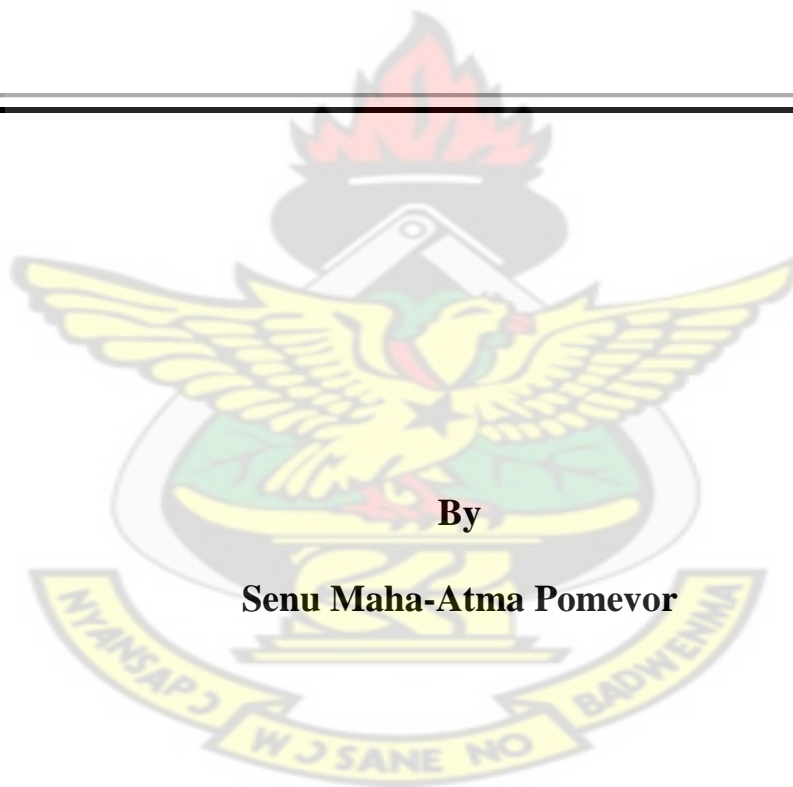


# **CUSTOMARY LAND TENURE PRACTICES AND LAND**

## **MARKETS IN GHANA:**

### **A CASE STUDY OF ODUPONG OFAAKOR**

KNUST



**May, 2014**

**CUSTOMARY LAND TENURE PRACTICES AND LAND  
MARKETS IN GHANA: A CASE STUDY OF ODUPONG  
OFAAKOR**

**By**

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**BSc. Land Economy**

**A Thesis Submitted to the Department of Land Economy,  
Kwame Nkrumah University of Science and Technology in Partial  
Fulfilment of the Requirements for the Degree**

**of**

**Master of Philosophy**

**Land Management**

**College of Architecture and Planning**

**May, 2014**

## Declaration

I hereby declare that this submission is my own work towards the MPhil. in Land Management and that, to the best of my knowledge, it contains no material previously published by another person nor material which has been accepted for the award of any other degree of the University, except where due acknowledgement has been made in the text.

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## **Abstract**

The significance of land to the sustenance of livelihoods is undisputable. Using a Survey and Case Study research design, simple random sampling, questionnaires, semi-structured interviews, focus group discussions and direct observation as the field instruments, the dynamics of the customary land tenure practices in the Odupong Ofaakor area and their challenges and implications for the land market were studied. It was revealed that Nai Odupong acquired the allodial interest in the land in the 18<sup>th</sup> century through discovery and settlement thereon. The paramount chief of Odupong Ofaakor currently owns the allodial interest in the land while members of the community, as well as strangers, hold various derivative rights. The land market in the area was very chaotic where almost all members of the royal family allocate land.

The activities of unqualified surveyors and the non-availability of planning schemes have resulted in cases of multiple sales of land, encroachment and disputes. Land registration and the acquisition of permits before building was not their priority. Rapid urbanization and the pressure on land in the area have resulted in the non-availability of agricultural land which used to be cultivated to sustain livelihoods in the area. Farmers in turn go to other neighbouring communities to acquire land for farming while the youth learn trades like masonry and plumbing to support the booming construction industry in the area. Most women on the other hand engage in trading activities at the Kasoa market. A lot more people in the area have also been deprived of their livelihood creating dire economic consequences for the poor. It was recommended that pragmatic measures must be put in place to resolve the challenges facing the land tenure system in the area. Alternative livelihoods like the establishment of factories to process agricultural produce must therefore be provided

to employ the people in the area. The allocation of land must be streamlined. In so doing, the Customary Land Secretariat (CLS) must be equipped to handle all land allocations. The customary land rights in the area must be codified and the Town and Country Planning Department must be empowered to enforce planning decisions. The land registration regime currently operational must be overhauled to ensure timely service delivery just as dispute adjudication procedures are enhanced. Alternative Dispute Resolution must be encouraged in this regard. Above all, there should be more educational campaigns to inform the people on new development in the area.



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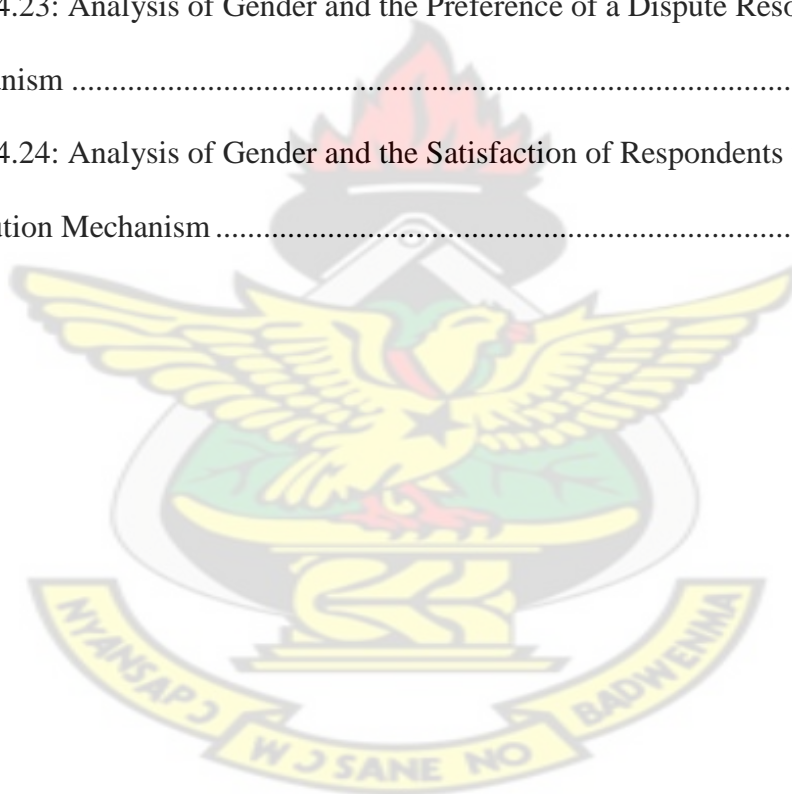


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## **List of Abbreviations**

CA	Court of Appeal
CLS	Customary Land Secretariat
EPA	Environmental Protection Agency
GDP	Gross Domestic Product
GLR	Ghana Law Report
LAP	Land Administration Project
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 African Court of Appeal
WALR	West African Law Report



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## **Dedication**

This work is for all those who are striving for a Post Graduate degree in Ghanaian Universities. Almighty God! Give them the inspiration to be successful.

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# **Chapter One**

## **Introduction**

### **1.1 Background to 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, generates wealth and supports the livelihoods of all of these nations. It contributes, greatly to the agrarian backbone of most of these economies and constitutes a substantial part of their Gross Domestic Product (GDP) (Commission for Africa, 2005 noted by Toulmin, 2008).

Apart from that, land rights do not seem to relate only to 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 because of these reasons that land is jealously guarded and preserved among many communities in Ghana. Its management and conservation are considered paramount and are placed under a traditional land tenure legal arrangement.

