain, and the language and procedures used are well understood by ordinary people

(Crook et al., 2007). The difficulty is that in enforcing decisions, one can change his mind and renege on the agreement reached. The situation is worse, if the social and economic background of the contesting parties is unequal. It is difficult therefore to enforce decision with this dispute resolution procedure (crook et al. 2007).

Similarly, the land sector Agencies also use various procedures including arbitration and mediation in trying to resolved disputes when brought before them. The commission of Human Rights and Administrative (CHRAJ) is also known to have used mediation in resolving dispute (Crook et al. 2007)

The state courts have been identified to be the preferred choice for dispute resolution in Ghana. It is argued that most people prefer to use the state courts because they give authoritative and impartial decisions in dispute resolution. Other resort to the court because the reluctance of the opposing party which only the courts can overcome. Crook et al. (2007) in their report confirmed this by saying that 47% of the overall respondents chose to go to the state courts without using the chiefs' court or traditional procedures. The difficulty in dealing with the state court stems from the delays and cost involved in seeking justice. Because the procedure requires the use of lawyers it will potentially exclude the poor in society from justice. Crook (2015), in his report confirms litigants particularly in land cases are having severe delays. Of the respondents, 45% had filed their cases more than two years previously, and another 25% had been coming to court for between one and two years. A further striking revelation was the number of times people claimed they had attend court mainly for case to be adjourned without a hearing 41% said they had attended court more than 21 times since the case began which a small group (6%) claiming they had attended more 100 times.

Alternative Dispute Resolution (ADR) involves a range of brochures which serves as alternative to adjudicate procedures for resolving disputes. But it does not necessary

involve the intercession and assistance of a neutral third party who helps to facilitate such resolutions. It therefore provides a mechanism for the settlement of outside the courtroom using the procedures of mediation or conciliation, negotiation, settlement conferences and adjudication. The advocates of ADR see it is a mechanism to provide solution to complex problems that would better the needs of disputants and their communities, reduce reliance of the legal system, strengthen local civic institutions persevere disputant relationship and teach alternatives to violence or litigation for dispute settlement. According to Wood (1998), ADR has the following advantages;

- The procedure is quite informal and structured as court and at the same time it eliminates the acrimony and confrontation associated with courtroom litigation.
- It provides more acceptable methods of settling disputes as it empowers greater participation of disputants themselves in the settlement process.
- It is quicker, less expensive and healthier as it provides opportunity for emotional needs to express and addressed and in privacy too.
- It meaningfully contributes to the decongestion of the courts.

For the above mentioned advantages the merits in the use of ADR mechanisms by lawyers and magistrates cannot be over-emphasized, especially where disputes involve family members and touch on delicate sensibilities of the litigants and therefore not be suitable to be heard in courtrooms. The ADR has gained recognition world – wide and the concept in Ghana is backed by the Arbitration Act 2010, (Act 792).

At last, Tettey et al. (2008) suggests that in resolving land disputes there is the need for harmonization of customary and statutory institutions regarding land which will ensure accountability of land sales. It was also recommended that the establishment of land courts should be fast-tracked.

2.4.7 Customary Practice and Gender Disparities

The contribution of women to the socio-economic development of Ghana is very significant. However there are some social, cultural, political, and economic and other factors that may inhibit their ability to live and freely acquire property. Although there is no clear gender-based discrimination in access to land, customary practices like succession, widowhood right and ownership properties may affect the rights of women to own land in some places. Apart from lineage, marriage is another way of accessing land. However, where the marriage breaks down or the spouse dies, they may lose this access regardless of the development they have made on the land. This is because customary law does not recognize marital property non-monetary contributions to the acquisition of property during marriage (Amu, 2005). According to Amu (2005), other reasons associated with marriage make women susceptible to discrimination of lineage lands since their right diminished with marriage. These include;

- Marriage and its attendant's domestic obligation reduce Women's chances of acquiring land or comparatively larger portion than men. A Wife is by tradition under obligation to help her husband on his farm or business and they tend to respond to this by abandoning their own farms or business or by acquiring smaller portions of land.

- Gender patens in the division of labour place land clearance in the hands of usufruct land is normally given on the basis of ability and means to development such as ownership of financial resources, which many women tend not to have.
- The emergence of the permanent crops such as Cocoa and oil palm which acquire longer use of land have given preference to men, who are more economically, empowered to engage in it (Duncan, 2004).
- In Ghana these customary practices persist, although there are laws protecting the rights of women as well as other groups of society with regards to land acquisition (Amu, 2005). The acquisition of properties was formally governed by systems of law which generate much controversy particularly against women and children. For instance, when a person dies intestate, rules to be applied depends on whether the person was married under the marriage ordinance (Cap 127), or was Muslim, who marriage is under the Mohammedans (cap 129) or the person practices either a patrilineal or matrilineal system (Government of Ghana, 2002). Customary laws really offer little protection of the surviving spouses since neither spouse has a right to the property of the other; children in a material inheritance system for example, have no more than a right to maintenance by their father's customary successor and a right to residence in their father's house, subject to good behavior. Even with patrilineal inheritance where children succeed their father. Nukunya (1972), noted that in Anloga, the douters receive smaller share than the sons. Thus even where access to land and ownership is assured through lineage or usufruct rights, females are at a disadvantage (Seini, 2002). In recognizing these injustices, the intestate succession law (PNDCL 111) was enacted to give

more protection to women and children alike. The law was to remove the inequalities of existing laws and provide uniform law that would be applicable throughout the country. The provision of law aim at. at giving the deceased husband, surviving spouse and children portion of his estate.

Despite these laws, current trends in the land market, proves that women are still disadvantage. Amanor (1999), observed that with economic and political influence during new economic liberation, men are able to access credit and contracts than women which undermines women and youth right to land. In this context, the declining access of women to land is a product of their relationship to different agricultural sectors, and the expansion of export oriented and agribusiness sectors at the expense of food cropping. Since women and youth lack secure right in land, this practice is forcing them out of the mainstream agricultural sectors into other sectors. Other economic factors like high transaction cost and land prices due to urbanization, constrains women's access to land (Antwi, 2002). The procedure for acquiring land often involves transaction cost which may be high for women who are usually the head of farm households as well as a female household in urban and peri-urban areas.

2. 5. Concept of Development in Ghana

Development involves the process to convert natural assets to another form to suit human needs. The National Building Regulation 1996 (L. 1. 1630) and Local Government Act, 1993 Act 462 defines development in terms of infrastructure as any erection, alteration or execution and sitting of structures need to be acknowledged before execution.

In construction field land is developed into building for different purposes. To avoid any contradictory interests and to ensure safety and convenience, measures are designed to check these development, the Town and Country Planning in Conjunction with the lands commission have been mandated to manage and control land for construction of buildings in this country. They set regulation through the District, Municipal and Metropolitan Assemblies to make sure that the right type of development is done at the right place and the right time. This effort has been complemented by the National Building Regulation and other development Acts which were passed by the government. These are measures taken to ensure conflict free development through the establishment of a network that will allow the administration to have access to information at the undertakings of the general public.

According to Larbi (1999), land development should be carried out in such a manner that:

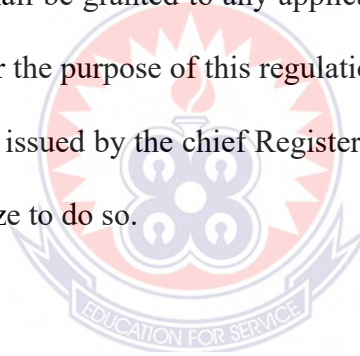
- A judicious use of the land would be assured;
- It benefits all sections of the Ghanaian society for various socio-economic activities;
- It sustains resources management.

In recent times however, development relating to land have been confronted with a lot of problems. The measure taken to ensure equitable use of land rather appears to be stumbling blocks for development. Whilst the administrators are trying to eliminate problems and other bottlenecks that usually brings delays and litigation developers are also on the rampage in unapproved areas thus throwing building regulations into the wind.

2. 5. 1 Development Permit

By section 46(1) and (2) of Act 462, the District, Municipal and Metropolitan Assemblies or the planning authorities must perform all planning function in their area of jurisdiction. They are therefore responsible for granting permit before any development is carried out. The grant of permit for development is subject to several conditions. Regulation 3 (1) and (2) part 1 of the building Regulation (1961 L.I) for instance question the title the applicant hold to the land. It state that:

- An applicant under regulation (2) shall satisfy the District planning Authority that he has good title to the land relevant to the plan.
- No approval shall be granted to any applicant who does not give good title to the land and for the purpose of this regulation good title shall be in accordance with certificate issued by the chief Register of land Title Registry or any other agency authorize to do so.



