



**ASHESI UNIVERSITY**

**CHALLENGES POSED BY GHANA'S LAND TENURE SYSTEM ON  
INVESTMENT PROJECTS IN REAL ESTATE**

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Declaration

I hereby declare that this thesis is my original work and that no part of it has been presented for another degree in this university or elsewhere.

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### Abstract

Some of Ghana developmental problems have been attributed to its current land tenure system. These problems include land conflicts and the lack of female representation. This study investigates challenges posed by the land tenure system, and how these problems affects investment projects in the real estate sector. These investment projects include investments made by both foreign and local real estate investment projects. The study provides recommendations based on the results on how to modify Ghana's current the land tenure system to achieve better outcomes in terms of local and foreign investment.

The research questions answered include: (i) What threat (s) does Ghana's current land tenure system pose for investment projects in the real estate sector?" and (ii) what strategies can be used to optimize the current land tenure system to attract and sustain foreign and local real estate investment?.

Data was collected from individual landowners and real estate companies using a survey. In total, data was collected from 17 individual landowners and 3 real estate companies. The result of the study showed that individual take longer time to register land as compared to real estate companies. The study found that both individual investors and real estate companies faces challenge of disputes over land ownerships, multiple claimants to same property, inaccurate maps to enable land registrations, delays to projects as a result of unnecessary bureaucracy in land title registration, other effect in terms of financial cost and time etc.

Respondents proposed digitization of land administration system in Ghana to reduce risk of multiple ownership of lands, synchronizations of various agencies working with land title registration in Ghana, training more surveyors to help reduce time it takes to register land etc.

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## DEFINITION OF TERMS

Allodial interest: This is the ownership of real property (land, buildings and fixtures) that is independent of any superior landlord.

Common law freehold: It is a form of interest on land which can be acquired by both members and non-members of the community holding the land.

Customary freehold: It is a form of interest on land where only a member of the community holding the land can exercise ownership over a piece of land own by the stool or a family.

Deeds registration: This a land management system in which all the important instruments which pertain to the common law title of pieces of land are registered on a register maintained by the government.

Freehold interest: It is a form of interest on land which allows the holder to use it for an indeterminate time.

Ghana Interpretation Act of 1960's: This Act provides the interpretation of the Constitution and other enactments.

Ghana Investment Promotion Centre: This is a government agency responsible for the encouragement and the promotion of investment in Ghana. It also provides for the creation of an attractive incentive framework and a transparent, predictable and facilitating environment for investments in Ghana.

Ghana Land Commission: A corporate body established to make sure the acquisition and distribution of land is properly regulated.

Land Registry Act 1962, ACT 122: An Act to amend and secure the law relating to the registration of instruments affecting land.

Land Title registration: A system under which an authoritative record is kept of the title to a particular parcel of land in a register.

Land Title Registration Law 1986 (PNDCL.152): A law to provide machinery for the registration of title to land and interests in land.

Leasehold interest: This interest has a specified start and end period and its subject to payments of the annual or monthly rent.

Ministry of Land and Natural Resources: This is a ministry under the government of Ghana with the responsibility of formulating policies and exercising oversight responsibilities for all land and resources in Ghana.

National Housing fund: A fund set up by the government of Ghana to address the national housing deficit.

National Housing Policy: A policy aimed at accelerating the provision of decent, safe and affordable to address the national housing deficit.

Ministry of Water Resource Works and Housing: It is a government of Ghana central management agency tasked with the formulation and co-ordination of policies and programmes for the systematic development of the country's infrastructure requirements in respect of Works, Housing, Water Supply and Sanitation and Hydrology.

Sustainable Housing Solutions: This is a global housing-developer aimed at providing quality, energy efficient and affordable housing.

United Office for Project Service: They help the United Nations and its' partners to provide peace and security, humanitarian and development solutions.

## CHAPTER ONE: INTRODUCTION

### 1.1 Background

#### *1.1.1 Ghana's Land Tenure System*

The Ghana Interpretation Act of 1960's definition of land is that "Land' includes land covered by water, any building or structure whatsoever, and any estate, interest or right in, to or over land or water". Thus "land" includes water bodies and resources and assets both found on and in the soil.

In Ghana, land tenure constitutes of the statutory and customary land management which operates side by side in both rural and urban areas (Arko- Adjei, 2011). Article 267 of the Constitution of Ghana states that customary lands in Ghana are overseen by family heads and chiefs with the authors to enforce laws and obligations related to the land (Constitution of Ghana, 1992). The customary land system operates legally in three areas; a system of statute law and common law derived from the British, the indigenous, customary system and customary law as interpreted by the courts (Fiadzigbey, 2006). In Ghana, the customary land tenure system is important in land agreements, allocation, land use and the management of land because it is found in both the rural and urban areas (Arko-Adjei, 2011).

The highest land interest recognized by the law is the allodial interest. It is derived from the customary law and it is held above all other interests in lands. It is also usually held by a stool, family or state but excludes certain rights such as the right to exploit rocks, mineral and fossil fuels under the land (Minerals & Mining Act, 2006).

The second highest interest recognized by law is the freehold interest. The freehold title interest comes in two forms; the customary freehold and the common law freehold. In the customary freehold interest, a member of the community can exercise

ownership over a piece of vacant land owned by the stool or a family. Interest in the customary freehold is inheritable by the holder's family if the individual holder of the land dies. The ownership of the land may be lost by sale, compulsory acquisition by the state, or the lack of successors (FAO, 2019). Due to the increase in population and the demand for land, the stool controls the grants of stool owned lands for a fair distribution of land (FAO,2019).

The common law freeholder title is the most common form of land interest outside of rural areas in Ghana (Botchway, 2019). The common law freeholder interest can be acquired by members and non-members of the community holding that land. The owner of the common law freehold can own the land for an indefinite period and exercise weights of ownership (Botchway, 2019).

There is also the leasehold interest which is commonly used in Ghana (Botchway, 2019). This interest has a specified start and end period and its subject to payments of the annual or monthly rent. This interest can be held for 99 years by legal Ghanaian citizens and up 50 years for non-citizens and it grants the holder ownership rights over the land. However, the owner must acknowledge the superior title of the allodial holder (Botchway, 2019).

### *1.1.2 Registration System*

Ghana currently practices two forms of land registration which are the Deeds registration and the Land Title registration (Sittie, 2006). The Deeds registration is under the Registration Ordinance of 1883, Land Registry Ordinance of 1895 and the Land Registry Act 1962, ACT 122 (Sittie, 2006). The Deeds registration, however, did not provide for accurate maps which contributed to incidences of double registration of the same piece of land (Sittie, 2006). This problem brought about the introduction of

the Land Title Registration in 1986 to help resolve the problems and improve tenure security.

The Land Title Registration was introduced by the declaration of the Land Title Registration Law 1986 (PNDCL.152) and the Land Title Regulation 1986 (Sittie, 2006). The Land Title Registration Act bestows a title that is free from all adverse claims but is subject to hinderances noted in the register (Botchway, 2019). The purpose of the Land Title registration was to give certainty or proof of title and to render land dealings in land safe to prevent fraud on purchasers and mortgages (Sittie, 2016).