Land tenure is defined as a set of rules and regulations that govern the holding, use and transfer of interest and rights in land (Payne, 1997 cited by Mends, 2006). Land under customary law is expressed in terms of rights established within a particular tradition. The land is alleged to be an ancestral heritage with a spiritual affinity attached. Customary land tenure, therefore, is believed to be a communal

arrangement of land ownership where inalienable land rights are held by trustees on behalf of the whole community. As Ollennu (1962:4) revealed, “land belongs to a vast family of which many are dead, a few are living and countless host are still unborn”.

The customary land tenure regimes in Ghana are diverse in concepts and practices, and are location specific but exhibiting the following commonalities (Kasanga and Kotey, 2001; Agbosu et al., 2007): The land is usually managed by traditional rulers with the council of elders, land or earth priests, family or lineage heads as trustees. Its principles stem from rights established through conquest, settlement, first clearance of land, and as gifts. The members of the land owning community enjoy rights as usufructs. Each member has a right, indeed an inalienable right, to the portion of the land he is cultivating and no other member has that same right to it (Kasanga and Kotey, 2001; Woodman, 1996). There were oral dealings in land where boundary lines were virtually absent. In fact, the boundaries of lands were identified by natural features like trees and rivers (Kasanga et al., 1996; Agbosu et al., 2007).

The colonial period witnessed a lot of intrusion in the legislative and judicial processes of the country. Prior to the colonial era, land and other natural resources like water and mineral ores were held by communities under local rules and practices now referred to as customary law. Actually, the colonial state established a system of land tenure which preserved some pre-colonial land relations while creating new interests based on the English land law with a significant role for the state in the administration of land and the adjudication of disputes. The land rights vested in various beneficiaries vary from the southern part of the country to the north (Larbi, 2006; Crook et al., 2007). The customary land tenure arrangement has, therefore, evolved into a novel system



operating alongside the statutory system. The customary system creates a fiduciary arrangement while the statutory tenure, instituted by the colonial rule, introduced state control into land administration. This eventually resulted in the privatisation of land parcels; a situation typical to the urban areas of the country. Rural areas still experience largely the customary land tenure system (Mends, 2006).

The communal land tenure arrangement practiced for many decades is persistently changing particularly in the urban areas of the country. This is a result of the dynamics in population growth, expansion of urban areas and the persistent commercialisation of land. Aside this, the inefficiencies in land management in Ghana have created a lot of ambiguities as well as increased pressure on the institution of land tenure and management (Kasanga and Kotey, 2001; Larbi, 2006; Crook et al., 2007). The result is overwhelming challenges and constraints confronting land tenure. Among these are the difficulty in accessing land for agriculture, residential and other purposes; inadequate security of tenure due to legal pluralism and the slow disposal of land cases, multiple sales of land, indeterminate customary land boundaries, inappropriate records keeping, weak land administration system and conflicting court judgments.

The National Land Policy document of Ghana, acknowledges many other constraints confronting land tenure in the country which include: the general indiscipline in the land market; indeterminate boundaries of stool and skin lands; inadequate security of land tenure due to conflict of interests between and within landowning groups and the state; land racketeering, slow disposal of land cases by the courts as well as the weak land administration system. These constraints have culminated in the Land Administration Project (LAP), a reform which aims “to develop



a sustainable and well functioning land administration system that is fair, efficient, cost effective, decentralised and that enhances land tenure security’’ (World Bank, 2003).

How do all these dynamics play out at the Odupong Ofaakor area?

As land is persistently being commoditised, the authority of traditional land administrators, who are the custodians of most lands, has come under stress. Ubink and Quan (2008) assert that the authority to allocate land rights as well as the entitlements to the proceeds from such allocations is being questioned. Kasanga and Kotey (2001) observed similarly that the trusteeship philosophy of the customary tenure system has been abused, thus eroding its credibility with the gratuitous alienation of land by chiefs and other traditional leaders. Preliminary investigation revealed that, in the Odupong Ofaakor area, there is evidence of difficulties in accessing land for various uses while disputes over land are overwhelming.

This might be so because rights to land in Ghana are indeed situated within a complicated mix although land rights are interlocking. The land rights vested in various beneficiaries vary from the southern part of the country to the north (Larbi, 2006; Crook et al., 2007). For instance, there are varied opinions as to whether gender disparities exists in access and control over land in parts of the country. Although, customary land tenure is said to be under pressure, it also adapts to new circumstances. What is the situation like at the Odupong Ofaakor area?

This research is an attempt to examine the problems of land tenure practices and land markets in the Odupong Ofaakor area of the Central Region of Ghana. The indigenes of the Odupong Ofaakor area are Awutus, one of the Guan ethnic groups in the country. Little is known of their land tenure system because there seems to be little

documentation on it. Preliminary investigation revealed that even though the land belongs to Nai Odupong stool, there are problems of ownership and land acquisition as a result of land use changes and increase demand for land as well as the rapid urbanization of the area.

Land in this predominantly rural community, had until recently, been used exclusively for agricultural purposes. Rapid urbanization of part of the area has considerably changed this pattern and the land in the area is now being used for residential and commercial purposes. This change has come not without its dynamics of the land tenure practices in the area and stress on the land market. It is, therefore, evident that, as land value appreciates and demand for land increases, pressure increases on land tenure and management. Ownership tends to be challenged. Rival factions of the royal family begin to lay claims to ownership and conflicts arise. Instances of double sales and legal suits bedevil the tenure system and the land market in the area and development seem to be stalled.

There is, therefore, the need to conduct an in-depth investigation into this situation so as to unravel the real challenges confronting ownership, use and administration of land in the area in order to determine pragmatic solutions for them.

## **1.2 Statement of the Problem**

As a result of the dynamics in population growth, rapid urbanization of the area and the persistent commercialisation of land, the communal land tenure arrangements are persistently changing in the Odupong Ofaakor area. Land in the area has suddenly appreciated in value. In that regard, competition for land has increased whereas access to land continues to be easier for those with the money to pay. This is reminiscent of

similar areas in the country. Indeed, the expansion of Accra, the capital city of Ghana, has caught up with the development of the area. As such, land tenure challenges are rife.

The ambiguities, as well as increased pressure on the institution of land tenure and management in Ghana (Kasanga and Kotey, 2001; Larbi, 2006; Crook et al., 2007), resulting from land management inefficiencies, are having their toll on the Odupong Ofaakor area, which is overwhelmed with challenges and constraints. Among these are the difficulty in accessing land; inadequate security of tenure due to legal pluralism, the slow disposal of land cases, multiple sales of land, indeterminate customary land boundaries, inappropriate records keeping, weak land administration system and conflicting court judgments.

All these challenges of land tenure, particularly, in the Odupong Ofaakor area, are having an impact on the livelihoods of the people in the area. Most farmers in the area are being deprived of their agricultural land, and indeed their livelihoods which depend on these land resources. This study therefore, examines the dynamics of the customary land tenure practices in the Odupong Ofaakor area and their implications for the land market.

### **1.3 Objectives of Research**

The overall objective of the study is to examine the dynamics of customary land tenure practices in the Odupong Ofaakor area and their challenges and implications for the land market in the area. The specific objectives of the study are:

1. To identify the land ownership pattern and the various rights and interests that prevail in the area;

2. To examine the land management practices in the area and how they affect various interest groups;
3. To determine the relationship between land tenure practices and efficiency of the land market;
4. To investigate the process of change in the pattern of land ownership and use;
5. To determine the implications of land tenure dynamics on livelihoods in the area;
6. To establish the incidence of land disputes and measures for their regulation;
7. To make policy recommendations towards improving the performance of land tenure practices and the land market.

#### **1.4 Research Questions**

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

- i. What is the nature of rights and interests in the land ownership patterns in the area?
- ii. How do the customary land management practices in the area affect the various interest groups?
- iii. What relationships exist between land tenure practices and efficiency of the land market?
- iv. Under what conditions are changes occurring in the customary land tenure practices and use in the area?
- v. What is the implication of the evolving tenure dynamics on the livelihoods of the people in the area?

- vi. What are the incidences of land disputes and their regulatory mechanism in the area?

