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Thought Leadership | *Frank Okeke*

Digitisation Imperatives for Nigerian Real Estate Registries

Introduction

Over the years, there has been a lot of talk of how Nigeria is, or can be, at the forefront of the African digital economy; how Lagos is becoming a smart city and movement of its processes into a new digital age. Like with all things associated with Nigeria and technology, the government almost always drags its feet when faced with an opportunity to put its money where its mouth is. We do not want to be seen to be behind our peers but we are unwilling to embrace change with its consequential demands. The constant pussyfooting has left Nigeria in a most precarious situation where we front as a 21st century nation but lack even the most basic development mechanisms in real estate conveyancing. This article seeks to share insights on why Nigeria should proactively enforce digitisation of the real estate sector whilst putting in place policy and implementation strategies.

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The Need for Digitisation

The Lands Registry lists the ownership and movement of regsitrable interests land and, in so doing, helps to protect property rights, facilitate transactions in immoveable properties, and enable such properties to be used as collateral thus instrumental in providing access to finance. The registry, which is the central repository of proof of property ownership and evidence of title, is therefore one of the pillars of a modern society.

At this stage, Nigeria should be transitioning from the physical paper-type instrument transferring title/interest in real estate to an online electronic conveyancing system. In World Bank's 2020 Ease of Doing Business Report (the Report), Nigeria was ranked 131 out of 190 countries on the ease of doing business. This represents an upward movement of 15 places from 146 where Nigeria was ranked last year. The Report revealed that Kenya property registration system was made faster due to moving government consent to transfers and payment verification to online platform.

The Abuja Geographic Information Systems (AGIS) is already on the right track with the digitisation of the registries. It was set up in 2004 to, among other things, provide a comprehensive, all inclusive, fool proof and computerized geospatial data infrastructure for the Federal Capital Territory. The geographic information systems of the AGIS is the graphic aspect, where all cadastral information such as the master plan, land use plans, detailed site development plans, engineering infrastructure and all survey information are captured and stored in digital form. In the Report, Nigeria was stated to have improved its land administration system due to the geographic information system as implemented in Abuja.

Despite the good intentions of the developers, land transaction registrations in Abuja is still fraught with a lack of transparency, corruption allegations, bureaucracy and difficulty in processing title. In the Doing Business in Nigeria 2020 Report, whilst Kano was the most efficient State in Nigeria for registering properties, it is still behind economies such as Rwanda and South Africa; two countries that engage utilization of a digital registry. In November 2018, US online retailer Overstock's subsidiary, Medici Land Governance entered into an agreement with the Rwanda Land Management and Use Authority (RLMUA) and the Rwanda Information Society Authority (RISA) to develop a blockchain-based platform to manage land governance and property rights. The purpose was to move Rwanda to a paperless, secure, corruption-proof, blockchain-based system.

Relative to Lagos, Abuja's better performance is due to its advances in setting up electronic systems for land records and cadastral records as well as interconnecting the land registry and mapping databases.

Digitization will help create a national spatial data system that will be easy to access through electronic media. This change is not simply for the purpose of 'keeping up with the Joneses' as there are tangible and identifiable reasons to transition to an electronic conveyancing system. Some benefits of such transition are listed below:

Time Savings Benefits
There are well known time and cost inefficiencies associated with paper documentation. There have been countless scenarios of missing documents or mismatching information using this traditional method. Another common inefficiency is a failure to update the 'computer records' at the Lands Registry. As stated above, Nigeria has a unique challenge of engaging in partial compliance of the solution. Rather than digitise the entire process, there have been changes to certain areas in the conveyancing process such as creating a digitised repository for conducting search on real estate. On the average, time spent while processing payment for the requisite fees to conduct a search at the Lagos State Lands Registry exceeds time it takes to undertake the actual investigation.

Information on land is a prime requisite for making decisions related to land investment, development and management. This creates more challenges than solutions as there are instances where paper documentation has been filed in respect of a transaction but the computer records are yet to be updated over the same property. This adds to the uncertainty around title and whether there are encumbrances on a given property. Digitisation of the Lands Registries provides reliability of the records.

Curb Corruption
Institutionalised corruption has been cited as a major reason why the government seems lackadaisical in making sweeping digitised changes in the public sector. According to the 2017 National Bureau of Statistics Report, 'Corruption in Nigeria: Bribery-Public Experience and Response', the Lands Registries were the fifth most corrupt public agency in Nigeria.

Anecdotal experience of property files that 'magically disappear', in order to solicit for 'facilitation' to ensure their reappearance are rife. There are also numerous cases of multiple ownership of land in Nigeria which has caused many disputes. A digitised registry would in some measure provide incorruptibility, clarity and transparency in the system.