In Ghana, there are currently two districts for the registration of land under the Land Title Registration Act and they are the Greater Accra Region and certain parts of Kumasi (Botchway, 2019). This is because the Land Title Registration law was implemented on a pilot basis (Sittie, 2006). A district must first be declared a land title registration district by the Ministry of Lands, then the Registrar makes a list of all landowners with registered deeds in that district and invites them to convert those deeds into titles within 80 days of the declaration (Sittie, 2006). Also 70% of landowners in the declared district must register their titles before the Ministry of Lands would declare a new district, allowing the process to be systematic (Sittie, 2006).

The law requires the registration of all the instruments affecting the land with the inclusion of a map or plan of the land. The registration process under the Land Title Registry includes the completion of a form, payment of registration fees, attachment of site plans by licensed surveyors and stamped copies of documents (Botchway, 2019). Once this process is completed, the interest is plotted into the register and there is an issuance of a certificate that takes from about four months to over a year to complete (Botchway, 2019).

### *1.1.3 Real Estate Sector*

From 2007 to 2013, there was a surge in the demand for property in the real estate sector; however, demand slowed down due to the fall in the price of commodities in 2014 and the depreciation of the cedi in 2016 and 2017 (Frimpong-Wiafe, 2019). The government of Ghana, in efforts to boost the sector, abolished the value-added tax of 5% on the sales of property in real estate market in 2017 (Frimpong- Wiafe, 2019).

The real estate sector in Ghana has seen significant growth in the past years and this growth can be attribute to the increase in demand for residential and industrial property (GIPC Corporate Affairs, 2019). The Ghana Investment Promotion Centre (GIPC) (2019), stated that the residential market is the most lucrative and active with an estimated number of 85,000 transactions per annum over the past 10 years with a value of \$1.7billion. The commercial property segment is the second largest in the market with the industrial property segment significantly smaller in size (GIPC, 2019).

The increase in the demand for real estate in the residential sector is met with foreign investment in high-end apartments (GIPC, 2019). New developments in the housing market are motivated by new apartment complexes which are funded by investors from Turkey, South Africa and the Middle East (GIPC, 2019). This can be seen in Takoradi where there has been an increase in demand for residential property by both foreign and local employees directly connected with oil exploration.

The retail or commercial sector has also seen improvements over the years. An example would be the Accra Mall which attract almost 4 million visits per year and other retail outlets such as West Hills Mall, the Osu mall and Junction mall have been built to meet this demand (GIPC, 2019). In Ghana prime office spaces are also of interest to investors due to the high demand from other sectors such as banking, telecommunication and professional or diplomatic sectors (GIPC, 2019). The value of

these office spaces is up to \$35 to \$40 per meter square a month with an estimated prime yield of 10% (GIPC, 2019).

According to the Ministry of Water Resource Works and Housing, the increase in demand for real estate property has resulted in a housing deficit with an estimated excess of one million homes (GIPC, 2019). To address this deficit, the government of Ghana is embarking on programs such as the National Housing Policy in 2017 and the National Housing fund (Frimpong-Wiafe, 2019). There is also strong participation of the private sector through public-private partnerships. The Ministry of Works and Housing in a partnership with the United Office for Project Service (UNOPS) and Sustainable Housing Solutions (SHS) launched a \$5 billion affordable housing project in Accra in August 2019 (Frimpong-Wiafe, 2019). Real estate companies are eligible for a 5-year corporate income tax holiday if they construct affordable housing with approval from the Ministry of Works and Housing (GIPC, 2019).

## 1.2 Problem Statement

In Ghana, nearly 80% of lands are held by customary landowners, mainly families, clans and traditional authorities (Kasanga & Kotey, 2001). The customary land tenure system is based on the local practices of a people and it is distinguished by its' unwritten nature which allows room for flexibility and negotiations (Alhassan, 2006). In developing countries, a significant number of market participants are unable to get access to credit due to insecure land tenure, which in return reduces the number of transactions and the standard of information in the financial market (Galal & Razzaz, 2001; De Soto, 2000). This will most likely contribute to the increase in poverty levels and worsen inequality, in the sense that, smallholders of the land who are unable to use

that land to access will end up having to sell the land for lower its' value to meet their basic needs.

The proper allocation of property rights is, therefore, an important contributor to the production of wealth in a country (North, 1990; Armah, 2016). An efficient land tenure system increases the wealth of a nation (Omotunde, 1972). However, before wealth can be created, there must be a clear definition and understanding of property rights in the land (Omotunde, 1972). This means a system must be created where the rights to a piece of land are clearly assigned to individuals, groups or firms hence, ownership is defined and understood. This is needed because people who hold insecure tenure are threatened with the risk that their property may be competed for or their claims would be lost as a result of eviction (FAO, 2002).

The Deeds registration was the system of registration used before the Land Title registration was introduced. The Deeds registration system comprised of poor maps and records which made the conversion of the registration system from Deeds to Title difficult and almost impossible (Sittie, 2006). There was also the issue of poor public education, lack of professional and technical skills and irregularities in the implementation of the system which created more problems (Sittie, 2006). Since the Land Title registration was introduced only the Greater Accra Region and some parts of Kumasi are declared registration districts (Botchway, 2019). This would mean people from undeclared districts and regions that still use the Deeds registration system are prone to have multiple registrations of the same piece of land. Also, because 70% of lands in a declared district must be registered under the Land Title registration before another district can be declared a registration district (Sittie, 2006), will the process of converting from Deeds to Title registration not be time consuming? How will this affect

real estate businesses that want to build on lands registered under the Deeds registration?

These problems with the land tenure system negatively impact the economy, since the uncertainty over land ownership raises uncertainty and increases the risk of investment for local and foreign investors leading to low investment, low productivity, low growth, high poverty and severe inequality.

### 1.3 Objectives of Research

- To investigate the challenges faced when securing land for real estate investment projects.
- To recommend strategies for optimizing land tenure procedures in Ghana.

### 1.4 Research Questions

1. What threat does Ghana's current land tenure system pose for investment projects in the real estate sector?"
2. What strategies can be used to optimize the current land tenure system?"

Answers to these questions will provide insights into the problems caused by Ghana's current land tenure system and also give recommendations on how to minimize or solve those problems.

### 1.5 Relevance of the Study

Experts have identified a correlation between a nation's wealth and the presence of an adequate property rights system since real estate and lands are a form of capital (Brefort, 2010; De Soto, 2000). Real estate can be used for commercial and industrial purposes which in return contribute to the GDP growth of an economy. Meaning an increase in capital in the real estate sector will increase economic productivity thus creating wealth for the nation.

The real estate sector in the country is faced with land disputes and controversies which affect the availability and use of land for construction purposes (Miller, 2015). In addition, there is also the issue of the lack of adequate information to the public about land registration as well as the inadequate institutional arrangements which exist for land management thus slowing down the registration process (Miller, 2015). Investment in real estate is expensive and might require long term commitment before returns are seen. This means insecure or uncertain land tenure may easily deter investors as the costs may outweigh the benefits.

The execution of this thesis paper will explore, analyze and identify the problems in the land tenure system and the threat it would pose on investment projects surrounding the real estate sector in Ghana's economy. This research will contribute findings and useful information to government official or policy makers while also contributing to the literature surrounding land tenure and real estate.

Also, the results of this research paper will inform government officials and political heads on the relevance of reviewing how the current land tenure system will affect Ghana's economy. This is essential because it will aid in the planning of strategies and policies to improve the land tenure system thereby increasing property ownership rights in the country. The solutions and results found in the research may also be beneficial to other developing African countries.