### **1.5 Significance of the Study**

An investigation into the ownership and use of land is definitely important since livelihoods of most Ghanaians greatly depend on land. The indigenes of the Odupong Ofaakor area are Awutus, one of the Guan ethnic groups in the country. As a minority group, much is not known about their land tenure system, as compared to other adjoining ethnic groups like the Ga and Fanti tribes. The choice of the area for study is, therefore, premised on the fact that, being a minority group, the Awutus could have a different land tenure system from that of their neighbours on which some literature exists. As a novelty, the research attempts to codify the various land rights and interests in the Odupong Ofaakor area.

Besides, the area is fast developing and its land is characterised by increasing values reminiscent of similar areas in the country. In reality, the expansion of Accra has caught up with the development of the area and, as such, land tenure challenges are rife. The people of the Odupong Ofaakor area are continually being deprived of their livelihoods as a result of the changing land use from agricultural to residential use in the area. Sections of the Odupong Ofaakor land have been a source of disputes, making it appropriate to investigate. Pragmatic solutions need to be provided to ameliorate this situation in the area. Finally, the participatory approach used in this investigation will stimulate interest of the people in the Odupong Ofaakor area to participate in ensuring an effective land management practice in the area. The findings



will aid in advancing the course of the Land Administration Project and governments policy towards improving the land tenure and management situation in the country.

## **1.6 Scope of Research**

This research is a Case Study of the Odupong Ofaakor area in the Awutu-Senya District of the Central Region. This area is agrarian in nature but land use in some parts is fast changing from agriculture to residential use. The dynamics of the land tenure practices in the area and the implications for the land market were investigated. In addition various constraints hindering the land tenure system were also investigated and analyzed for the report.

## **1.7 Limitation of the Study**

The investigation was constrained by a number of factors. These include:

- The unwillingness of some public as well as private institutions to divulge certain relevant information;
- Inadequate financial resources to effectively carry out the fieldwork.

Nonetheless, these were managed in such a way that their impact was very negligible.

## **1.8 Organisation of Study**

This study is organised into six main chapters.

- i. The introductory chapter presents the background of the study, the statement of problem, the objectives of the research, the significance of the study, the scope of research and limitations of the study;
- ii. Relevant literature on land tenure and markets as well as the theoretical and conceptual frameworks of the study are reviewed in chapter two;

- iii. The third chapter, discusses the characteristics of the study area and the detailed research methodology adopted;
- iv. Results from the investigation are presented and analysed in the fourth chapter;
- v. The results from the investigation are discussed in the fifth chapter;
- vi. The final chapter of the report presents the summary of results, recommendations and conclusions.





## **Chapter Two**

### **A Review of Land Tenure and Land Markets in Ghana**

This chapter reviews literature on land tenure and the conduct of land markets in Ghana and elsewhere. The ‘Evolutionary Theory of Land Rights’ the basis of the study is reviewed. Also, the various land rights prevailing in the country as well as issues that affect the land market are discussed. This includes land acquisition and registration, dispute adjudication, livelihood and gender practices. The literature is quite detail on the various issues under investigation thus providing a clearer background of the problem studied. The conceptual framework is at the end of this chapter.

#### **2.1 Theoretical Framework**

The concept of property rights and the nature of rights prevailing on a particular piece of land are at the core of the study of land tenure and land market interactions. Several bundles of right are assumed to subsist in land, particularly as individualisation takes place (Wehrmann, 2008). Platteau (2000) notes that individuals increase the range of rights they have in land as it becomes scarce. Subsequently, they assert their autonomy over those land rights. These rights include the rights of use and rights 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 of the harvest, and exercising the capacity to prevent others from exploiting the same parcel. Platteau (2000) emphasises that the scarcity value of land makes landholders 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. The theory posits that while population pressures increase on land, more people demand access to the scarce commodity. Agriculture then turns to be commercialised amid increasing land values. Individuals acquire rights in land leading to increasing uncertainty about their land rights while customary land owners make strategic moves to claim new lands or protect their access (Platteau, 1996; 2000). Such difficulties lead to the multiplicity of land disputes and a rising litigation cost, along with the need for more secured property rights. State orchestrated processes of dispute adjudication and title registration are sought after by landholders. Platteau, (1996; 2000) reiterates that land title 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 land market. The efficiency in adjudication and the 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 get formalised through title registration, the expected effects on investment do not materialise. In effect, evidence shows that attempts to increase tenure security in this way have not encouraged investment, a growth in activity on the land market or the availability of credit by using land as collateral (Platteau, 2000). Also, it has been revealed that an active land market does not necessarily require land titling. The contrasted experience of Kenya and Rwanda proves 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 transactions (Platteau, 2000). The Odupong

Ofaakor area and the Rwandan experience seem to be quite similar. The land market is very active but faces a lot of challenges.

It has been argued in other circles that this theory is flawed in the sense that in most parts of Africa, the issues are more complex than the linear processes described by the theory. In the Western and South-Western parts 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 individualisation of land rights (Chauveau et. al., 2007). Another flaw in this theory is the idea that once a land market has emerged, it continues to operate indefinitely. This was disproved in the case of Djimini-Koffikro in Ivory Coast, where active land markets which existed had subsided (Colm and Ayouz, 2006, cited by Chauveau et. al., 2007). As a result, plots which were acquired by individuals on the market tended to transform into family property when the purchasers died.

In conclusion, the theory follows the pattern of development in the study area with some exceptions. The shift of the customary tenure system into individual landholding arrangements was quite obvious. Again, land arrangements and practices, far from being static, are indeed evolving freely under the pressure of growing land scarcity. Evidence shows that although investment has increased in the Odupong Ofaakor area, the introduction of land registration and dispute adjudication measures by the government has not improved land tenure security.

## **2.2 The Customary Land Tenure System in Context**

There is the argument that when society was governed strictly by customary law, land was embodied in the rights 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 the traditional society, has remained 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 as communal property (Kasanga et al. 1996; Woodman, 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 rights as usufructs. The communal arrangement of land ownership therefore avail members of the community to hold derived rights in land except that sometimes, it could be a portion of the right the group holds in land (Bentsi-Enchill, 1964; Woodman, 1996). 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 practices, varying from one lineage area to the other and also location specific, but certain commonalities exists (Kasanga and Kotey, 2001; Agbosu et al., 2007). According to Agbosu (2003), despite the differences in the internal arrangements for land administration and control noticeable in each tribe, there are three commonalities:

- An inherent right of the individual member of a land holding group to benefit from the land regarded as a common asset and resource;
- The recognition of certain members of the community as having control over how rights 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 groups such as the stool, the clan or the family, all of which are corporate juristic entities.

Under the allodial title, landholders 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 Chiefs. Agbosu et al., (2007) emphasised that only vacant land belongs to the stool while all allocated land was mainly under the control of the maternal lineage. On the contrary, among the southern patriarchal lineage such as the Ewes and the Dangbe tribes, allodial title to land is vested in the family. Consequently, it is revealed that the patriarchy maintains a general authority over lineage land but its leadership varies significantly among groups depending on the level of centralisation and the degree of stability (Agbosu et al., 2007). Again in the Northern Region, the allodial title is vested in skins and in the Upper East and Upper West Regions, it is held by *tendanas* or earth priests (Kasanga et al., 1996; Kasanga and Kotey, 2001).

Besides the lineage head granting land to members, migrants are allocated sharecropping 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 of 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 the North was made a labour reserve of the South. Evidence shows that the South was developed as an export producing zone, resulting in high rates of migration from the North to the large towns and cocoa producing areas of the South (Benneh, 1975 cited by Agbosu et al, 2007). Amanor (2001) questioned whether land tenure in the North is customary or a transformed tenure based on migration and the limited commercial value of land? He explained that in northern Ghana itself, the differences between the land tenure systems of the Northern Region and the two Upper Regions are also seen as a product of the different colonial historic evidence of the two areas.