2.6. Conceptual Framework

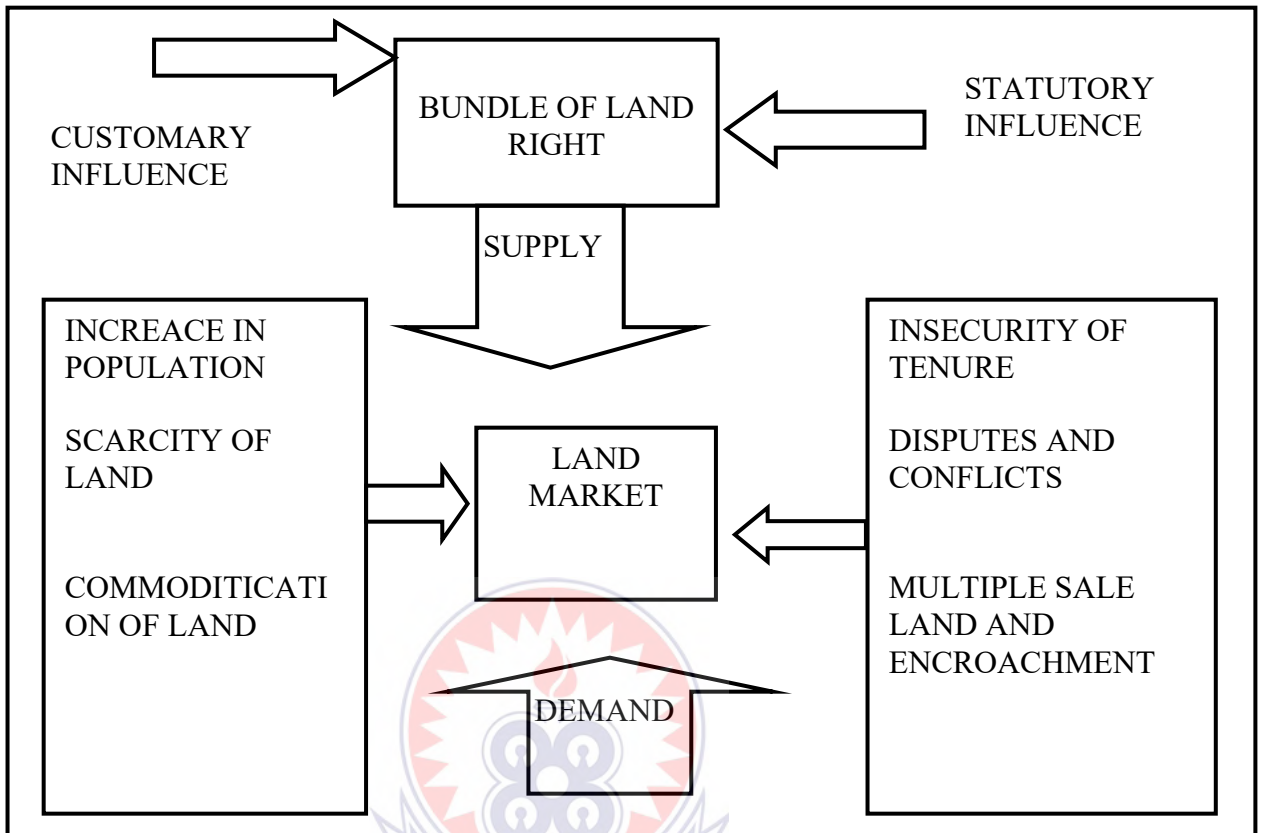


Fig 2.1 A Chart Showing The Conceptual Framework Of The Research

The Fig 1 above depicts the conceptual framework of the research. It has been noted already that land market was not active in the past but currently a lot of factors like urbanization and the commoditization of land have influenced the creation of land markets. The concept of land ownership is assumed to exist as bundles of rights in land. This is the situation where various interest and rights prevailing in a particular parcel of land. The chiefs who are the customary land holders supply most of the lands to the market. The state also supplies land and provides the policy and the legal institution of land administration. These have been represented as customary and statutory influences

in the above diagram. It is significant to note here that the scarce nature of land as a commodity is subject to external influence like population growth, urbanization, livelihood diversification and the commoditization of land which put a lot of pressures on the land market. The exigencies of these influences on land put a lot more challenges on the land market. These issues, when not well regulated impact negatively on the land market which results in disputes and conflict over land, encroachment and multiple sales of land and above all undermine the insecurity of land tenure there by reducing investor confidence in the country.



CHAPTER THREE

RESEARCH METHODOLOGY

3.1 Introduction

This chapter involved research design, population, sampling techniques and sample size, data collection techniques, instruments and procedure for data analysis.

3.2 Study Profile

District Profile

The Kwahu West Municipal was carved out from Kwahu South Municipal in August 2004 by legislative instrument 1589. It was however upgraded into a Municipal status in July 2007 by legislation instrument 1870. It has Nkawkaw as its administrative Municipal capital which is the second largest urban town in the Eastern Region and 20th in the country in terms of population (MLGRD, Habitat Survey Report, 2009).

Location and Size

The Kwahu West Municipal is located in Eastern Region of Ghana. 241kms in North-West of Ghana's capital, Accra. It lies between latitude 6•30' and 7• North and longitude 0•30' west and west of the equator. The municipality is bordered to North by Kwahu South to the West by Asante Akim South Municipality, to the East by Fantiakwa and to the south by Birim North and Atiwa Districts. The municipality has a total land size of 401km².

Climate

The municipal lies within the west Semi-equatorial region. It experiences double maximal rainfall pattern with average month relative humidity ranging between 75mm and 80mm during the raining seasons. Mean monthly temperature ranges as high as 30°C and this is often related between the month of March and April but declines to 26°C in August.

The municipality comes under the influences two masses namely, the Tropical Maritime Air Mass (MT) and Tropical Continental (CT) air mass hit the municipal twice a year thereby causing the two raining seasons. The two periods are May to August and September to October. Between the month of November and March, the municipality is offered by the tropical continental air mass making the area warmer and drier.

Vegetation

The Kwahu West Municipality lies within the semi-deciduous forest zone which belongs to the Atiaris – Chlorphora association. The vegetation is dense and consists of major economic tree such as odum, wawa and sapele.

The forest is made up of a layer with most of the trees upper and middle layers exhibiting deciduous characteristic during the dry season which starts in November and ends in March.

Unfortunately, few of the forests that exist in the Municipality are being depleted due to the negative effect of human activity such as timber extraction, farming and bush fire.

Most of the areas have been replaced by secondary bush or forest which is easily distinguishes from the climatic climax vegetation. There are three forest reserves in the Municipality namely: the southern scarp forest reserve which covers an area of 15,460 hectors, Kade Bebo and Nkawada.

Political and administrative structure

The Kwahu West Municipal Assembly is the highest administrative and political authority in the municipality and was established in 2004 by the act of parliament (Legislative instrument, 1589). It has deliberative, legislative, and executive powers by which it enacts and amends by-laws, generate its own revenue for development and command political authority over its jurisdiction. The assembly is headed by Municipal Chief Executive who is appointed by the president and must be approved by two-thirds of the General Assembly. The Chief Executive is vested with political authority.

Cultural and social structure

Historically, Nkawkaw is under the umbrella of Kwahu traditional council which has 17 paramoncies with its headquarters situated at Mpraeso, the capital of Kwahu South District. Kwahu West has no paramouncy but it is traditionally ruled by Odikros under the supervision of Obomeng Divisional Chief.

The Kwahu West Municipal is a cosmopolitan town because of its commercial nature and therefore has numerous tribes, however, Akan tribe (Kwahu) is the most dominant with the Ewes and the Mote-Dangbani being the minority.

It is imperative to state that the Kwahu West Municipal has no historical festival but use to have a home coming event which has now been encapsulated into the popular Kwahu Easter festival. The Kwahu Easter festival is always celebrated during the period Easter with people coming from within and outside Ghana mainly to have fun at the serene mountainous part of the municipality.

Economy

Over 50,000 people in the Kwahu West Municipality stay in the urban area out of almost 94,000 people (GSS, PHC, 2010). This translate to a large number of people in the municipal capital who mainly engage in buying and selling and other services area such as transport among other things on daily basis.