### 1.6 Organization of the Study

The structure of this research paper is categorized into five chapters. The first chapter introduces the topic which involved exploring the background, problem statement, research questions, research objectives and the significance of the study. The second chapter consists of the analysis of the literature review on the theoretical

framework underlining this study, the problems associated with Ghana's current land tenure system and the strategies for optimizing land tenure in Ghana. The third chapter which is the methodology explores the process of obtaining and analyzing data which will lead to the achievement of the research objective and the answering of the research questions. Chapter four presents the understandable and precise results of these findings and their implications and the fifth chapter provides recommendations based on the findings and a recap of the analytical process of the thesis.

## CHAPTER TWO: LITERATURE REVIEW

### 2.1 Introduction

This chapter of the paper consists of reviewed literature relevant to the research topic. This chapter is sectioned into four parts. The first section is the theoretical framework which underlines this research, the second is the problems associated with land tenure systems in Ghana and other developing countries, the third is the importance of the land tenure system in the real estate sector, and the last is the strategies for optimizing the land tenure system in Ghana.

### 2.2 Theoretical Framework

The theoretical framework serving as the basis of this study is the Adaption Theory and it is compared to the theory to the Evolutionary Theory of Rights. The comparison was done to see which theory would best suit the indigenous Ghanaian environment.

#### *2.2.1 Evolutionary Theory of land rights*

The Evolutionary Theory of Land Rights is a belief that the pressure from the increasing population and the integration of markets, will cause land rights to evolve

into individualization which will then lead to the creation of formalized property rights (Platteau, 1996). “The evolutionary theory of land rights can be considered the dominant framework of analysis used by mainstream economists to assess the land tenure situation in developing countries and to make predictions about its evolution” (Platteau, 1996). Though the ETLR reflects the idea that the pressure of the growing scarcity of land, will cause a change in the land tenure agreement which will increase individualization of land tenure and increase the transferability of land (Platteau, 1996; Arko-Adei, 2011), the theory fails in the context of Sub-Saharan African regarding the registration of property rights (Platteau, 2000).

An example of when the ETLR was used was in a study conducted on the concerns of a land tenure diversity, where the different rules governing different types of private lands may have an impact on the outcome of other land uses (Perz, Hoelle, Rocha, et al, 2017). To test for dependent causes caused by the distinct rules used in various types of private lands, the evolutionary theory of land rights assumes a country where private property rights are homogeneous (Perz, Hoelle, Rocha, et al, 2017). The results of the study show that there is a need to change the systems driven by economic integration to ones underlined by the ETLR due to the knowledge that diversity in tenure will cause the output of the local land use to vary (Perz, Hoelle, Rocha, et al, 2017). The study confirms the effect of a standard private land tenure system as opposed to a diverse system commonly used in most African countries (Perz, Hoelle, Rocha, et al, 2017).

Yet, the study is criticized by Whittal, who stated that “The assumptions underlying evolutionary land rights thinking require critique [because] change is not always unidirectional” (Whittal, 2014). This is especially true with Africans because

they tend to be difficult to collaborate with, with matters concerning changes to their cultural beliefs.

### *2.2.2 The Adaptation Theory*

The Adaption model holds the view that the self-government of land by indigenous communities will generate returns (Delville, 2010). The Adaptation theory is in accordance with the ETLR; however, the adaptation theory recognizes individualization as an effect that would happen in the long term (Hull & Whittal, 2018). Adaption theorists view that there would be a boost in formalization, however, complete individualism may or may not be completely achieved (Hull & Whittal, 2018). This is because customary land tenure system is derived from the social relationships and institutions in the indigenous environment, and the changes in property rights and tenure will result in complications in their social, spiritual, and political ties in their communities (Arko-Adjei, 2011). Therefore, individualization in customary rights will pose as a threat to the social cohesion of groups and communities (Arko-Adjei, 2011). Meaning the adaptation theory is the most practical option for land tenure in the customary system though it increases the time taken to reach some level of evolution (Arko-Adjei, 2011; Nkwae, 2006).

Adaptation theorists also reject the criticism that indigenous or customary tenure is a constraint to land development (Hull & Whittal, 2016). In the past, it has been argued that the customary land tenure system can be responsive and flexible in regulations when there are changes in social and economic circumstances (Deininger, 2003; Cotula, 2007). A report by the World Bank supports the argument that the customary land system provides land security by even providing relatively lower costs to groups or individuals for land tenure securities (Deininger, 2003).

The use of the adaption theory can be found in the Unified Tenure Model. “The unified tenure model is founded on the principle of securing individual rights based on market models and principles grounded in the security of collective rights and social cohesion” (Arko- Adjei, 2011). This means that the model focuses on identifying the strengths of the customary land system and incorporating elements of the formal tenure concepts which would not threaten the social cohesion of the indigenous groups (Mulolwa, 2002). The unified model focuses and emphasizes the rights to use land resources rather than ownership of the land (Mulolwa, 2002).

However, the model is criticized because it is difficult to determine the best balance in incorporating both local and public regulations and to the extent at which customary laws or statute laws would be used (Delville, 2010). The difficulty in providing a “hybrid” land tenure system which takes both the legitimacy of the local rights and the statutory system into consideration would leave the model exposed to contradictions and insecurities (Arko-Adjei, 2011).

### 2.3 Problems with the customary land tenure system in Ghana

The customary or indigenous land tenure system has faced many critiques in many studies over time.

#### *2.3.1 Land Conflicts*

The main reasons for land disputes are unclear boundaries, multiple sales of the same piece of land and ownership conflicts due to the existence of multiple legal systems governing the land (Appiah, 2011). Customary land tenure works in an environment where the land resources are more than the population occupying it. With Ghana's growing population and easy access to transportation, there can be an increase in the competition for the ownership of land (FAO, 2002). What effect would the

increase in population have on land tenure? Sittie (2006) attributed some challenges of the deeds registration to the inaccurate maps or plans which created conflicts and the registration of multiple pieces of land as a result of the registration being based on the deed and not the land. There is also no system to decide the multiple registrations of the same land (Sittie, 2006).

### *2.3.2 Culture*

In Ghana, the customary land tenure system is a representation of the traditional culture of the people. This system covers the beliefs of the people regarding the inheritance and succession of ownership of the lands. The system is mostly used in rural areas since the land in most urban areas is slowly being commercialized for development. A study conducted by Quraishy in 1971 revealed that the system of land tenure in Ghana is not suitable for economic progress. The analysis reported that the system allows for the use of primitive techniques in farming which hinders the acceleration of production. Furthermore, the heads of extended families which are usually the older and more experienced farmers are usually unreceptive to innovation since they are more comfortable with the traditional method of farming. The older farmer's unwillingness to change hinders younger farmers from also being innovative, resulting in the discouragement of economic initiative.

### *2.3.3 Contribution to environmental degradation*

The land tenure system has also been noted as one of the contributing factors to environmental degradation. Poor land use is linked to insecurity in land tenure which results in environmental degradation (FAO, 2002). The lack of clear ownership rights to land can lead to its' mismanagement by short term holders of the land (FAO, 2002). This mismanagement includes the act of clearing the land through slash-and-burn agricultural practices (FAO, 2002). The continuous shifting cultivation in the

customary land system by the cutting down of trees has contributed significantly to the depletion of soil nutrients and reduction in agriculture production (Grega & Ankomah, 2016).