The statutory tenure on the contrary, came into being with the advent of colonial rule where the colonial authority intervened in the communal land relations that existed to favour their economic interest and that of the state through reforms (Aryeetey et al., 2007b). This introduced state control in land relations which eventually resulted in the privatisation of land parcels; a situation typical in the urban areas of the country while the rural areas still experience the customary land tenure system (Mends, 2006). At present, therefore, approximately 80% of land area in Ghana is managed under the customary tenure system with the remaining being managed as statutory lands (Government of Ghana, 2002). This intrusion in the legislative aspects of land tenure through colonial rule created two streams of rights in land; the customary law rights and statutory rights. 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-exist within a complicated mix, with multiple bodies through which land disputes are resolved.

Despite all these the customary land tenure system has been recognised to be resilient against the rage 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 recognised this concept of tenure revealing that:

“The state shall recognise that ownership and possession of land carry a social obligation to serve the larger community and, in particular, the State shall recognise that the managers of public, stool, skin, and family lands are fiduciaries charged with 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(8) of the 1992 Constitution)

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

### **2.2.1 The Allodial Title**

Bentsi-Enchil (1964), acknowledges two forms of the allodial title to land, the state ownership and family ownership, explaining 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 concurrence of the principal elders and councillors of the stool. In this regard all transfers granted are lesser than the allodial title. The family ownership on the contrary, is premised on the fact that heads of families hold the land in trust for their members. Any transaction therefore requires the consent of members of the family. Bentsi-Enchil (1964), further noted that it is only when an outright grant is made by the whole community in agreement with the “management committee” that an 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 individuals (*Nyasemhwe and Ano. v. Afibiyesan* [1975] 1G.L.R. 297-300) and also in sub-stools (*James Town (Alata) Stool and Ano. v. Sempe Stool and Ano.* [1989-90] GLR 393).

#### **2.2.1.1 Acquisition of the Allodial Title**

There are various ways in which the community acquires the allodial title in land. In the judgment of Ollennu, in the case of *Ohimen V. Adjei* (2 WALR, 275 p. 279), it was held that “there are four principal methods by which a stool acquires land”. They are:

- Purchase by the stool;
- Gift made to the stool (See also *Sasraku v. David* [1959] G.L.R. 7);
- Appropriation of unoccupied land by pioneers and hunters of the stool land and,
- Conquest and subsequent settlement by members of the stool.

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 the allodial title appears to be by discovery and settlement thereon. However, it was a necessity that the land was

unoccupied immediately before the settlement. The difficulty here is the principle of customary law that there is “no land without an owner”. This was stated by Sarbah in 1897 which has 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 18<sup>th</sup> 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 a number of cases the courts have had to determine title to such lands. Thus in *Ofori Atta v. Atta Fua* ((1913) D. & F.C. 11-16, 65), Smyly C.J. found that 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 acts have 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 there 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 accrued to the nearest communities. Here the acquisition may have been by contiguity. Where a community is said 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.

#### **2.2.1.2 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 all 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 the National Liberation Council] that it is in the public interest so to do he may, by executive instrument, 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 powers of compulsory acquisition can be used to acquire the allodial title to land whether or not it is subject to the Administration of Lands Act. Thirdly, certain Ordinances and Acts have vested specific areas of land in the state. (eg. 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. Therefore, 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's 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 that this idea must be regarded as overruled 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 decisions of the West African Court of Appeal which seem to support the view that the allodial title can be granted to an individual. In *Sasraku v. Okine* [(1930) 1 W.A.C.A. 49], the court held that a stool might sell lands 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 a stool, but to a private individual. A case which discusses the question more fully is *Golightly v. Ashrifi* (1955), on appeal from the decision of Jackson J. in the Kokomlemle Consolidated Cases. Jackson J. had held, for reasons to be mentioned below, that a stool could sell its title in land, provided that the sale was necessary to pay off a stool debt which could be satisfied in no other way. He considered that sales of stool land had been unknown in the past, but that it 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 Casely Hayford, 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 rights 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 grants of the usufruct that they lost sight of the fact that the allodial title was entirely inalienable to individuals. However, the decision was given by the West African Court of Appeal, and was part of the *ratio decidendi*. 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 individuals were impossible, although it realised that there had been attempts to make such grants (*ibid*). This is admittedly 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 areas from that in Akim and Ashanti.

### **2.2.1.3 Rights of an Allodial Title Holder**

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

#### **i. Exclusive Possession**

As a concept, it denotes visible possibility of exercising physical control (*copus possessionis* 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 direct control i.e. physical control, he has the intention to hold on to the land.

#### **ii. Use and Enjoyment**

This right gives the owner rights as to how to use the land as well as the right to the law. Thus the old customary law rule in *Ashon v. Barnge* (1897) which was no longer reasonable, was overturned in *Atta v. Esson* (1976) 1GLR 128

#### **iii. Right of Alienation**

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

- The whole or entire interest



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

#### **iv. Right of Proprietorship in 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) IWACA p. 80* per Sir George Deane C.J. that “...The concept of the stool thus, as has always been accepted in the courts of this colony is that it is 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.”

#### **v. Right to Residual Proprietary Interest (Reversion)**

The owners can have parallel rights in the land together with any other body to whom they have transferred some 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.

### **2.2.2 The Sub 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 stools or skins, tribes, wards, quarters or sections subordinate to it, the absolute ownership by the principal stool is dependent upon sub-paramount ownership... that sub-paramount ownership by the subordinate stool. Skin, tribe, ward or section has a very real existence, and is *sine qua non* to the paramount ownership by the head stool, skin, ward or quarter. Unless a piece of land in a state can be shown to be attached to a subordinate 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 stool, by the appropriate sub-stool or family, or by both either jointly or in the alternative (Woodman, 1968). According to Josiah-Aryeh (2005), though this particular type of interest is analysed by the great writer, his views have not been generally followed and this title was left out of account in the scheme of interests incorporated into the Land Title Registration Law, 1986 (PNDCL 152).

### **2.2.3 The Usufruct or Customary Freehold Interest**

The usufruct title in Ghana is the highest type of land ownership a subject or individual member of a family can hold in stool/skin or family. It is an interest in 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 individual subjects of a clan in part of the clan’s land;
- Families and individual subjects of a stool in part of the stool’s land.

It is therefore a very substantial encumbrance on the allodial interest. This term was quoted from the Roman law *ususfructus* and was subsequently adopted by

Woodman (1996). It is also called “determinable estate” or title by Ollennu et al., (1985) because of the fact that it is a type of absolute ownership, which may be determined under certain conditions without affecting the community’s ownership. The term “customary freehold” was first proposed by Bentsi-Enchill and was adopted by the Ghana Law Reform Commission in its recommendations for reforms of the Ghana land law in 1973. The title in question is both inheritable and alienable. This title is a mere qualification or burden on the paramount, radical or absolute estate that is vested in the stool or skin. In the case of *Amodu Tijani V Secretary, Government of Southern Nigeria, [1921] 2 A.C. 399*, the Privy 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 burden on the radical or final title of the sovereign (stool) is a pure legal estate, to which beneficial rights may or may not be attached. But this is qualified by a right of beneficial user which may not assume definite forms analogous to estates....” (Ollennu 1985:12)

The Supreme Court also describe the usufruct as “a species of ownership co-existent and simultaneous with the stool’s absolute ownership.” This was held in *Awuah v. Adututu (1987-88 2 GLR 191 C.A.)*. Other terms given to this interest is customary law freehold, possessory title or the usufructuary.

#### **2.2.3.1 Origin of the Usufructuary Title**

As noted by Asante (1969), when people settled down to farming as the main economic activity, and stool subjects reduced portions of land into their possession for the purposes of cultivation, they developed the concept of the subject’s usufructuary right to stool land, that is to say, the right to occupy, till, or otherwise enjoy an unoccupied portion of stool land and to appropriate the fruits 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 or final title of the Sovereign..." (*Tijani v. Secretary, Southern Nigeria (1921) 2 A.C. 399 p.403*). Traditional ideas drew a sharp distinction between the subjects' right of beneficial user in stool land, and the stool's absolute ownership thereof. An Ashanti saying 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. The usufruct, as noted, was not a species of ownership but it consisted of perpetual rights of a beneficial user in re-alienated stool land. Stool subjects had an inherent right to a usufruct in any unoccupied portion of state land (Ollenu, 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 a formal grant by the stool. But a 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 purposes of town planning. Finally, a subject could transfer his usufruct to a fellow-subject (Ollenu, 1962; Woodman, 1996). The usufruct was usually held by a corporate body – the sub-stool, lineage or family but there was no 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-operative endeavour to accomplish the formidable tasks of clearing and cultivating large tracts of impenetrable forest lands, and the collective efforts of

kinsmen invariably resulted in the creation of corporate or family property (Woodman, 1996). But there was nothing to prevent an enterprising individual from establishing his own private concern by his own unaided exertions. In an agricultural economy where subsistence depended on full and extensive exploitation of land, public policy leaned towards liberal appropriation of lands by families and individuals alike.