On manufacturing, quite a substantial number of people are into bakery, pottery, dressmaking, shoemaking artisanship and catering, which all have direct application of business and transaction skills. This emphasizes the point that majority of the people business minded and therefore economically depending retail trading for a living.

3.3 Research Design

This research adopted a case study design to study the land tenure and development in the Nkawkaw Township. An in-depth examination of a single instant of some social phenomenon such as a village, a family or a juvenile gang is defined as a case study (Babbies, 2007).

Basically, the limitation of attention to a particular instance or something is the essential characteristics of a case study. The main purpose of case studies may intend to be descriptive, or an in-depth analysis of a particular case can yield explanatory insight. This study adopted a combination of qualitative and quantitative approaches to research with various techniques of data collections. Case studies indeed were design to bring out the detail from the view point of participant by using multiple sources of data.

3.4 Population

Land users, and developers in the Nkawkaw Township constituted the main population for this research and the fieldwork was based on household survey. Officials of state agencies like the Land Commission, Town and Country Planning Department and the local government (Municipal Assembly) also formed part of the of the population.

3.5 Sampling Techniques and Sample Size

A multi-stage cluster sampling approach was adopted for investigation and premise on both probability and non-probability sampling techniques. This means that purposive and simple random sampling techniques were adopted. Five communities (5) of urban and newly developed characteristics were identified within the area which forms the clusters from which various sampling unit were selected for investigation.

The second stage of sampling constituted the use of purposive and simple random sampling technique to select various sampling units for investigation. The purposive sampling approaches were used to select the officials of state agencies who were

interviewed on various subjects relevant to the study. Likewise, the simple random sampling was used to carry out the land owners and users survey where total of hundred (100) respondents were obtained for analysis.

3.6 Data Collection Techniques

Data collection techniques for this report were based on semi-structured interview, questionnaire and observation. This has been explained as follow;

3.6.1 Semi-structured Interviews.

In the Nkawkaw Township, semi-structured interview were mainly carried out with selected members of traditional land owned group. Officials of state land administration and development agencies like Land Commission, Town & Country Planning Department and Local Government (Municipal Assembly) were also interviewed.

3.6.2 Questionnaires

The questionnaires were mainly administered to land owners and users and include both closed-ended questions. Prior to the administration they were pre-tested to verify their suitability for the survey to be carried out. The pre-testing included the examination of the questions by experienced researcher after which they were tested on the samples of the same communities the study were carried out.

The totals of three (3) people were used for the administration of the questionnaires. This constituted the researcher and two (2) other graduates as field assistants. The field

assistance were first of all briefed about how to administer the questionnaire and were taken through some practical training during the pre-testing of the questionnaires

Were administered randomly to the 101 respondents.

3.6.3 Observations

The observation approach aided the researcher to acquaint himself with the study area and all other activities that is going on there. This approach facilitated in identifying the land use pattern and the nature of the structural development taking place in the area. During the visit to some new building site, some area for example kwamang and trado were fast urbanizing area where land use is changing from farming to residential uses. These changes however were not subjected to effective monitoring by KWMA so land owners in those areas go about doing their own thing. The area where there was an effective monitoring, it was very common to see some comments written on building as; STOP WORK PRODUCE PERMIT, PRODUCE PERMIT BY KWMA, DEMOLISH BY ORDER, etc.

CHAPTER FOUR

RESULTS AND DISCUSSION

4.1 Introduction

This chapter presents and analyzes the results from the fieldwork undertaken for the research. The data collection techniques were interview, questionnaire, and observation.

4.2 Results and Discussion of Questionnaire

4.2 .1 Results and Discussion of Questionnaire from Land Grantee

Demographic Characteristics of Respondents

Place of origin and sex distribution of respondents

The methodology adopted for the study took into account the two variables of gender and place of origin of respondent. It revealed the unique characteristics of the respondents from the Nkawkaw area.

The responds showed that both male and female indigenous and non-indigenous owned land in the area. Out of the total of 101 responses from the household survey conducted, as many as 82 (81.2%) were males and 19 (18.8) females. These shows that almost one-fifth of the respondents were females. This is a clear indication that gender is not a barrier to land ownership.

Most land grantees in the Nkawkaw area were not indigenous. The survey revealed that only 39 (38.6%) out of the total number of respondents were indigenous of Nkawkaw area and as many as 62 (61.4%) were non-indigenous.

Similarly, among the non-indigenous, only 21 (20.8%) and 27 (26.7%) came from within the municipality and the region respectively. Clearly, a greater number of the respondents were settlers from other parts of the country rather than the study area. Table 4.1 below shows the place of origin and sex distribution of respondents while the Table 4.2 illustrates the place of origin of respondents.

Table 4.1: Analysis of Place of Origin and Sex Distribution of Respondents

		Are you a native of this community			
		Yes	No	Total	
<i>Sex of respondents</i>	<i>Male</i>	Count	30	52	82
		% within sex of respondents	29.7%	51.4%	81.1%
	<i>Female</i>	Count	9	10	19
		% within sex of respondents	8.9%	9.9%	18.8%
<i>Total</i>		Count	39	62	101
		% within sex of respondent	38.6%	61.4%	100%

Source: Field Survey, 2015

Age Distribution and Marital Status of Respondents

The questions on the distribution of age and marital status of the respondents generated varied responses. The age distribution of the respondents shows that the majority of land owners fall above the youthful age group of age forty; The responses shows that 31

(30.7%) of the respondents being the largest among the frequency distribution, were within the age group of 41-50 years. 28 (27.7%) followed by 18 (17.8%) constituted the age groups of 31-40 years and under 30 years respectively. Only 8 (7.9%) of the respondents above the age of 60 years own land in the area.

Again, majority of the respondents as many as 66 (65.3%) were married, twenty 20 (19.8%) were single at the time of answering the questionnaire 11 (10.9%) were divorced and 2 (2.0%) were widowed. Table 4.3 depicts the age distribution and marital status of the respondents and Figure 4.1 below shows the marital status of respondents.



Table 4.2: Analysis of Age Distribution and Marital Status of Respondents

			Single	Married	Divorced	Widowed	Total
<i>Age of respondent</i>	Under 30	Count	9	7	2	0	18
		% within age of respondent	50.0%	38.9%	11.1%	0.0%	100%
	31 – 40	Count	9	12	5	0	28
		% within age of respondent	32.1%	43%	17.9%	0.0%	100%
	41 – 50	Count	0	27	4	0	31
		% within age of respondent	0.0%	87.1%	12.9%	0.0%	100%
	51 – 60	Count	2	12	0	2	16
		% within age of respondent	12.5%	75%	0.0%	12.5%	100%
	Over 60	Count	0	8	0	0	8
		% within age of respondent	0.0%	100%	0.0%	0.0%	100%
<i>Total</i>		Count	20	66	11	4	101
		% within age of respondent	19.8%	65.3%	10.9%	4%	100%

Source: Field Survey, 2015

Table 4.3: Marital Status of Respondents

		Frequency	Percent	Valid Percent
Valid	single	20	19.8	19.8
	married	66	65.3	65.3
	divorced	11	10.9	10.9
	widowed	2	2.0	2.0
	No responds	2	2.0	2.0
	Total	101	100.0	100.0