Yet, from a religious perspective, a study factoring the religio-cultural views of people on the land issues in Ghana reported that their Christian and Muslim respondents, especially the youthful ones, have the tendency to ignore traditional rules underlined by taboos such as “non-farming” days which are meant to reduce human contact with land (Nyamekye & Sarfo-Mensah, 2011).

#### *2.3.4 Lack of female representation*

Sufficient research has been done concerning the contribution of women to agricultural development within the customary land tenure system. Under the customary land tenure system, women and people who are not essentially part of the community have little to no control over the decision making and the management of the use of land (Bugri 2008). In local-level power structures, insufficient attention is being paid to power groups such as women who are not well represented (Whitehead & Tsikata, 2003). This refers to the knowledge that women are not necessarily taken into consideration in the customary land system and often do not own land property rights.

For example, 151 respondents were interviewed concerning the ownership of lands in the Wa Municipality and only 38% of the female respondents owned land while 68% of the males owned land (Kuusaana et al, 2013). This inequality was a result of the patrilineal system of inheritance, financial constraint and the high illiteracy among women in that area (Kuusaana et al, 2013). The women in Wa's access to land ownership were limited to the use of land from inheritance or marriage resulting in their lack of control or ownership without the permission of a family or clan head (Kuusaana

et al, 2013). The women in Wa have the secondary right over land which is not recognized by the current land tenure system since those rights cannot be registered (Kuusaana et al, 2013).

However, a study conducted showed that most lands are purchased by both men and women rather than acquired through inheritance. In this case, it was reported that more women than men had registered their lands to be it in the name of their spouse or jointly. The light was thrown on the implication of men buying more land as it increases their income resulting in a further income gap between men and women (Quansah, 2012). Women with purchasing power have more opportunities to purchase land rather than women living in rural areas who have to depend on lands owned by their husbands and families because they do not have the capital to buy lands.

#### 2.4 Importance of land use in Real Estate Sector

Real estate contributes to the economic development of a nation. 45%-75% of land and real estate assets contributes to the wealth of developing countries (Ibotson, et al., 1985). These assets are considered factors of production for agriculture, industrial projects, real estate and infrastructure services (Galal & Razzaz, 2001).

A study conducted to show the value created in real estate from land registrations used data on 2,950 transactions from five locations in Accra and Tema from 1992-2005 (Anim- Odame, Key & Stevenson, 2009). The study showed that the real estate type, plot size, location and the security of tenure all contribute to real estate prices (Anim- Odame, Key & Stevenson, 2009). Another study attributed the benefits in real estate in residential areas to the proper use of land planning. These benefits generate from the tarred roads, electricity, and pipe-borne water (Awuah et al, 2014).

## 2.5 Strategies for optimizing land tenure in Ghana

B.B Quaraishy (1971) stated that Ghanaian farmers could easily surpass South American planter if they are provided with sufficient investments and crop control. This statement was made during the period where Ghana was the leading producer of cocoa. Can this be achieved now that Ghana is not the world's leading producer anymore? There could be a great contribution to savings by the agricultural sector if the land is used by farmers with economic motives for owning land as done in the United Kingdom and Japan in their early stages of development (B.B. Quraishy, 1971).

Also, the formalization of property rights is suggested as a way of reducing poverty although the political and cultural structure of the people must be taken into consideration (Sjaastad & Cousins, 2011). The formalization of property rights is achieved through the increase in entrepreneurship and thriving markets by giving the poor formal and protected rights to protect their assets (Sjaastad & Cousins, 2011).

Changes to the political, legal and cultural practices will be needed before countries in Africa can begin gender justice in terms of land (Whitehead & Tsikata, 2003). Nyamekye & Mensah (2011), stated that Ghana should explore the integration of traditional beliefs and indigenous knowledge in a new system of customary land rights. They go on to say that the land tenure system in Ghana should be based on the arrangement that the system would recognize the views and cognitive beliefs of the indigenous people. These include beliefs that surround the management of resources such as non-farming days (Nyamekye & Mensah, 2011).

There is limited compatibility between the theories of land, the practices and the outcomes of land reforms in Africa (Odoom, 2012). This suggests that land reforms do not always work as they should when put into practice. This is evident in a study conducted to show the relevance of land reform theories through the case study

technique in four African countries- Ghana, South Africa, and Egypt. The study looked at two different theories; one which argued that the land reforms should be based on the theory of social capital and one which agreed that individualized land tenure systems are more effective (Odoom, 2012). The findings show that land tenure is more complex when practiced than when theorized (Odoom, 2012).

## 2.6 Conclusion

Based on the literature studied, it can be confirmed that there are problems associated with the Ghana land tenure system. The studies also show that land tenure has some importance in the contribution to real estate. Given that there is insufficient research done on the importance of land tenure in the real estate sector, this study seeks to contribute necessary information to that field. The literature studied also implied that unless the cultural beliefs of the people are taken into account in any strategy the system will not work. Studies also showed that land tenure is more complex when practiced than theorized.

## CHAPTER THREE: METHODOLOGY

### 3.1 Introduction

This study is done to investigate the challenges posed by Ghana's current land tenure system on investment projects in the real estate sector. This chapter provides a detailed report on the research methods that were used to collect and analyse the data for achieving the purpose of the study. This chapter includes the subsections: research design, data sources, and the research scope.

### 3.2 Research Design

This study requires the use of a qualitative methods approach to capture all the necessary information needed. 'Qualitative methods are used to answer questions about experience, meaning and perspective, most often from the standpoint of the participant' (Hammarberg et al, 2016). This is done to gain an in-depth understanding of the research from the subjects' viewpoint.

#### 3.2.1 Data Sources

This study uses primary data collected through the conduction of interviews from working individuals. Data will also be collected through interviews from real estate companies (both locally and foreign owned) in Ghana which would provide insight on the effect of the registration process and the land tenure system on the productivity of their business. These data sources are used in this study because they provide relevant and credible data.

### 3.3 Research Scope

#### 3.3.1 *Study Population*

The research population includes individuals and real estate firms who have registered or purchased land for residential, commercial or industrial use. These areas will be picked based on proximity to the researcher.

#### 3.3.2 *Study Area*

The study area for this research are selected areas in the Greater Accra Region such as Accra and Tema. This is because Accra is the capital city of Ghana and it has areas such as Cantonments and East Legon which are known for their real estate. Tema is also an industrial area with a lot of foreign and locally owned Enterprises and Industries. This also means that there would be sufficient data on land agreements and

registrations in the area. This scope is suitable to collect the relevant data necessary for this study.

### 3.4 Sampling strategy

Sampling is the process of choosing a part of the population to represent a whole. Sampling strategies involves the strategies used in determining a sample and its size for the study.

#### *3.4.1 Sampling techniques*

The sampling techniques to be used in this study are the purposeful and the snowball techniques. The purposeful sampling technique is widely used in qualitative research for the identification and selection of information-rich cases for the most effective use of limited resources (Patton, 2002). It involves the identification and selection of individuals or groups of individuals who are especially well informed about or experienced a phenomenon of interest (Cresswelal & Plano Clark, 2011). Snowballing is the method of gathering information to specific groups of people (Naderifar et al, 2017). It is also defined as a technique for sampling used by identifying an initial subject who the refers the researcher to other research subjects (Lewis-Beck, Bryman & Liao, 2004).