The usufruct was potentially perpetual. It subsisted as long as the subject or his successors continued to acknowledge the superior title of the stool. The proviso for the recognition of the stool's title did not limit the subject's quantum of interest which persisted so long as the subject or his successors retained their status as subjects, but indicated the political basis on which the subject's proprietary interest, as well as his other civic rights, rested. The usufruct was heritable and devolved on the family of the subject on his death intestate (Ollenu, 1962; Woodman, 1996). It lapsed upon express abandonment of the land in question or failure of successors, whereupon the stool resumed its dominium free from encumbrances. The security of the subject's usufruct was reasonably assured. 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 recognised and specific public cause. No compensation was payable in consequence of such dispossession, but the inclination and opportunity for such divestiture were extremely rare in olden times (Ollenu, 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 stool's right to



the minerals and treasure-trove (Ollenu, 1962; Woodman, 1996). Otherwise there was nothing in the nature of “incidents of tenure.” True, the subject had to render prescribed services to the stool, such as offering the first fruits of his annual harvest or presenting specific portions of game killed on the land. But these services are not analogous to feudal incidents of tenure, for they were eligible, not in consequence of a proprietary arrangement between stool and subject, but by virtue of the political and kinship ties binding them (Ollenu, 1962; Woodman, 1996). Thus the general obligation to perform services to the stool persisted even where the subject was no longer resident in his own state. The relationship between a stool and its subject was primarily political, though it undoubtedly had proprietary implications such as the subject’s inherent right to a usufruct, and his obligation to present part of his annual produce to the stool.

#### **2.2.3.2 Rights of a Usufructuary Holder**

The holder of the usufructuary interest is entitled to the enjoyment of the following rights and benefits.

##### ***Right of Possession***

It is a right in rem and exclusive and is a potential perpetual term allowing the bearer to possess it 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 party or for public purpose without the consent of the subject or stranger holding the land. (See *Robertson v. Nii Akramah II* (1973) 2GLR 445, *Mensah v. Asamoah* (1975) 1GLR 225 CA, and *Ohimen v. Adjei* (1957) 2WALR 275 and recently *Mansu v. Abboye* (1982-83 GLR 1313, 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 (1985:59) made this quite clear, when they stated:

“Another important incident of the determinable title is the right to 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, and he 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 the absolute title nor the owner of the sub-absolute title can go upon land to harvest cola nuts, palm wine or fell palm trees for palm wine. They may request the owner of the determinable title to supply so many pots of palm wine or a quantity of palm nuts or cola nuts 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 need 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 from a lease, or the consideration for the grant of license or the ‘brute product’ of the land arising without the intervention of human labour such as palm-nuts, cola nuts and timber.”

### ***Right of Alienation***

The title holder can grant. However, he cannot grant anything higher than what he holds as this will result in adverse claim. The holder on his own accord can decide to grant a lesser right or 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 it is now a settled principle in *Thompson v. Mensah* (1957) 3WALR 240, that no consent is needed

provided due recognition is given to the allodial title in the transaction. The court stated, inter alia, that the correct statement of native custom is that a usufructuary title can be transferred without the consent of the allodial owner provided the transfer carries with it an obligation upon the transferee to recognise that title holder and all the incidents of the subjects rights of occupation, including the performance of customary services to the allodial owner. [See also *Total Oil Products v. Obeng* (1962) 1GLR 228; *Nana Asani v. Atta Panyin* (1971) 1GLR 166 and *Robertson v. Nii Akramah II* (1973) 1GLR 445 C.A.]

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 he defaults in paying, the property can be seized and sold to defray the debt. It was held in *Lokko v. Konklofi* (1907) Ren 450, that the usufructuary can be used as collateral to secure a loan. In his judgement, Sir Branford Griffith said inter alia 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 opinion that the 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 long as there are kinsmen to take" (Per Ollennu J, in *Makata v. Akorli* (1956) 1WALR 169). In the case of a stranger usufructuary, the interest is also inheritable. In *Mensah v. Asamoah* (1975) 1GLR 225 CA, Archer J.A, delivering judgement 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 was 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; there must be an intention to abandon and the fact of abandonment must co-exist with such intention".

Since this is 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* (1959) G.L.R. 410; *Kwao II v. Ansah* (1975) 2G.L.R. 176]. According to Woodman (1996), the right to use of land, power of alienation, and security of tenure are rights constituting 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 acquires usufructuary rights which did not derogate from the stool's dominion, and whereas such usufructuaries 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 service to the stool. “These services were eligible, not in consequence of proprietary arrangement between stool and subject, but by virtue of the political and kinship ties binding them” (Asante, 1965)

#### **2.2.3.3 Modes of Acquiring the Usufructuary Interest**

The usufructuary title may be acquired through the following means:

- Implied grant from a stool (See *Ohiman v. Adjei*; *Bruce v. Quakor*, *Oblee v. Armah*, *Budu v. Caesar*)
- Express grant from a stool (*Armatevi v. Hammond*)
- Transfer from a stranger or from a subject to another subject or from a subject to a stranger (See *Kotey v. Asere 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 subsequently executed by the grantor may add to, but cannot take away from the effect of the grant already made under customary law.

#### **2.2.3.4 Loss of the Usufructuary Interest**

The usufructuary interest may be lost through the following means:

- Where there is failure of successor to whom the property devolves after death of holder (*Mansu v. Abboye* [1982-83], *GLR 1313, C.A.*)
- Abandonment (*Mansu v. Abboye* [1982-83], *GLR1313, C.A.*)
- 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

### 2.2.3.5 Present State of the Usufruct or 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 lands 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 rights to wander 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, enjoy and occupied part of the stool land (Agidi, 1976). This was a burden or qualification on 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 in one day become a family's.

The customary usufruct underwent a second change with the advent of the tree crop farming. Commercialization of agriculture led to commercialization of land and the subsequent birth of an agricultural land market. The question was whether the subject could not alienate the usufruct without the previous consent and concurrence of the absolute owner (*Golightly v. Ashirifie*).

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 family holding as corporate entities has also followed the same line of



development. The usufruct then becomes heritable and persists in perpetuity to assure security of tenure.

#### **2.2.4 Licence and Tenancies**

When land becomes scarce and more valuable, it was held that the grantor 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 from a restricted number of tenancies with fixed terms towards a system depending on individually negotiated contracts resulted from the growing complexity of commodity production and exchange relations, and the consequential need for more variable arrangements for the use and enjoyment of land. As noted by Woodman (1996), the terms are not necessarily set by a process of prior bargaining between legal equals. There may be some social standards determining the appropriate terms.

An indication of the type of interaction which occurs and the type of relationship which emerges was given by Lassey J. A., In *Mensah v. Blow* (1967) GLR 424, CA:

“This kind of tenure or holding... is the result of a contract or an implied agreement. It has certain important characteristic 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 licensee does not set up an adverse claim to his title or right to possession... (2) Sometimes the nature of the grant of the occupational tenancy carries with it the obligation on the part of the licensee to pay tribute or tolls or provide some 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 on which tribute is levied are what may be called natural or food products, the question of the tribute is determined by agreement before the licensee goes on 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 licensee are such that it is [often] difficult to determine whether the customary tribute has been provided or demanded... (4)... The licensee only has a right to use the land equally with the grantors, and it is understood according to customary practice, that throughout the period of 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 grantor is not ousted. In other words, title and right to enjoy the land of the latter remains unimpaired, and the granting of the licence or permission to occupy the grantor's land without paying tribute or tolls is not to be regarded as a surrender by the owner or lessor of all claims or rights in the land....”