Source: Field Survey, 2015

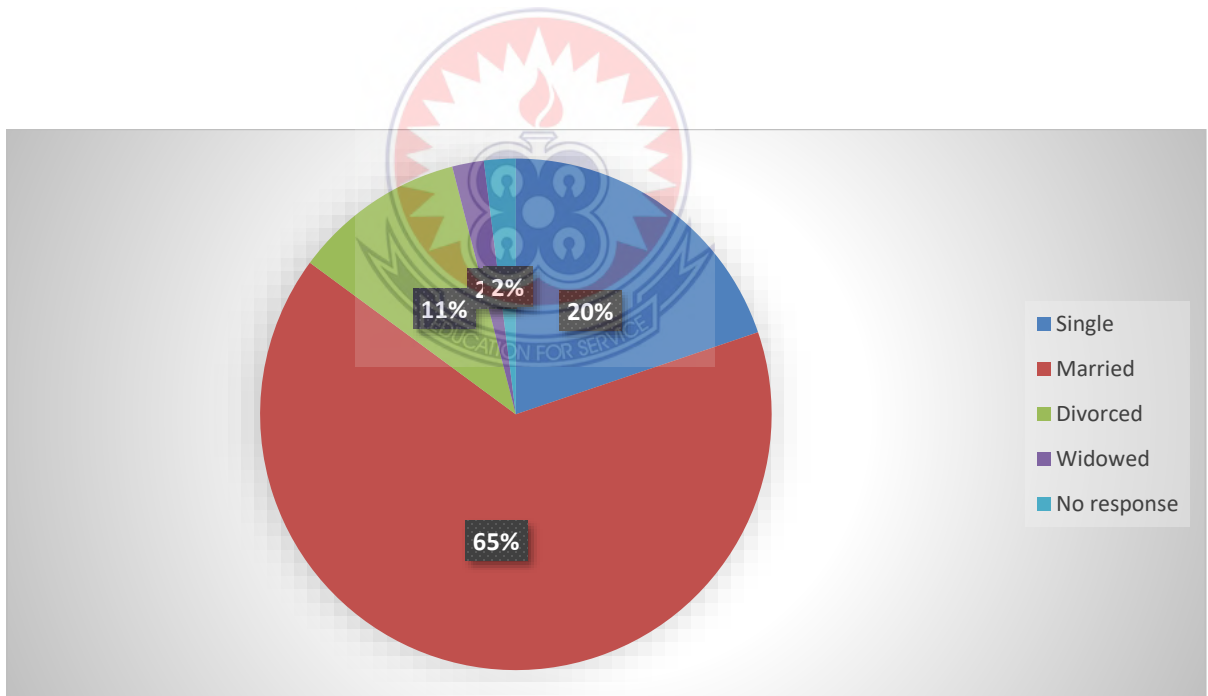


Figure 4.1: A Pie Chart Showing the Marital Status of Respondents

Source: Field Survey, 2015

Education and Employment Status of Respondent

The surveys also revealed that majority of the respondents 40 (39.6%) were tertiary graduate. Thirty 30 (29.7%) also were JHS / Middle school leavers whiles Nine 9 (8.9%) had primary education. Sixteen 16 (15.8%) respondents however had no education at all.

Table 4.4: Educational Level of Respondents

		Frequency	Percent	Valid Percent
Valid	none	16	15.8	15.8
	primary	9	8.9	8.9
	JHS/Middle School	30	29.7	29.7
	Secondary	6	5.9	5.9
	Tertiary	40	39.6	39.6
	Total	101	100.0	100.0

Source: Field Survey, 2015

Most of the respondents were also civil servants. In fact, 56 (55.4%) of the responses received affirmed that they were civil or public servant. Again, 40 (39.5%) said they were self-employed. While 5 (5.0%) indicated that they worked in the private sector. Figure 4.2 illustrates the employment status of the respondents.

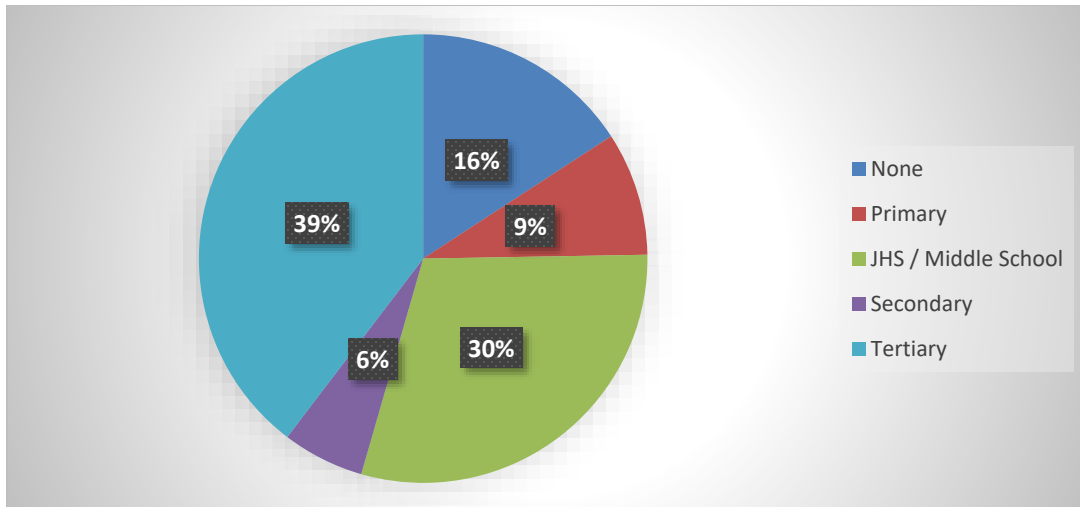


Figure 4.2: A Pie Chart Showing the Employment Status of Respondents

Source: Field Survey, 2015

- **Land ownership and interest in the area (customary freehold or usufruct)**

This land right is held by members of Kwahu community. Most of the forty (40) who hold such rights reported to have acquired the land as gift or inherited them. These usufructs recognize the stool as the ultimate owner of their land and they from time to time, assist the stool when they are called upon to perform various assignments. Holders of such rights have perpetual ownership and access right in the land. They can use it for any purpose and transfer it as of right. The successors to these right holders could also benefit from it ownership and use.

Leasehold: The majority of people 54 (53.5%), in the area of study had acquired land for residential and commercial purposes and such land had leases of various term. In the case of residential buildings, a lease term of ninety nine (99) years was prominent.

An attempt was made to find out the kind of rights each land grantee had and it was revealed that majority of grantees in the area currently have leasehold interest in their land. As many as 54 (53.5%) of the respondents to this question held a leasehold right in their land while 40 (39.6%) held a freehold interest. Four (4) respondents or (4.0%) said they held license to their land. Out of these total of 34 (33.6%) male and 6 (5.9%) female held freeholds, 41 (40.5%) male and 13 (12.9%) female held leaseholds, 4 (3.9%) male and 1 (1%) female held license in the land. Table 4.5 shows the gender of respondents and kind of right being held in land.

Table 4.5: Analysis of Sex of Respondents and Kind of Rights Held in Land

<i>Sex of respondent</i>		What kind of right do you have in the land				
		Freehold	Leasehold	Tenancy	License	Total
Male	Count	34	41	1	4	80
	% within sex of respondent	33.6%	40.5%	1%	3.9%	79.1%
Female	Count	6	13	0	1	20
	% within sex of respondent	5.9%	12.9%	0%	1%	19.9%
Total	Count	40	54	1	5	100
	% within sex of Respondents	39.5%	53.4%	1%	5%	100%

Source: Field Survey, 2015

A significant discovery was that land grantees were not very much aware of the terminologies used in describing the various right in land within the area even though

most of the respondents were educated. While some could explain the rights and implications therein, other could not show any knowledge of kind of right they held.

The survey showed that chiefs and elders had allocated most of the land in the area for development. In reality, they are the land owners and therefore have the exclusive right to allocate the land. As many as 37 (36.6%) land owners in the area acquired their land from chiefs; 32 (31.7%) said it was from family heads and 32 (31.7%) also had acquired their land from individuals with the area. Table 4.6 and Figure 4.3 represent the grantors of land.

Table 4.6: Grantor of Land

		Frequency	Percent	Valid Percent
Valid	Chief	37	36.6	36.6
	Family Head	32	31.7	31.7
	Individual	32	31.7	31.7
	Total	101	100.0	100.0

Source: Field Survey, 2015

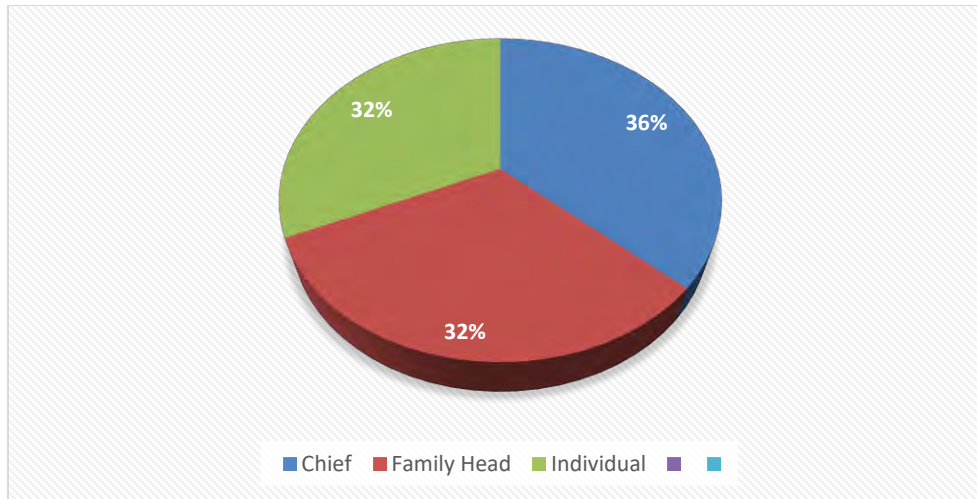


Figure 4.3: Pie Chart Showing the Grantors of Land

Source: Field Survey, 2015

Presently, most lands in the area have been leased for building purposes. The survey revealed that as many as 94 (93.1%) of respondents in the area owned only a plot of land; 4 (4%) owned three plots of land; 1 (1%) owned two plots of land. This clearly proves that most of the respondents have been allocated plot of land on lease for residential development. This also confirms the trend where land used is fast changing from farming to residential uses. Table 4.7 shows the number of plot of land Respondent holds.