In this study, the snowball technique would be used to identify and contact individuals who have registered or purchased land in specified areas.

### 3.5 Data Collection

#### *3.5.1 Data Collection instruments*

Data would be gathered through semi-structured interviews created by the researcher. "Semi-structured interviews employ a blend of closed- and open-ended questions, often accompanied by follow-up why or how questions" (Adams, 2015).

Semi- structured interviews are used to provide guidelines to ask open ended questions which reveal the independent thought of the research subject (Adams, 2015).

### *3.5.2 Data Collection Procedure*

In this study, data collected through semi- structured interviews would be done through phone calls with the research subjects. Research subjects would be informed on the subject and the purpose of the research. Consent forms would be sent to the research subject to ensure their full cooperation without infringing on their rights. Interviews would be conducted once the research subject consent to them.

### 3.6 Data Preparation, Collation and Processing

An initial test (pilot test) would be done to check if the right information could be received through the use of the questions set for the questionnaires and the interviews. Data will then be gathered and presented using Microsoft Excel.

### 3.7 Ethical Considerations

To ensure that the study meets all ethical requirements, questions asked in the interviews and questionnaires would be first submitted to Ashesi University's Institutional Review Board. The research and data collection will begin after the approval from the Board. Also, the data reported will excluded the names and other sensitive information about the subjects to protect them.

### 3.8 Validity and Reliability

Reliability was ensured by sharing the same questionnaire to each participant to make sure measurement and data analysis were uniform. Reliability was also ensured by explaining which questionnaire which participants were expected to answer.

### 3.9 Limitations to the Study

The main limitations faced during the duration of this research was the time constraint and the closure of businesses due to the COVID-19 pandemic. The closure of businesses made it difficult and time consuming to collect data as most real estate businesses and individuals were affected by the lockdown and quarantine period.

## CHAPTER FOUR: RESULTS

### 4.1 Introduction

The preceding chapter presented an analysis of data collected from the survey of various respondents for the study. The study relied on both primary data through survey and secondary data on challenges with Ghana's land tenure system in terms of land acquisition and management. This chapter focuses on an analysis of the data collected and discussion of the major findings in line with the objectives of the study. The main objective of the study is to understand the challenges with Ghana's land tenure system which affect investment in landed properties and other investments in Ghana. The study also examined respondents' views on how to improve upon the current system to ensure that all the challenges with our land administration in Ghana is addressed.

### 4.2 Response Rate

For this research, two groups of people were interviewed. The first group consisted of individuals who have registered land for personal use and the second group was representatives from companies into real estate developing. Twenty-five questionnaires were sent to individuals who have registered land and seventeen were completed. Questionnaires were sent to 5 real estate developing companies however 3 were completed. The real estate companies were called and asked which employees

were qualified to answer questions pertaining to land acquisition and registration. Two out of the three respondents preferred to keep their roles anonymous while the third respondents disclosed that he was a Project Finance Analyst.

#### 4.3 Demographic

This section presents demographics of respondents who have registered land in Ghana to understand how their experience may affect investment in landed property as well as real estate in Ghana. The first respondent demographics under this category of respondents age and gender. The summary of the gender of the 17 respondents to the questionnaire is presented in figure 4.1 The result from Figure 4.1 shows that majority of respondents surveyed who have registered their land are males (71%) while the rest are females (29%).

The study further examined the age bracket of respondent to understand the age bracket landowners surveyed falls into. The summary of the result is presented in Figure 4.2. The results from Figure 4.2 shows that majority if landowners who have registered their land and were sampled for the study fall within the age group of 46 to 59. This was followed by those within the age group of 36 to 45. The result shows that few young people invest in land in Ghana as compared to older generation even though every few people above 60 years were sampled. It is also refreshing that more than half of the respondents will fall within 30 and 50.

The study also examined other characteristics such as respondent's profession and the result revealed that majority of respondents were professional's especially lawyers, medical doctors, architects, Accountants, businessmen/women and few retired people.

#### 4.4 Individuals' Experience with Land Acquisition and Registration

##### *4.4.1 Method of Acquisition*

The study examined respondents' experience with land registration and acquisition and how that affects investment in landed property in Ghana. The study first asked respondents to indicate how they acquired their landed property. The summary of the responses is presented in Figure 4.3. The result from Figure 4.3 shows that the majority of respondents bought their lands from community or family heads. This is consistent with the general land tenure system in Ghana where land ownership is vested in families and clans. This is particularly the case in the Greater Accra Region where the survey was conducted. The result also showed that 29% of respondents acquired their lands through real estate companies which is fast becoming the new trend in the capital. The several land problems with family land increased the risk associated with acquiring land from family members and as such many people now prefer to buy their land from real estate agents to mitigate these risks. The result also showed that very few people (only 2) bought their land from individuals.

The study followed up the above question with whether there were challenges or complications during the acquisition of the land. The result from this response showed that 9 out of the 17 respondents answered yes suggesting that they had challenges with their land acquisition while the remaining 8 had no challenges with their land acquisition. The result shows that more than half of landowners had challenges in acquiring their land which presents a major challenge for investment in landed property in Ghana. Respondents were also asked to indicate some of the challenges they faced in their land acquisition. Below is a summary of some of the responses

*“There were family disputes, so the sale of the land was put on hold for a while”.*

Another respondent indicated *“there multiple claimants to the land”*. All the other responses in this area were all related to disputes among family members as to who is the rightful owner or multiple claimants to the property.

#### *4.4.2 Complications during Land Registration*

The next issue that came up in the literature with regards to challenges posed by the land tenure system in Ghana is the issue of land registration. The study surveyed respondent's views on their experience with land registration after they have acquired the land. When asked about whether they had any complications during land registration, 66.7% of respondents said yes indicating that they had challenges with land registration while only 33.3% had no challenge in their land registration process. The result is consistent with the general public outcry about the bottlenecks in Ghana land registration process that frustrate investment in the sector. Respondents were further asked to indicate some of the challenges they had in their land registration process. Below is a summary of some of the issue's respondents raised in answering the above question.

One respondent stated that *“the land had incorrect maps”*. Another stated *“the land had undetermined boundaries, so it was difficult to get a correct map”*. Another respondent stated that *“the process is too expensive and takes too long a time to complete”*. Another respondent stated that *“the other party did not want to release documents needed for the registration”*. All the other challenges fall within the above challenges listed above. The result suggest that majority of the challenges had do with maps and boundaries even though time it takes to register, and the cost of registration was also identified as one of the challenges people go through in their land registration process.

#### 4.4.3 Time Period for Registration

To check the veracity of the time it takes to register a land, the study asked respondents to indicate how long it took them to register their lands. The summary of the responses is summarized in Figure 4.4. The result of the study in Figure 4.4 shows that majority of respondents took an average of 7 to 9 months to complete their registration process. This was followed by 10 to 12 months with the next highest percentage of 33.3% while 13.3% took more than a year to complete their registration process. Meanwhile no one took less than 3 months to register their lands. The result confirms the earlier analysis that it takes too long a time to register a land which is a potential threat to investment in landed properties in Ghana. Respondents further argued that it was difficult to acquire the needed documents for the land registration. This could have contributed to the delays in the land registration process. Overall, 66.6% of the respondents indicated that they had difficulty in obtaining the necessary documents to enable the registration of their land. When asked about what factors contributed to such delays, a number of them indicated some few bottlenecks the popular ones include the following

*“identifying the right owners of the land made it difficult to get documents needed for the registration”*. *“it was hard to find a qualified surveyor”*. *“the map needed for the registration was inaccurate”*.