The terms “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, while the term “licence” is used of the interests held on expressly negotiated terms. However, given the negotiability of all terms today, the two categories merge.

With tenancies, Coussey P. in the case of *Akrofi v. Wiresi and Ano.*, described tenure in land as follows:

“It is a common form of tenure throughout the country for a landowner who has 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 a fixed share of the crops realized from the land. In such a 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” (Ibid: 88).

#### **2.2.4.1 Forms of Tenancy**

#### **2.2.4.2 Share Tenancy**

It is a form of landlord-tenant relation at customary law. This is because it is founded on contract between the land owner and the tenant. It is one of the most important land

holding arrangements 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 (breaking into two (2) or 1:1 or 1/2)

**Abusa:** According to the definition by 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. Sesu* (1948) D.C. (Land) 48-51, 91]. Further in *Sasu v. Asamani* (1949) D.C. (Land) 48-51, 133, Quarshie-Idun J., also stated that, “Abusa implies that the owner of the land is entitled to be paid a third share of the proceeds accruing from the whole farm cultivated by another”

**Abunu:** Under this system, the cost of making the farm is in the first instance, borne by the landlord and the farmer tenant is then 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 (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, 181 that “...the tenancy consisted of not more than a right to cultivate the land which is the property of the landlord and to take proceeds thereof paying the landlord a portion of such proceeds.” Also in *Manu v. Ainoo* (1976) 1GLR 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.

### **Incidental Rights of Share Tenancy**

A share tenant may have the right to enjoy any of the following incidental rights 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 held in *Manu v. Ainoo* (1976) 1G.L.R. 457 CA. A landlord cannot as well, unilaterally vary or alter the terms of the tenancy. In *Akofi v. Wiresi* (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 inter 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 be divested or sold to defray the debt? In the case of *Vietor v. Hammond (1938) D.C. (Land)*, it was held that, “An abusa tenancy was attachable but since the judgement debt was private, the tenancy could not be seized and sold in execution”.

### ***Heritability***

With customary law, share tenancy may be passed on to the next of kin of the tenant in fulfilment 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 it be [*Akrofi v. Wiresi and Manu v. 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) Sarbah's FLR 152*]
- Where there is a breach of a term especially where the term is a condition;
- Where there is failure of a successor.
- When the farm falls into ruin, either by natural causes (e.g., devastation by swollen shoot disease) or through neglect by the tenant.

#### **2.2.4.3 Cash Tenancy**

In early times, where food 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 which 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 became a scarce commodity and strangers were willing to pay large sums of money to their landlords, who readily 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 must first be 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 hard working 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.

Lands are 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 rents payable depend on one of the following: The acreage required; the availability of land in the area; the reputation of the farmer in the locality; the link existing between the stranger's hometown or kinship group and that of the area he intends to farm.

### **2.2.5 The Customary Licence**

This is considered one of the most common and 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 licences can be created through a contractual arrangement between parties or through legislation. There are mainly two forms of licences:

- Short term licence (sowing tenure/seasonal licence)
- Long term licence

#### **2.2.5.1 Short Term Licence (Sowing Tenure or Seasonal Licence)**

It is a permit for cultivation of annual crops (it is an agricultural tenancy for crops grown 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 licence from the licensor. Quite



often, it is given in gratis. However, it may be granted for valuable consideration either in cash or kind.

The licence cannot be revoked unilaterally until the end of the season. In addition, where the crops are still on the land, the permit (licence) cannot be revoked. The arrangement is for the season only and thus on the expiration of the period, the permit expires or can be determined. If one wants to continue, the licensee has to go for a fresh permit which is to the discretion of the licensor. But after sometime, the renewal may be implied and thus becomes perpetual. In Sarbah's Fante Customary Law, he describes it as "...having sold his crops, the licensee cannot sow a second crop on any part of the grantor's land without his express permission."

***Heritability:***

The seasonal licence is not heritable as the arrangement is personal to the licensee. However, on the death of the licensee before harvest time, his successor shall be entitled to harvest the crops. The licence arrangement then determines immediately. In *Nyasemhwe v. Afibiyesan (1977) 1 G.L.R. 29*, the court held that a sowing licence 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.

***Alienation:***

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

### 2.2.5.2 Long Term Licence

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 licence. Unlike the seasonal licence, the licensee here does not need separate licence for a building permit. It may be granted for valuable consideration or in gratis. Like the sowing licence, the licensee under long term licence does not get any legal interest or estate. Incidental rights under long term licence 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 licence involves nothing beyond, there can be no reason to urge against the existence of a power to determine the licence at the will of the licensor...”

Long term licences have no time certainty. Possession is therefore potentially perpetual. For instance in *Kumah v. Kumah* (1938) 5 WACA 4 (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 successors were in possession for fifty years. Thus the court of Appeal in this case described the long term licence as an annual tenure thus, from year to year capable of being enjoyed until terminated or enduring for so long as the licensee or his successor recognised and did not dispute the title of the grantor.

#### ***Heritability and Alienation***

The long term licence devolves on the next of kin of the licensee and is therefore heritable. However, the necessary procedure must be fulfilled. Custom prescribes that the successor be introduced to the licensor so that the latter takes notice of him. The licensee has no power to dispose of the land without the authority of the owner

(licensor). In *Kumah v. Kumah* (1936) 5 WACA 4 (P.C.), the licensee attempted to sell outright portions of land he occupied by licence. The grantors promptly exercised an action to prevent the sale and to determine the extent of the licensee's right over the land. Also, in *Golightly v. Ashrifi* (*Kokomlemle Consolidated Cases*), (1961) G.L.R. 28 PC, the WACA affirmed the judgment of Jackson J, amongst others in relation to suit number 15 of 1943 that:

“The stool cannot alienate the land without obtaining the consent and concurrence of individuals or families who are lawfully in occupation of the land, such as subjects of the stool who are in occupation or strangers who have been properly granted some interest in the land”

### ***Determination or Extinction of the Licence***

A licence is determinable under the following conditions. Where there is no successor; Termination in accordance with the terms of the licence; Forfeiture; Abandonment; Extinction by operation of legislation; Breach of terms; Adverse claims on the part of the tenant (licensee).

#### **2.2.6 Pledge**

It is a security transaction whose effect is similar to that of a mortgage. A pledge is a 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 returned or replaced, or obligation is discarded.”

In the past, customary law allowed the pledging of both landed property and chattels as loans 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, ibid).

#### **2.2.6.1 Essential Requirements and Features of a Pledge**

The essential requirements and features of a pledge are:

- The pledgee is placed in possession of pledged land
- The pledgee has the right to the use and enjoyment of the land without accounting to the pledgor. The pledgor has no access to anything on the land (the pledgee is entitled to the rights belonging to the pledgor formerly)
- 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.

#### **2.2.6.2 Alienation of Pledge**

A pledge is one form of alienation of land or interest in land. In pledges, the legal implication is that the pledgee may use it, not answerable to any 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 pledged land (property) and given absolute right to use and enjoyment of the proceeds of the land without liability to account for the proceeds or interests proceeding thereof. Example, one can harvest economic trees and fell palm trees to tap palm wine. The true position of law is that customary pledges are not

alienable. A pledgee of land is not entitled to sell the pledged land except upon an order of a court of competent jurisdiction.

### **2.3 The Conduct of Land Markets in Ghana**

The study of land markets is premised on how people who do not belong to the allodial land holding community acquire land. The significant issue is the process through which derived rights can be accessed for use. Besides accessing land through the lineage, derived rights may now be acquired through various means including; leaseholds, tenancies and various forms of share cropping arrangements (Aryeetey et al., 2007a).

As explained earlier, land ownership in Ghana can generally be categorised 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 lands under this communal ownership is held in trust for the community as well as its future generations by a stool or an arrangement established according to the customary practices of a particular area. The allodial title holders, therefore, hold the land in trust for subjects of the 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:

***Lands Commission*** - The Lands Commission was established by the 1992 Constitution of Ghana and the Lands Commission Act 2008, Act 767. The coming into effect of the Lands Commission Act 2008, 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, decentralised and that 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 characterised by lack of coordination 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 the Office of the Administrator of Stool Lands (Sittie, 2006). In addition, all these 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 resource and poor data on lands in the country. The poor nature of their logistics and equipment had slowed the preparation of base maps, which were of particular importance in land matters.