Table 4.7: Number of Plots Respondents Hold

		Frequency	Percent	Valid Percent
Valid	One plot	94	93.1	94.9
	Two plot	1	1.0	1.0
	Three plot	4	4.0	4.0
	Total	99	98.0	100.0
No Responds		2	2.0	
Total		101	100.0	

Source: Field Survey, 2015

When respondents were further asked to specify how they acquired the land, 95 (94.1%) of them indicated that they purchased their land thus have lease in their land and 6 (5.9%) got their land through gift. Table 4.8 shows the mode of land acquisition.

Table 4.8: Mode of Acquisition of Land

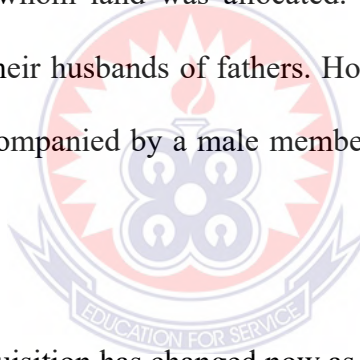
		Frequency	Percent	Valid Percent
Valid	Purchase	95	94.1	94.1
	Gift	6	5.9	5.9
Total		101	100.0	100.0

Source: Field Survey, 2015

- **Land Tenure and Management Practices in Nkawkaw**

Land acquisition procedure

In the past when land was in abundance, it was allocated to both indigenous and settlers to cultivate. An indigenous is required to contact the chief for a free access to a vacant land. After getting the land, the indigenes may decide to present a bottle of schnapps to the chief as sign of gratitude. A migrant on the other hand, was usually accompanied by indigenes to see the chief for a vacant land to cultivate or develop as residence. He was requested to present to the chief a bottle of schnapps and addition, perform other responsibilities to secure his right in the land. There was no discrimination as to the gender of individuals to whom land was allocated. Women usually had user right to cultivate land owned by their husbands or fathers. However, any woman who wanted to own land was usually accompanied by a male member of the family to see the chief for land.



The procedure of land acquisition has changed now as indigenes no longer get free access to land for whatever purpose. They are also required to purchase it just like the settlers do. Even individuals who had large tracts of land given to them as gift to cultivate were losing part of them. This was revealed during interview with member of the community.

“As development, approaches the chief and his elders divide the land into three equal parts and a third is given to us to sell and keep while they take the remaining two-third”

(Focus Group Discussion, 2015).

This was the scenario narrated by other usufructs and migrants holdings level in the area. Indeed, they could not complain since large tracts of land were allocated to them at the time as gift.

Indeed, the procedure for allocating land now in the area is quite simple. Anyone who wanted to acquire a piece of land is directed to the land owners. After the purpose for acquiring the land has been identified, both parties negotiate for the price to pay. The amount paid is termed drink money, which used to be a bottle of schnapps presented as a token of one's appreciation for having been allocated a land. After payment of the required price, the necessary documents are prepared and the parties agree to it.

Presently, it is only head of family or chief who have the responsibility to issue the necessary document covering all land transaction.

The main difficult in land allocation in the area was that a lot of individuals and groups who are supposed to be members of the royal family have the power to allocate land. Indeed, almost every member of the royal family has allocated land before or was still allocating land. This perhaps was due to the fact that most family members owned some kind of freehold interest in their land. This had resulted a very chaotic situation where one piece of land was allocated to more than one person. The situation was even more compounded because there were no planning schemes (layout) in most parts of the area. The challenges of encroachment and multiple sale of land were thus very typical problems in the area. This generated a lot of disputes which sometimes resulted in long litigations.

On the procedure of land acquisition, 82 (81.2%) of land owners confirmed that they were satisfied whereas 19 (18.8%) were not satisfied. This was a clear indication that a lot more needed to be done to improve land acquisition procedure in the area out of these 64 (78%) males and 18 (94%) female were satisfied with land acquisition procedure while 18 (22%) of the males and 1 (6%) of female were not satisfied.

Those who were not satisfied with the procedure of allocating land in the area, indeed, had some difficulties during the acquisition of their land. There were complains of days in the signing of indentures as well as the payment of high drink monies. Table 4.9 shows an analysis of gender and the satisfaction of respondent about the procedure for land acquisition.

Table 4.9: Analysis of Gender and the Satisfaction of Respondent the Procedure for Land Acquisition

		Are you satisfied with the procedure for land acquisition?			
<i>Sex of Respondents</i>	Male	Count %	64	18	82
		within sex of respondents	78%	22%	100%
	Female	Count %	18	1	19
		within sex of respondents	94%	6%	100%
<i>Total</i>		Count %	82	19	101
		within sex of respondents	8.2%	18.8%	100%

Source: Field Survey, 2015

Land documentation

The Conveyance Decree reiterates that land transactions in Ghana should be documented to make them valid. This is also significant for individuals who own land to be able to prove the kind of rights they have in the land, indeed, whether their land was genuinely acquired or not. This could only be done when grantees of land ensure that agreements were put into writing as specified by the Conveyance Decree of 1973 (NRCD, 75). About 28 (27.70%) of land owners in the study area agreed to owning land but did not have any document to prove this fact. Even those who claimed to have a kind of land document on their land did not have a genuine document. This undermines security of land tenure in the area.

The survey revealed that majority of the respondents had a kind of document covering their land. In fact, 73 (72.3%) acknowledge that they had a document while 28 (27.7%) did not have any kind of land documents. A further analysis revealed that 14 (77.7%) of the respondent under 30 years had land document. With respondent between age 31-40, 16 (57.1%) had land document while 12 (42.3%) did not have. Again, 23 (74.2%) of those between the ages of 41-50 had document while 8 (25.8%) did not have. Sixteen 16 (100%) of respondents within the age of 51-60 also had documents.

Finally, 4 (50%) respondents over 60 years ha documents while 4 (50%) did not have any document. Table 4.10

Table 4.10: Analysis of Age and Respondents who had Land Document

		Do you have a document covering the land			
		Yes	No	Total	
Age of respondent	Under 30	Count	14	4	18
		% within age of respondent	77.7%	23%	100%
	51-40	Count	16	12	28
		% within age of respondent	57.1%	42.3%	100%
	41-50	Count	23	8	31
		% within age of respondent	74.2%	25.8%	100%
	51-60	Count	16	0	16
		% within age of respondent	100%	0%	100%
	Over 60	Count	4	4	8
		% within age of respondent	50%	50%	100%
Total		Count	73	28	101
		% within age of respondent	72.3%	27.7%	100%

Source: Field Survey, 2015

When respondents who had document were further asked to specify the kind of land document they had on their land 20 (19.8%) of the respondent revealed that they had unsigned indentures which is not legitimate land documents either. Similarly, quite good number of respondents, about 34 (33.7%), had signed indentures, 26 (25.7%) failed to respond. Table 4.11 shows the kind of documents the respondents had.

Table 4.11: A Kind of Document Respondent had

		Frequency	Percent	Valid Percent
Valid	Unsigned Indenture	20	19.8	26.7
	Signed Indenture	34	33.7	45.3
	A registered Indenture	21	20.8	28.0
	Total	75	74.3	100.0
No Responds		26	25.7	
Total		101	100.0	

Source: Field Survey, 2015

Land registration

To ensure security of right in land transactions, one requires efficient land documentation procedure. This could be done by only through registration. Deed Registration which was governed by the Land Registry Act, 1962 (Act, 122) is the prominent form of registration in the area. Most land owners in the area recognized registration of land as important, though most of them did not have registration to their land at the time of study.