Respondents further indicated that they had to postpone their construction plans as a result of the complications in the land acquisition and registration process. About 66.7% of respondents responded yes to the question have construction plans been postponed due to complications with registration.

#### *4.4.4 Effect of Land Tenure Challenges on Individuals*

The study in line with the objectives of the study further examined the effect of these challenges on the individuals who had invested in these lands. The summary of the responses from the survey are presented in Figure 4.5. In terms of the effect of the bottlenecks in the land tenure system in Ghana on individuals, respondents were asked to select how it has affected them. The result from Figure 4.5 shows that it affected respondents both time wise and financially. This is consistent with earlier analysis on challenges on land acquisition and registration. It is obvious from the responses that the challenges with the current land system affect individuals who invest in land financially and also timewise to complete both acquisition and registration process. Overall, majority of respondents rated their experience with land acquisition and registration very poor suggesting that the current system has several that needs to be addressed.

#### 4.5 Real Estate Developer's Experience with Land Acquisition and Registration

The study also surveyed real estate companies who are in the business acquiring land, developing them and selling them. The study wanted to understand the challenges in land acquisition and registration by real estate companies to see how different that is from individual who have invested in lands. The time limit for the project did not allow many responses from this section of respondents as 3 companies responded to the survey.

The initial comments from majority of real estate companies argued that they understand the several challenges with the current land administration system and that their operations are geared towards mitigating some of these risk factors. They indicated that they have better capacity to evaluate the ownership of land and the other documentation of the lands as compared to individuals.

#### *4.5.1 Method of Acquisition*

The study first wanted to understand how they acquire their lands. One respondent to the above question indicated that

*“We usually acquire lands directly from individuals who own them and are looking to sell or we enter into a joint venture agreement with the land owners. With the joint venture agreement, the landowner values the land for us and specifies the type of building he would want. We in return cost the building and if the price is lower than the value of the land we reimburse the landowner and vice versa. Upon completion of the project, the landowner then transfers ownership to the various homeowners occupying the homes on his/her initial land”.*

The above response and description shows that unlike individual who have to buy the land either from the family directly which sometimes come with the problem of family disputes and multiple claimants, the use of joint ventures by real estate companies which seems to reduce the risk of multiple claimants to the lands.

#### *4.5.2 Problems during Acquisition*

The next question asked real estate companies to indicate whether they encounter problems in their land acquisition process just like individual investors in landed properties in Ghana. one of the major challenges that were constant throughout the responses is the issue of legal battles. One respondent summarized their experience as follows:

*“We have encountered a couple of issues with acquisition with regards to litigation issues. Our properties are mainly in the Tse Addo Area-East La behind Trade Fair, a hot spot which is at the center of a lot of controversy. Multiple persons claim ownership to land as a result of family dispute”*

The response shows that even companies still faces the challenge of multiple claimants to land ownership as indicated by individual investors. Perhaps, the only advantage they have is their ability to afford good legal representation unlike individual investors. The problem of land ownership in Ghana appears to be the number challenge with land administration which must be addressed.

#### *4.5.3 Duration of Registration*

In terms of time taken to register land, the responses show that it takes an average of 1 to 3 months to register land for real estate companies. This is contrary to the time it takes for individual to register land in Ghana. This shorter time period for real estate companies could be attributed to their expertise in the area and the capacity they have built in land management over the years. Respondents further indicated that they access to land title documents have been smooth where there are no multiple claimants to the land.

Interestingly, all real estate companies surveyed indicated that they have had to postpone some of their projects because of delays in registration among others. This result is similar to the findings of individual landowners earlier surveyed and suggest that the challenge in the land tenure system affect both individual investors and corporate investors. On response to the above question, one respondent stated that “*yes, on a couple of occasions where we have had to end up in court, we have had to stall our projects for up to 5months before the commencement of the project*”.

#### *4.5.4 Effect of Challenges on Real Estate Developers*

The study also asked real estate companies to indicate how these bottlenecks affected their operations and they constantly indicated cost overruns as a result of projects delays and not meeting delivery times to their clients. In fact, it appears to impact on real estate companies is very high as some argue they have to compensate

their clients for delays. One respondent stated that *"the problems enumerated above impact heavily on our delivery date and we have to compensate our clients"*. These additional costs serve as disinvestment in the sector which also affect foreign direct inflows. The challenges also contribute towards eroding the profits of these real estate companies which does not encourage investment in the sector.

#### 4.6 Recommended Measures to Address Challenges with Land Acquisition and Registration

The last objective of the study examined individual and real estate respondent's views about measures that can be adopted to improve the current system of land acquisition and registration in Ghana after going through the process themselves. A number of solutions or measures were identified by various respondents some of which include the following.

One of the most consistent reform of suggestion recommended by majority of the respondents was the digitization of the land registration process. Respondents stated that the unnecessary bureaucracy in the land registration process can only be mitigated through an electronic system that reduce human interface and also the applicant to track the stage the registration process have gotten to. The above recommendation is consistent with the recent government digitization agenda which include the Land Commission in an effort to end the manual land registration process. The only problem with the proposed solution is that it only addresses the challenge with land registration but does not address that of land acquisition challenges.

Another recommendation was the availability of qualified land surveyors. A respondent stated that *"there is the need for more qualified land surveyors"*. It appears professional whose role is critical in the land registration process are either limited or

simple not enough hence making it difficult for investors in land to complete their land registration process on time. There will be the need for a more multi-stakeholder approach to addressing the above challenge.

Other proposed solutions include “*the land management system doesn't seem to be unified.... they need to work on that*”. Another respondent stated, “*the land management structures must work with each other and be in sync*”. The proposals show that there is the need for a more comprehensive land management system that ensure that all lands are registered into a central database system in a digital form that allows for easy verification by all potential investors to reduce the problem of multiple claimants to land.

The last aspects of the survey on real estate companies also examined their views on how to improve the current land administration system to mitigate against all the risk they identified. The real estate companies enumerated a number of strategies that will help improve the current system and some of the response include the following:

*“I believe the various departments and units concerned with the issue of land in this country must be in sync. There should be a network that should be able to have data available to all units such that there is uniformity in information. For instance, one can have a particular land title department and that same parcel of land at the land survey department is registered to a different person”*.

Another respondent also stated that “*the process can be more defined with clarity as it is very cumbersome and the law governing it difficult to understand thus leaving room for individuals to exploit the loopholes or interpret the law in a manner that favor them*”.

The bottom line is that building a system with people of integrity is very critical to a successful land tenure system in Ghana. This could be supported by a more objective, transparent and speedy legal system address the numerous litigation issue that comes up every day.