In the area of land title registration in particular, some analysts pointed out that the impact had been insignificant. They expressed their scepticism 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 autonomous body has four main divisions mandated to perform the functions which used to be performed by the collapsed institutions. These divisions include the Public and Vested Land Management



Division; Land Valuation Division; Survey and Mapping Division and the Land Registration Division. As the names suggest, they will be performing the functions of the dissolved institutions namely:

- i. Management of public lands;
- ii. Advice government on policy to ensure that development of land is co-ordinated with the relevant development plan;
- iii. Registration of titles and deeds to land;
- iv. Facilitate acquisition of land for government;
- v. Provide survey and mapping services;
- vi. License practitioners of cadastral survey;
- vii. Provide land and land related valuation services;
- viii. Promote community participation in sustainable land management;
- ix. Impose and collect levies, fees, charges for services rendered;
- x. Establish and maintain a comprehensive land information system; and
- xi. Promote research into all aspects of land ownership, tenure and the operations of the land market and the land development process.

It is hoped that the setting up of the 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 managed. For, a well resourced Lands Commission will certainly bring about an improvement in land administration in Ghana.

***Town and Country Planning Department*** – To address the physical planning problems that emerged with urbanisation especially, the Town and Country Planning Department

(TCPD) was established but it has not been able to resolve the problem. The TCPD is responsible for the formulation 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 peri-urban lands. The Department is handicapped by the lack of vehicles to visit sites, a shortage of trained personnel and poor data for planning. The result is the uncontrolled development of structures often without permits with its attendant implications.

***Office of the Administrator of Stool Lands*** – This office is responsible for the establishment of stool land accounts 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 revenue as spelt out in the Constitution has been a source of agitations: 10% of the revenue accruing is paid to the Administrator of 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 courts are one of the most important institutions in land management. They, therefore, play a crucial role in the determination of land disputes of all kinds – boundary disputes, land titles, etc. Their role in ensuring certainty regarding land transactions and titles 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. According to Kasanga and Kotey (2001), these include congestion in

the courts resulting from poor case management, shortage of judicial and other staff, an 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, insecurity and countless unresolved land disputes (Crook, 2005; 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, appears on paper to play a coordinating role yet it is clear from its functions that it is directly involved in the overall planning of both spatial and economic planning of the entire country. 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 nuisance 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 490). 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 into 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 the core agencies. They have however, not been that efficient as a result of the many challenges they face. They need

to be provided the requisite resources to function more efficiently. More importantly, their performance must be monitored regularly within a regime where sanctions and rewards will be applied.

The basis of land transactions in Ghana is established by the Administration of Lands 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 Lands 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, transfer of land is recognisable by law only if the Conveyance Decree of 1973 (NRCD 175) is duly adhered to. The decree makes it clear that transfer of interest can only be done with a written document signed by the person making it or his duly authorised agent. The decree, however, makes some exemptions to the compulsory writing of instruments. For example, agreements less than three years and grants made under customary arrangements are not supposed to be in writing. This Act of conveyance republished in Section 47 (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 in kind. To have all agreements valid parties must register their interests in line with the Land Title Registration Law, 1987 (PNDCL 152) or Land Registry Act, 1962 (Act 122) depending on the geographical location.

### **2.3.1 Land Registration in Ghana**

Land registration is the procedure for securing various interests and rights that prevail in land tenure. There are two systems of land registration, the Deeds Registration and Title Registration. The Deeds registration has operated since colonial times. The Land Registry Act, 1962 (Act 122) governs the procedure for Deeds registration. Section 36 of the Act defines instruments which could be registered as “any writing affecting land situated in Ghana, including a judge’s certificate and a memorandum of deposit of title deeds”. It, however, excludes 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 an interest in land was not valid unless it was registered.

On the contrary, Title Registration was introduced in the country under the Title Registration Law, 1986 (PNDCL 152) to give certainty and facilitate the proof of title so as to render dealings in land safe, simple and cheap, and to prevent fraud on 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 parts of Kumasi in the Ashanti Region is declared (Gambrah, 2002). Section 19 of the Law 152 identifies the interest in land that can be registered as:

- i. Allodial Titles held by Stools, Skins, Families or individuals;
- ii. Customary freehold interests held by individuals or families under the customary system;
- iii. Individual freehold interests held by individuals;



- iv. Leasehold interests which are more than two years;
- v. Holders of customary tenancies, such as the 'Abunu' and 'Abusa';
- vi. Concessions;
- vii. Mining Leases.

The introduction of 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 its introduction, its impact has been negligible. The system suffers from a number of design and implementation defects. (Kasanga and Kotev, 2001; Somevi, 2001; and Sittie, 2006). These are as follows:

- i. As has been indicated, the Allodial title is the ultimate title and therefore the root of all interests in land held by stools, skins and families. Even though PNDC Law 152 provides for the registration of these interests, it does not provide for the registration of the members of the land owning group fit to deal with such lands. This has increased the objections being raised when documents are published.
- ii. Registration fees are based on property values just as stamp duties, making title registration unattractive. This is considered as excessive as compared to the deeds registration which is based on a nominal fee.
- iii. 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 while the other person has a deed. This has complicated land disputes which have clogged the law courts.



- iv. 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.
- v. Public education before the introduction of the land title registration was inadequate even up to date. This was mainly through the distribution of flyers and brochures notwithstanding the fact that most Ghanaians are illiterates. There is therefore the situation where there is difficulty in distinguishing between the deeds and title registration and their effects.

### **2.3.2 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 governed by the decisions of stools, family heads and individual landowners and is fraught with a lot of imperfections and distortions (Kasanga et al., 1996). Although, traditional land transactions transfer rights from suppliers to purchasers, formal documentation that gives legal right to the occupant is usually a secondary issue. The law is very clear on the requirements for making transactions valid, its execution is though, the problem. In rural areas, acquisition of land is mostly made either through a contract or oral agreement and the transactions in 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 freeholders rights are not officially

recognized (Larbi et al., 1998; 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 of the state land management system and lack of enforcement of existing legislations. Kasanga and Kotey (2001) for instance, outlined the following inherent 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 levels 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 Administrator of Stool Lands, Deeds Registry and Land Title Registry have complicated the situation.

### **2.3.3 State Land Acquisition**

The right of 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 suggests that governments have not had the capacity to bring land under state ownership and management to the best use. Nonetheless, large tracts of land continue to be under state ownership. Antwi (2002) noted that unoccupied state land of high potential often lacks investment and is subject to bureaucratic red tape, non-transparent processes of allocation, and corruption.

The practice of compulsory land acquisition is regulated by two pieces of legislation – the State Lands Act, 1962 (Act 125) and the Administration of Lands Act, 1962 (Act 123). Whilst the State Lands Act facilitates governments to acquire customary or private lands in the interest of the public, the Administration of Lands Act ensures that land is vested in the President in trust for a landholding community. The government therefore takes over the management of the land while the ownership still remains with the original owners. The Lands Commission is delegated to manage these lands.

The State Lands Act, 1962 (Act 125), allows for the prior publication of all interests and encumbrances that have been compulsorily acquired. Those the expropriation affects are paid lump-sum compensation as the law stipulates with the amount determined by the 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 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 instruments 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 quite cumbersome and often not advertised. Kasanga and Kotey (2001) observed that public and vested lands are not usually put on the market for disposal purposes. 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 the land administrators. Undoubtedly, it is precisely these categories of people who have the means, contacts and power to acquire public lands that are being disposed of.

This and many other situations like the improper procedure of acquisition, often without notification, and the non-payment of compensation to land owners have created serious discontent and conflicts 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 made little or no provision for meaningful consultation with the owners of the land or the people whose interests 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 on site selection. Normally, the first time the landowners become aware that their land has been compulsorily acquired is through the publication of an Executive Instrument, or when they see workmen moving onto the land in accordance with the Executive Instrument.