The survey revealed that majority of the respondents 52 (51.5%), perceived the security of their right in land can be maintain by developing the land while 47 (46.5%) agree that their land can be secured through registration. Out of these figures 43 (52.4%) male and 9 (47.4%) females perceived land tenure security through while 37(45%) and 10 (52.6%) of the female believed that when their land was develop it will be secured. Table 4.12 shows an analysis of gender and perception of security of land right.

Table 4.12: Analysis of Gender and Perception of Security and Land Right

		How long do you secure your interest in the land			
			By registration	Developing	Total
Sex of respondent	Male	Count	43	37	80
		% within sex of respondents	52.4%	45%	100%
	Female	Count	9	10	19
		% within sex of respondents	47.4%	52.6%	100%
Total		Count	52	47	99
		% within sex of respondents	51.5%	46.5%	100%

Source: Field Survey, 2015

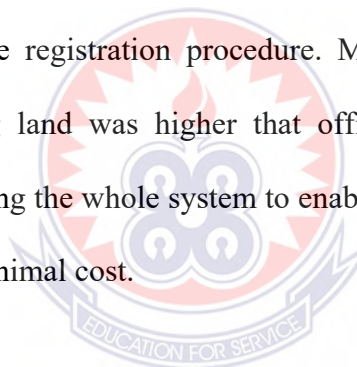
In an attempt to find out whether they had registered their land most land grantee 65 (64.4%), said they had not registered their land while 36 (35.6%) of the respondents confirm that they had registered their land. Among these figures thirty five (35) were male and only one (1) female conversely, forty-seven (47) male and eighteen (18) female confirmed that they had not registered their land. Table 4.13 shows an analysis of gender and respondents who had registered their land.

Table 4.13: Analysis of Gender and Respondents Who Had Registered Their Land

		Have you registered your land?		
		Yes	No	Total
Sex of respondent	Male	35	47	82
	Female	1	18	19
Total		36	65	101

Source: Field Survey, 2015

Almost all the 65 (64.4%) respondents who had not registered their land had complained about the unfavourable of registration. These complaints ranged from the high fee to bureaucratic nature of the registration procedure. Moreover, it was revealed that the actual cost of registering land was higher than official cost. Therefore, they argued strongly for the streamlining the whole system to enable them to register their land within a very short time and a minimal cost.



Land Dispute

In the Nkawkaw area, there was a challenge in ensuring the security and certainty of right in land. This is partly as a result of the indeterminate boundaries of stool lands and the inefficient and market resulting in encroachment and multiple sales of land parcels. Most land transactions were also not documented mainly because of delays and bureaucratic nature of the institutions that are supposed to be in charge of these processes. The impact of all these has been a surge in land disputes.

The land disputes indeed have become very common in the area where most purchasers of land complained about litigations as a result of encroachment and multiple sale of their land. Boundary disputes were also prominent in the area.

When respondents were asked to specify whether they had ever lost part or all of the land they had purchased, a sizable number of the respondents 14 (13.9%) responded in the affirmative while 84 (83.2%) responded in the negative. However, about 3 (30%) of the responded did not respond to the question. Table 4.14 and Figure 4.4 represent grantee that had ever lost land.

Table 4.14: Show Respondents Who Had Lost Land

		Frequency	Percent	Valid Percent
Valid	Yes	14	13.9	14.3
	No	84	83.2	85.7
	Total	98	97.0	100.0
No Responds		3	3.0	
Total		101	100.0	

Source: Field Survey, 2015

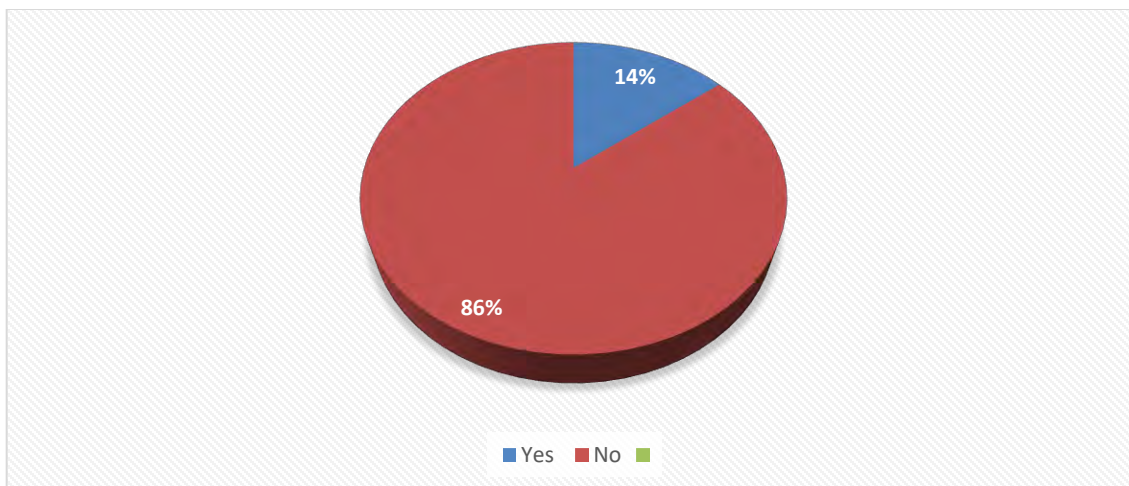


Figure 4.4: Pie Chart Showing Grantee Who Ever Lost Land

Source: Field Survey, 2015

- **Land Use and Development**

The land use pattern with the Nkawkaw area is typically a fast urbanizing rural neighborhoods. Most agricultural lands in the area are rapidly being developed into building for various uses. Most of these developments are not yet subjected to effective monitoring by the Town and Country Planning Department and other authorities responsible for the effective planning of these areas. Importantly, most part of the study area had no planning scheme (layout). Some unqualified surveyors in the area assist the customary land owners to demarcate their land for sale without considering all necessary requirements for an efficient development of the town. They sometimes reduce normal plot size just to create additional plot for sale. This situation is worsening as a result of the large number of people who allocate land within the area. The hiring of different surveyors to demarcate the plots results in many cases of encroachment and multiple sale of land.

A peculiar scene in the area was the development of structures without recourse to the requisite permits. When respondents were asked whether they considered the acquisition of permit important, the majority of them 87 (86.1%) responded in the affirmative while only 8 (7.9%) responded in the negative but 6 (5.9%) of the respondents failed to answer the question. Amongst these figures 34 of native said the acquisition of permits before developing was import while four (4) of them considered not important on the contrary. Fifty-three 53 of non-natives recognized the importance of permit acquisition while four (4) of them thought the acquisition of permit not important. The majority of the respondent maintained that the acquisition of permits was important since it ensured that development conformed to layout of the area. It would also ensure that developers do not build in areas which have not been earmarked for such purpose like road and public parks.

Interestingly, some respondent thought it was important because their buildings would not be demolished when they acquired a permit. Those who responded in the negative said they did not see the need for acquainting a permit before building on their own land. Table 4.15 below shows the place of origin of respondent and their opinion the acquisition of permit.

Table 4.15: Analysis of the Origin of Respondents and Their Opinion on Acquisition of Permit

		Acquisition of Permit		
		Do you think the acquisition of permit is important?		
		Yes	No	Total
Are you a native of this community?	Yes	34	4	38
	No	53	4	57
Total		87	8	95

Source: Field Survey, 2015

Out of the large number of respondents who considered the acquisition of permits before building is very important as many as 62 (61.4%) of them did not have permits while 37 (36.6%) agreed to have acquired a permit before developing their land. The table. 4.16 below show respondents who acquired permit before developing their land.

Table 4.16: Showing the Respondents Who Acquired Permit before Developing Their Land

	Frequency	Percent	Valid Percent
Yes	37	36.6	36.6
No	62	61.4	61.4
No Responds	2	2.0	2.0
Total	101	100.0	100.0

Source: Field Survey, 2015

It was also revealed that most of the respondents 14 (31.1%) who had permits took under six (6) month to acquire the permits, while 30 (66.7%) use between 6-12 month to

acquire their permit before developing their building. Within these figures 12 (26.6%) male acquired their permits under six (6) month while 2 (4.4%) of female respondent acquire permit before developing their building. Also, 28 (62.2%) of male respondents acquired permit between 6-12 month as well as 2 (4.4%) of female respondent. clearly it can also be seen that a very large number of the respondents 56 (55.4%) failed to respond because they did not have permit therefore they could not know how long it took them to acquire the permit. Table 4.17 analyses of gender and duration of permit acquisition.