## CHAPTER FIVE: SUMMARY OF FINDINGS, CONCLUSION, RECOMMENDATIONS

### 5.1 Introduction

The previous chapter presented an analysis of the data collected from landowners and real estate companies in Ghana. The focus on the survey was to understand the challenges faced by both landowners and real estate companies in their acquisition and registration of land in Ghana. This chapter presents a summary of the major findings and from the study in line with the objectives of the study and the entire project as well. The chapter begins with a summary of the major findings and continues to draw conclusion and recommendations from the study.

### 5.2 Summary of Findings

Land tenure system in Ghana has over the year posed a big challenge to potential homeowners and companies who want to invest in landed property. Several reasons have been adduced for the problems inherent in land administration in Ghana. This study is conducted to examine the challenges faced when securing land for investment, home or real estate purposes in Ghana. The study also examined the measures from the perspective of the real estate companies and individual investors who have landed property. By way of data collection, the study relied on primary data. The study also used multiple research design involving qualitative and quantitative research design. The study sampled 17 individual landowners and 3 real estate companies through a

questionnaire administration with both closed ended and open-ended questionnaires.

The findings of the study can be summarised below

First, majority of individual respondents stated that they acquired their landed property from community or family heads. The study now examined the various challenges individual go through in terms of land acquisition in Ghana. Majority of respondents stated that they faced some complications in their acquisition of land in Ghana. Most of the challenges in land acquisition include family disputes as to the ownership of lands, multiple claimants to land titles, and difficulty in getting land title documents and other necessary documents to facilitate ownership transfer.

Respondents also indicated some challenges they faced in the process of registering their lands. Some of these challenges from the response ranges from incorrect maps, challenges with land boundaries, expensive land registration process, unnecessary bureaucracies leading to delays among others. In terms of how long it took individuals to register their land, majority of respondents used between 7 to 9 months while others used more than a year to register their lands.

Furthermore, individual respondents also indicated that they had to postpone some of their projects because of the delays in land registration. These challenges affected these individuals financially and in terms of time as indicated by respondents from the survey. Overall, respondents indicated that the challenges with the current land administration system frustrate individual investment in landed property in the country as well as those who want to acquire land for business purposes. The problems in land acquisition is heightened by the challenge with land registration suggesting both systems must be addressed concurrently.

In the second objective, the study wanted to seek respondent's views on measures that can be adopted to help mitigate the challenges with land tenure in Ghana.

A number of measures were suggested by individual respondents some of which include digitization of the land administration system in Ghana, the absence of many qualified land surveyors to help the mass register their lands, synchronization of the entire land administration system to reduce the risk of multiple registrations etc.

The study also sampled the views of real estate owners on the same subject matter. The responses were similar to the individual responses in terms of the challenges except in some cases the companies have alternative risk mitigation measures. For instance, some real estate companies adopt joint venture approach to buying land which have less risk as compared to the outright purchase. Furthermore, real estate companies take less time to register their land as compared to individual. The issue of multiple ownership and family disputes, unbridled litigation and delays in registration and cost are the same. Finally, real estate companies incur additional cost of compensating their clients when they fail to meet deadline agreed upon as a result of litigations and problems with land ownership.

In terms of solution to the challenges many real estate companies propose digitization and synchronization of land department and survey department to help reduce multiple registrations. They also propose legal reforms and simplification of land laws to reduce the unnecessary litigation and build confidence in investors.

### 5.3 Conclusion

The study examined challenges with land tenure system from the perspective of individual landowners and real estate companies in Ghana and measure to solve them. The study specifically focused on challenges with land acquisition and land registration from the perspective of these two sampled groups. The study surveyed individual landowners and real estate companies in Accra. The result of the study revealed that it takes longer time for individuals to register land as compared to real estate companies.

On the other hand, both individual landowners and real estate owners faces the challenge of multiple ownerships of land, family disputes in land ownership, problems with land registration such as cost and time and challenges with getting land title documents. The respondents proposed various solution to the problems notable among them include digitization of land administration in Ghana, increase availability of professionals such as surveyors and also synchronize various units and department handling land related issues in Ghana.

#### 5.4 Recommendations

On the basis of the basis of the findings above the study make the following recommendations:

The study found lack of coordination between various agencies in charge of land title management in Ghana. The study therefore recommends a comprehensive digital system that synchronizes the work of and registration department to that of Land Survey department to reduce the incidence of multiple registration of the same land by different people.

The study also recommend that the country adopts an electronic system that has database of all land in Ghana and their rightful owners which can be accessed by potential landowners and real estate companies on real-time without having to go to the land Commission.

The study further recommends simplification of our land laws and land registration process to curb the abuse by some few people. Moreover, time spent by the judiciary to adjudicate land disputes should be reduced significantly to boost the confidence of investors and landowners who want to seek redress in the courts.

### 5.5 Recommendations for Future Research

It is recommended that future research look into how the land tenure system affects both local and foreign small scale and large-scale farmers in Ghana's agriculture sector.