Data Accuracy and Operational Benefits
Data accuracy is another advantage. Since each transaction is automatically registered on an electronic database with minimal or no human handling, the risk of error is minimal. An electronic registry would provide for an integrated system by allowing for automatic inclusion of information on registered properties and also for different government departments to share information, thus increasing their operational efficiency.

Blockchain Considerations – Nigeria as the Torchbearer

The next step would be the shifting of the Lands Registries from databases stored on physical servers to blockchain - a technology that enables the secure and permanent storage of a digital ledger of transactions, contracts, agreements and other information collectively by a network of users. Blockchain promises secure and immutable record-keeping using a distributed ledger technology.

The private sector advances at a much faster rate than public sector and as such there are already a number of indigenous tech start-ups engaging in blockchain technology. A partnership between these start-ups and the government would improve the security of the registries' records.

Governments are increasingly integrating or at least considering how to integrate their lands registries into the blockchain technology. Countries across the globe acknowledge the undeniable advantages that blockchain technology provides to the Lands Registries and its potential to transform the real estate sector. Technological change will only continue to accelerate and it is important that we as a nation respond to that change in a timely manner. Countries such as the United

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Kingdom, Sweden and Ukraine are leading the way by testing blockchain applications to record national transactions.

Asides title documentation at the registries, Blockchain will also improve the property management process. Presently, property management in Nigeria can be very complex, with many stakeholders involved — including landlords, property managers, tenants, and vendors.

Through the use of a single decentralized application that uses blockchain-backed smart contracts, the entire property management process, from signing lease agreements to arranging for periodic maintenance can be conducted in a secure and transparent manner. In residential real estate, for example, a landlord and tenant could digitally sign a smart contract that includes information such as rental value, payment frequency, maintenance schedule and details of all parties.

Based on the agreed upon terms, the smart contract could automatically initiate lease payments from the tenant to the landlord, as well as to any contractors that perform periodic maintenance. Upon termination of the lease, the smart contract could also be set to automatically send payment of the refundable caution fee back to the tenant (in the absence of any damage to the property).

instance, in October 2019, President Cyril Ramaphosa of South Africa signed the Electronic Deeds Registration System Act (the Act) into law. The Act facilitated the development of an Electronic Deeds Registration System known as e-DRS to take advantage of advances in communications technology and internet-based systems.

The e-DRS enables the processing, preparation and lodgement of deeds and documents by conveyancers and the Registrar of Deeds over the internet. A 2nd October 2019 press release from the Office of the President of South Africa reads: "The Electronic Deeds Registration System Act provides for the development of an Electronic Deeds Registration System – also known as e-DRS- through which South Africa will take advantage of the benefits offered by internet access, e-commerce and global computerisation in the management of security of property title. It will also enable the registration of large volumes of deeds effectively; improved turn-around times for providing registered deeds and documents to clients; countrywide access to deeds registration services; enhanced accuracy of examination and registration; availability of information to the public, and security features including confidentiality, non-repudiation, integrity and availability."

Registry Digitisation - Foreign Overlook

The position argued in this article is not necessarily revolutionary and has been implemented in several jurisdictions. For

This forward thinking outlook is not limited to South Africa as even countries like Mauritius created the Mauritius e-Registry Project in 2011; Kenya, in April 2018, launched the digitisation of its Lands Registry systems.

Conclusion

Digitisation of the Lands Registries should not be confused with the provision for electronic Certificate of Occupancy (e-C of O) commenced by the Lagos State Government in 2015. The e-C of O is simply a paper document which provides more security to its bearer as opposed to previous iterations of the document. For instance, the e-C of O contains the picture of the holder scanned and printed as part of the document rather than a passport photograph as was in the previous version and also the provisions of unique barcodes for additional security.

Nigeria needs to break free from the habit of partial application of a solution as a panacea to erase the challenges in a given sector. Some situations require complete 360 degrees digitisation in order to create value otherwise it simply becomes another layer in the bureaucratic process we are trying to avoid. It defeats the essence of the digitisation process if we simply install computers in government agencies as a sign of being a 21st century country.

As with the introduction of any industry disruptive technology, there are bound to be risks involved in the transitioning and stakeholders should be well informed of these risks. Digitisation of the Lands Registries should not be viewed as a miracle drug that would cure all the ills of the current land administration practices. It is a step in the right direction that the government is willing to tackle the problems with the current practice by innovating. The benefits of digitisation far outweigh any risks associated with it.