Table 4.17: Analysis of Gender and the Duration of Permit Acquisition

		How long did it take you to acquire the permit			
		Under six month	6-12	Total	
<i>Sex of respondent</i>	Male	Count	12	28	40
		% within sex of respondents	26.6%	62.2%	100%
	Female	Count	2	2	4
		% within sex of respondents	50%	50%	100%
<i>Total</i>	Count	14	30		
	% within sex of respondents	41.2%	68.2%	100%	

Source: Field Survey, 2015

4.3 Results and Discussion of Interview

4.3.1 Results and Discussion of Interview from Town and Country Planning Department

The office of the Town and Country Planning Department at the Kwahu West Municipal was established by the Town and Country Ordinance, 1945 mandate it to plan, manage and promote harmonious, sustainable and cost effective development of human settlements in the country and accordance with sound environment and planning principles. This Municipal Office, among other things, as established to perform the following function;

- Prepare Municipal spatial development framework plans
- Prepare a structure plans for urban settlement
- Prepare sector plans or detail planning schemes
- Revise spatial planning schemes
- Monitor urban development process and recommend to management at the Municipal Assembly
- Facilitate the processing of development and building permit and
- Contribute to the preparation of the Municipal Medium Term Development Plan.

It is important to note that the Town and Country Planning Department does not issue permit but rather facilitate the issuance of these permits. It is the Municipal Assembly, specifically the Statutory Planning Committee which is mandated to issue these permits.

In the Kwahu West Municipality, the practice was that since the committee does not meet often but quarterly in a year, a temporal permit was usually issued to developers when all

requirements have been met. The final approval was then given at the next meeting of the Statutory Planning Committee meeting.

An interview with the Town and Planning Officer at the Municipality revealed a lot of challenges facing their operation. These include the following:

- Traditional authorities allocated public right of space to private developers within the entire approved planning scheme area;
- Private surveyors and draughtsman do not respect the activity of the Department as they condone and connive with the public to assign and demarcated for roads and public right of space to residential use;
- Natural reserves and waterways were given out and developed as residential uses;
- The Municipal Assembly was not giving the office the needed support since no allocation of revenue generated come to the office;
- There was sub-division and reasoning of plots without the knowledge of the Department;
- Planning schemes were prepared and implemented by unqualified surveyors in the Municipality without the approval of the Assembly;
- Developers are ignorant of the operation and functions of the Land Sector Agencies and the limits of the customary Land Secretariats; and

There is inadequate logistics to support departmental operation, for instance, there had been no financial support from the Head Office for the maintenance of the equipment, vehicle and no allowances had been provided for staff members over the period

4.3.2 Result and Discussion of Interview from the Lands Commission

The Koforidua of the Land Commission Secretariat is responsible for the Nkawkaw area. The Lands Commission Act 2008, (Act, 767) which has merged four of the land sector agencies to provide a more efficient service and ensure that dealings in land are done in more efficient and cost effective manner. The regional office provides land registration services to enable tenure security.

The Lands Commission, with regards to the study area, usually provides the following:

- Granting of consent and concurrence to all stool land transactions;
- Providing land registration services to all land transactions;
- Providing land surveying and mapping services;
- Valuation and stamping of land documents; and
- Resolving land dispute through the use of Alternative Dispute Resolution (ADR) Mechanism.

An interview at the Lands Commission confirmed some of the developments in the study areas. A land officer at the land commission indicated that the situation at the Nkawkaw was very chaotic as a lot of people continued to make the area to purchase land. It was for instance, noted that most purchasers of land usually did not go there to register their land. It was assuring however that, this trend was changing as a result of the educational outreach programmes that the commission often organizes. People are enlightened as to the importance of land registration with the support of the Land Administration Project.

4.4 Results and Discussion of Observation

4.4.1 Result and Discussion of Observation at Trado and Kwamang

A visit to Trado and Kwamang revealed that due to fast changing of land paten in the area from farming land to residential parcels, there were no planning schemes in the area. This fast changing nature of the area was not subjected to effective monitoring by KWMA .This situation was compounded by the activities of unqualified surveyors who connived with some land owners and chiefs to allocate land.

4.4.2 Result and Discussion of Observation at Nsuta, Amamfrom and Ataneata

Observation of the above communities indicated that those areas though fast urbanizing, had land scheme but most developers or land grantees did not comply with the developing paten. There were a lot of buildings with such comment on them as ‘STOP WORK PRODUCE PERMIT BY KWMA, REMOVE BY OTHER’ etc. these phenomenon is an indication that most developers did not have permit to develop their land and went ahead with the development.

CHAPTER FIVE

SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction

This presents the summary of findings, conclusion and recommendations of the study.

5.2 Summary of Findings

The following are the summary of findings of the study:

- The study revealed that some indigenous people in the Nkawkaw area held usufruct rights in land.
- It further revealed that Customary land tenure practice though continue to govern land ownership in the area, presently the leasehold is the dominant derivative right in land which most individuals acquire land for the development of their residences.
- The study again revealed that land management practices in the area have changed overtime as a result of statutory interventions in the land tenure, leaving the chiefs and elders with the authority to only allocate land.
- The difficulty in land management was that a lot of people were involved in land allocation. Indeed, it was revealed that most members of the royal family were involved in the allocation of land or had allocated land before which had resulted in anarchy in the allocation of land.
- In compliance with the Conveyance Degree of 1973 (NRCD, 175) land transaction were required to be documented, however in the Nkawkaw area, the study revealed

that most of the people who claimed to have a kind of document on their land did not have genuine documents.

- The Nkawkaw area typically was a fast urbanizing town where land use was changing from agricultural to residential users. These changes however were not subjected to effective monitoring by KWMA . The lack of planning scheme in the area and the activities of the unqualified surveyors who connived with the many landlords in the area to allocate land had complicated the situation.
- It was revealed by the study that Town and Country Planning Department does not issue permit to developers but rather it is the statutory planning committee of the Assembly. Approvals for development are issued quarter or half a year when the committee sit.
- The findings of study again showed that majority of the respondents in the survey perceived that, when their land is registered, it made it more secure while others revealed that they will develop their land to ensure its security.
- Visits and observation made in various areas revealed development in unapproved area; it was very common to see building structure with such comments as “STOP WORK PRODUCE PERMIT” and others which means that most clients out ignorance had neglected the part played by the local authorities in development of their land.
- It was discovered from the study that most of the people who responded to the questionnaires were not aware of the terminology used in describing the various right in land even though most of them were educated.

5.3 Conclusions

The land tenure practice and development has been extensively studied in the Nkawkaw area. Just like other parts of the country where similar studies have been done, the land market and development is problematic. In areas where there was increasingly urbanization, resulting in high land values, a lot of pressure was brought to bear on land. The ineffective land market in these areas have resulted from poor boundaries of customary lands, poor land record management and disregard for rules on land tenure and development. In Nkawkaw area for instance, a lot of members of the royal family were involved in the land allocation which made it chaotic. In addition, lack of enough planning schemes in most of the areas, activities of unqualified surveyors complicate dealings in the land market resulting in challenges of encroachment and multiple sales of land.

Most people in these areas do not have registered title on their land and the acquisition of permit prior to building was not their priority. Such situations were not investment friendly and also derail the peace in the country.

5.4 Recommendations

The following are the recommendations for the study:

- **Codification of Customary Laws:** The customary land tenure system is dominant in most of the country particularly the Nkawkaw area with varied rules and regulations governing land tenure. These tenure systems were perceived to be dynamic and therefore needed to be streamlined to make them more efficient. In the Nkawkaw area, most of the people were not aware of the terminologies used

in describing the various land rights. It is significant in this regard to codify all rules and regulations on land tenure in Ghana and harmonize them with enacted legislations.