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## APPENDIX

Figure 4.1: Gender of Respondents

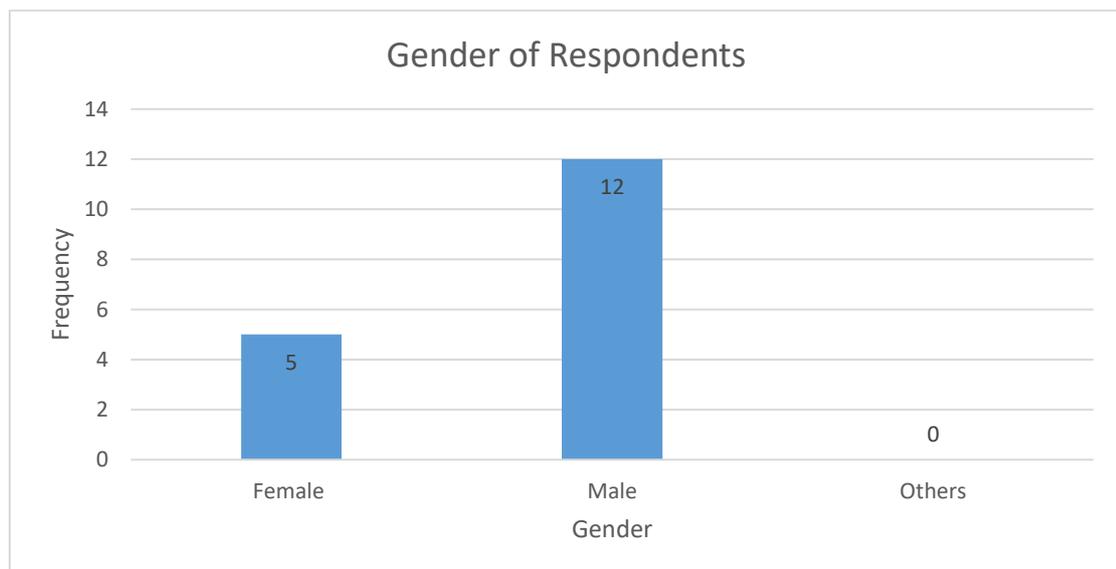


Figure 4.2: Respondents Age Group

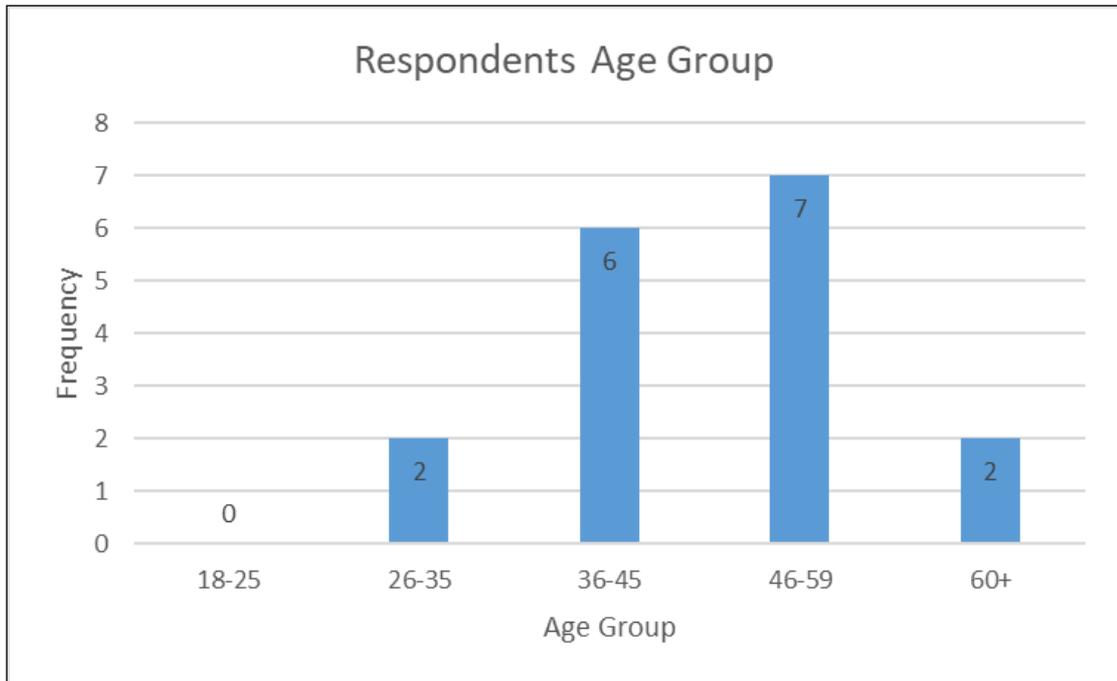


Figure 4.3: Land Acquisition Methods

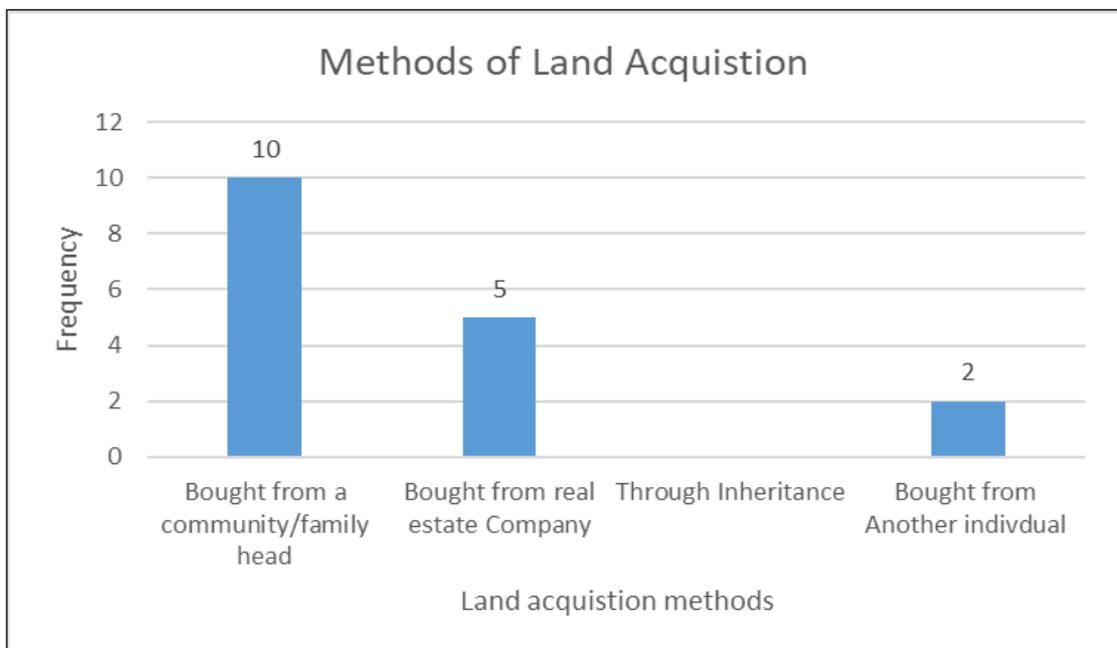


Figure 4.4: Time Period for Registration

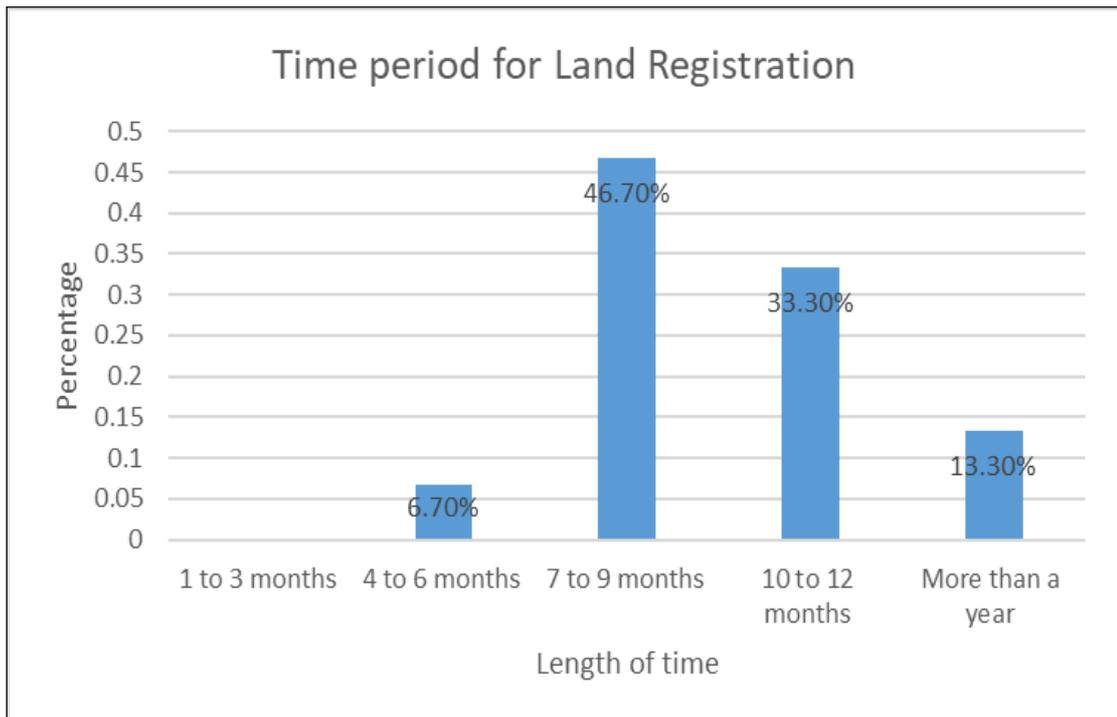


Figure 4.5: How Land Tenure Challenges affect Individuals