- Improved Land Acquisition Regime: The procedure for land allocation in Nkawkaw area was very chaotic in that a lot of the royal members were involved in addition of chiefs. The situation was complicated by the unavailability of planning schemes in most of the areas coupled with the activities of unqualified land surveyors. It is important that the procedure is streamlined to reduce all these problems. The strengthening of the land allocation committee to handle the allocation of land will be the right direction.
- Strengthening the Town and Country Planning Department to enforce planning schemes: The impact of TCPD was not being felt in the area. As a result, public rights of way were being developed without permission in addition of subdivision and rezoning of plot of land. The Town and Country Planning Department must have requisite powers to enforce planning regulation.
- Enhanced Land Registration Procedure: Importantly, the land right in the Nkawkaw area must be secured to promote investment. The first step in this direction is the provision of genuine documents on land since most people in the area did not have documents on their land. The procedure for land registration must eventually be improved to attract land owners to register their land. This

procedure must ensure that the costly and bureaucratic nature of land registration is eliminated. The full implementation of the one – stop – shop concept of Land Administration Project must be encouraged in this regard. This would ensure that application to the Lands Commission get their registered land document within short time.

- **Better Collaboration with Statutory Agencies:** The Nkawkaw customary land owners seem not to be effectively collaborating with the land agencies. The Town and Country Planning complained about the chiefs conniving with unqualified surveyors to demarcate virgin lands and public right of way for people. The chiefs need to have fore knowledge of decision to be taken in respect of their lands but not after they have been taken. It is necessary statutory land agencies collaborate more effectively with land owners to ensure that all opinion are heard and incorporated into decisions to be implemented.
- **Decentralization of State Land Agencies:** Most of the state agencies did not have office in the Municipality apart from the TCTD and the Office of the Administrator of Stool Land (OASL). The people within this area indeed need an effective land registration service. It is important that services are brought to them. A Municipal Office, particularly the land commission is recommended. These will reduce to some extent, the frustration of travelling long distances for registration services which in themselves need to be improved.

- The customary land Secretariat must be restructured to be more proactive on its duty and the Alternative Dispute Resolution Mechanism (ADRM) must be encouraged to help reduce the cases of disputes in the area.
- The Municipal Planning Committee must be proactive in dealing with applications brought to them so that the durations of building permit approvals would be reduced.
- More Education Campaigns: Issues relating to land tenure are very technical and require the technical advice of professionals like surveyors. It was discovered that people who had acquired land did not have a registered document covering their land. Some of these people did not even know that the chiefs were required to give them a genuine document on their land, let alone registering it. Other people did not know that they must secure a building permit before putting up their buildings on their land. An intensified education campaign on these issues would minimize the number of defaulters. This will ensure that developments conform to planning schemes in the area and land disputes will reduce to the barest minimum.

5.5 Recommendation for Further Research

Importantly, it is recommended that further studies in the Nkawkaw area should be conducted and further analysis of the impact of the land tenure dynamics on sustaining the livelihoods of the people.

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APPENDIX “A”
UNIVERSITY OF EDUCATION WINNEBA
(KUMASI CAMPUS)
DEPARTMENT OF CONSTRUCTION AND WOOD TECHNOLOGY
LAND TENURE AND DEVELOPMENT IN GHANA: A CASE STUDY OF
NKAWKAW TOWNSHIP

QUESTIONNAIRE FOR LAND GRANTEES OR DEVELOPERS

This questionnaire seeks to solicit views from land Grantees or Developers in Ghana.

This pieces of work is purely for academic work in partial fulfillment of the award of the Master of Technology in construction Technology Education (M. Tech)

You are kindly requested to provide responses to the questions to enable the researcher contribute knowledge in the field of study.

All information given shall be treated as confidential and besides your anonymity is guaranteed.

Thank you for your co-operation.

Please kindly tick (✓) the appropriate answer(s) to the questions and where required provide your own answer by writing in the spaces provided.

Personal Data

1. Sex:

Male Female

2. Age:

Under 30 31 – 40 41 – 50 51 – 60 Over 60

3. Marital Status:

Single Married Divorced Widowed

4. Educational Level:

None Primary JHS / Middle school

Secondary / Technical Tertiary

5. What is your occupation?

Civil or Public Servant Private sector Self-employed

Others (specify).....

6. Are you a native of this community?

Yes No

7. If No where do you come from?

Within the Municipality Within the Region Another Region

Others (specify).....

8. What brought you this area?

Work Marriage Settlement

Others specify.....

Land Right and Ownership

9. What is the extend of your land?

One plot Two plots Three plots More than an acre.

10. How was it acquired?

Purchase Gift Inheritance Renting Others (specify)

.....

11. From whom was it acquired?

- Chief Family Head Individual

Others (specify).....

12. What kind of rights do you have on the land?

- Freehold Leasehold Tenancy License

Others (specify).....

13. What use was it acquired for?

- Farming Building Others (specify).....

14. What is the land being used for now?

- Mining Building Others (specify).....

Land Management practices in the Area

15. What is your opinion about the procedure for land acquisition?

16. How did you pay for the land?

- Lump sum Installment Others (specify).....

17. Do you own other land in the community?

- Yes No

18. Do you have a document covering your land?

- Yes No

19. If yes

- unsigned indenture Signed Indenture
 Indentured in the process of registration A registered Indenture

Other (specify).....

20. Are you satisfied with the procedure for land acquisition?

Yes No

21. How do you secure your interest in the land?

By registration By developing the land Others (specify).....

22. Have you registered your land?

Yes No

23. Where did you register your land?

Lands commission Land Tithe Registry Other
(specify).....

24. In your area are you satisfy with the registration procedure?

Yes No

25. What is your opinion about the registration procedure?

26. Have you ever lost part or all the land you own or used before?

Yes No

27. How was it lost?

Compulsory Acquisition Re-zoning Other (specify).....

28. Were you compensated? Yes No

Land and dispute

29. Have you had any counter claims your land?

Yes No

30. How was it resolved?

Court Chief and Elders Family Head Others
(specify).....

31. Were you satisfied with how it was resolved?

Yes No

32. Do you know of any land dispute in your area?

Yes No

33. What is the nature of dispute?

34. What is your opinion on the impact of disputes in the area?

35. Which of the following arbitration forms will you prefer when you are confronted with land dispute?

State court Customary

Land Development

36. Did you acquire a permit before developing the land?

Yes No

37. How much did it cost you to acquire a permit?

38. How long did it take you to acquire a permit?

Under 6 months 6 – 12months 12 – 18 months
 – 24 months 24 and above

39. Do you think the acquisition of permit is important?

Yes No

40. Explain your answer?

41. Are you satisfied with the procedure for acquiring the permit?

Yes No



APPENDIX “B”
UNIVERSITY OF EDUCATION WINNEBA
(KUMASI CAMPUS)
SCHOOL OF RESEARCH AND GRADUATE STUDIES
DEPARTMENT OF CONSTRUCTION AND WOOD TECHNOLOGY
LAND TENURE AND DEVELOPMENT IN GHANA: A CASE STUDY OF
NKAWKAW MUNICIPALITY

INTERVIEW GUIDE FOR STATE LAND AGENCIES

This questionnaire seeks to solicit view from State land Agencies.

This piece of work is purely for academic work in partial fulfillment of the award of the Master of Technology Construction Technology Education (M. Tech).

You are kindly requested to provide responses to the questions to enable the researcher contribute knowledge in the field of study.

All information given shall be treated as confidential and besides your anonymity is guaranteed

Thank you for your co-operation.

1. What are your main functions?
2. How do you relate to chief and other land owners as you perform your duties?
3. What are your activities in Nkawkaw area?

4. Which legislation regulates your activities?
5. What constraints do you face with your work?
6. What are your challengers you face in the performance of your duties?
7. What attempt have you made in resolving them?



APPENDIX “C”**OBSERVATIONAL CHECKLIST****Key**

1 = None 2 = Very moderate 3 = Moderate 4 = Severe 5 = Very severe

Community visited and observation made	5	4	3	2	1
Amanfrom					
“Stop work, produce permit.”					
Remove by KWMA					
Improper demarcation					
Inadequate access on site					
Abandoned building					
Demolished building					
Kwamang					
“Stop work, produce permit.”					
Remove by KWMA					
Improper demarcation					
Inadequate access on site					
Abandoned building					
Demolished building					
Trado					
“Stop work, produce permit.”					
Remove by KWMA					
Improper demarcation					
Inadequate access on site					
Abandoned building					
Demolished building					
Nsuta					
“Stop work, produce permit.”					
Remove by KWMA					
Improper demarcation					
Inadequate access on site					
Abandoned building					
Demolished building					
Ata ne Ata					
“Stop work, produce permit.”					
Remove by KWMA					
Improper demarcation					
Inadequate access on site					
Abandoned building					
Demolished building					