The government's 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 unutilised portions of the acquired lands. Antwi (2002) observed these pressures on the government are strongly felt in peri-urban and urban areas 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) report indicates that:

- Some landowners have “re-entered” their lands and started charging exorbitant prices for lands acquired by developers for housing and other socio-economic uses;
- Some have engaged in multiple sales of the same piece of land to different purchasers;
- Some, wanting to maximise returns from their land sales, have sought to extend their boundaries, leading to a lot of litigation to establish ownership of land;
- The incidence of unapproved and haphazard developments and associated environmental problems is rising, as those with usufruct rights use inexperienced or dishonest surveyors and planners to sell plots to interested buyers;



- Increasing encroachment and growth of slum-like dwellings, migrant settlements, within and along the peripheries of the urban centres; and
- Growing uncertainties about titles 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 effects 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). A typical situation in Ofankor was illustrated by Kasanga and Kotey, (2001) as follows:

“Ofankor is a suburb of Accra where the government compulsorily acquired most of the land. The Chief and people estimate that about 85% of all their lands have been expropriated. According to them, they only came to know of the expropriation when they saw prisoners and others cutting boundary lines in the late 1980s. To worsen their plight, a substantial amount of compensation due them has still not been paid and the arrears have been assessed to be about ₵17.2 million in 1980 and not less than ₵2 billion by February 1994.”

This particular situation is argued to have resulted in:

- An acute shortage of land for all uses including residential, agricultural, and commercial purposes;
- Population pressure on limited lands and landlessness amongst indigenes;
- Rural-urban drift by young men and women to central Accra and the suburbs;
- Changing occupations, with many rural dwellers changing vocations and becoming labourers and artisans, while a large number become unemployed or engage in informal activities; and



- Sand winning along with stone quarrying (both with disastrous environmental consequences) now form a major source of employment for men and women alike.

The 1992 Constitution, in acknowledging these problems, provides for the prompt payment of fair and adequate compensation to communities affected by compulsory acquisition and offers them the High Court to address any grievances. The Constitution further mandates the government to use any property acquired only in the public interest or for the public purpose for which it was acquired. Also it stipulates that the owner of the property immediately before the acquisition should be given the first option to repossess the property in the event of the government's unwillingness to continue the project for which the land was compulsorily acquired.

#### **2.3.4 Land Transactions in Northern Ghana**

In the Northern and parts of the Upper West Region in particular, access to land is still fairly easy. The allodial title holding community members have usufruct rights to land while non members access land through an elaborate system. They consult residents which lead to their introduction to the allodial custodians (Dittoh, 2000; Kasanga and Kotey 2001). So far as an unoccupied land is available there is no problem with obtaining use rights. The payment of rent usually does not constitute part of the terms of use although tokens may be paid to the allodial custodian as a gesture of appreciation. The use rights, however, tend to limit the capacity of the right holders to alienate land or lay permanent claim to the land. Therefore, land cannot be alienated by sale, and restrictions may be placed on the planting of tree crops, as this could lead to a permanent hold on the land. Dittoh, (2000) revealed that for a sustained use right in the

land, good character, respect for local beliefs and culture are requirements. Although the land could be inherited, such land is subject to renegotiation, and the same terms of use apply. This is to ascertain the credibility of the new rights holders. These rights are secured not by documentation but through a transparent system of allocation by which information about individuals and the land to which they have rights are usually known.

Land use rights are usually obtained by women either through or from their husbands or other male relations. Dittoh, (2000) contends that unmarried women or widows can access land use rights from anybody with similar conditions as male members without passing through a male member of the community. However, lands often offered to women are often the degraded ones. Land rights appear to be secured in this system because of their long term nature. This may, however, be tempered with the unwritten conditions of good behaviours and the requirement for renegotiation after the demise of the initial rights holder (Dittoh, 2000). Further the restriction of the right holders' control of the land restrains the ability to either put land to the most productive use or pass the use rights over to more capable users.

Aryeetey et al., (2007a) note that even for the most efficient producers, the lack of control over the use of land also limits their ability to offer the land as collateral to access additional capital. Pledging crops, as an investment on the land for capital, is strange and the land markets may not be developed per the prohibition of the sale of land. Again, the abundance of land reduces the need to establish a relation of land and labour between landholding households and labour surplus as the case in high population density areas of Ghana. Also, in those areas with abundant land, traditional institutions for keeping record on transactions and interests and on physical boundaries

of land, both of which are necessary for securing land rights, are either undeveloped or non-existent Dougan, (2004) cited by Aryeetey et al., (2007a).

Most parts of the Upper East Region, unlike the Northern Region, is characterized by high population density and land scarcity. This is growing the land fragmentation process since clan and extended family land ownership are giving way to individual ownership. Dittoh (2000) in this case revealed arrangements like temporary gifts and various transactions which allow rights holders to trade their land for labour, ploughing services and soil fertility enhancing practices. Land rights were also being pledged against unpaid loans though; there was no situation where land was sold outright.

### **2.3.5 Land Transactions 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 relations with capital or labour, terms are clearer in respect of duration and payments. The growing 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 labour. Kasanga and Kotey, (2001) argue, the increasing scarcity of land has led to the growth of land transactions through markets. This has allowed migrants to acquire land rights through purchase or share tenancy arrangements.

In the Western Region, land ownership rights have been strongly individualised so as to allow permanent alienation of land that formerly could be transferred only to other family members. Otsuka et al., (2001) cited in Aryeetey et al., (2007a) find that population pressure induces institutional innovation in the direction of

individual land ownership. Individual ownership is a step towards the development of a land market because it gives the landowner control over the land and the rights of transfer, which are limited or non-existent in joint ownership tenure systems such as communal, clan or family ownership. Indeed, Otsuka et al. (2001) cited in Aryeetey et al., (2007a), conclude that land scarcity stimulates land market transactions.

Kasanga and Kotey (2001) report that following the Aliens Compliance Order of 1970, share tenancies were extended from cocoa growing areas of the Brong Ahafo Region to food crops which has also become commercialised. The application of sharecropping to food crops provided landlords with produce 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 transactions are largely based on verbal agreements, with family members acting as witnesses (Kasanga and Kotey 2001).

With land relations there is the need to distinguish between arrangements of reciprocity and those of contractual obligations. Amanor (1999) explained that while the former is more with kin, the incidence of contractual relations between kin is increasing, and is usually among the first signs of the evolution of a 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 tenure systems toward market relations. In the Ashanti Region, land tenure is gradually moving away from family and sharecropping arrangements 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 lands for residential plots expand in peri-urban areas, agricultural land, usually for the minority groups, are lost. Kasanga and Kotey (2001) conclude from their research in the Ashanti-Region that communal lands are fast changing into individual ownership, and changing hands from indigenous people to migrants in the form of limited leaseholds. Even for indigenous people, ownership is shifting from customary freehold interests, 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 trends have been observed in peri-urban areas 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 move from subsistence to cash-crop agriculture, monetisation of the economy, urbanisation, and population pressures among other factors (Kasanga and Kotey, 2001).

The fact that agriculture is being commercialised has driven changes in tenure systems towards market exchanges. Amanor (1999) reports that there were no land markets in Akyem Abuakwa in the early 1830s when the 'Dwaben refugees' first settled on Akyem Abuakwa lands. However, with the influx of migrant cocoa farmers from Akwapim 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 purchases.

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

### **2.3.6 Land Tenure and Dispute Regulation**

Largely, lands in Ghana are still held under the communal tenure where stools, skins, families and individuals hold various rights in land. The nature of the communal tenure and the rights therein 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 commoditisation of land in Ghana, pressure on land has been exposed which, among other things, results in disputes over land? This is complicated by the inefficiencies in the land market and its attendant problems like the multiple sale of land by unscrupulous landowners; lack of registered documents on the land market; absence of reliable database of ownership; and ineffectiveness of the court in resolving land disputes (Antwi, 2002). Indeed security of land tenure is constrained with disputes and conflicts on land which also derails investments.



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

- i. Boundary conflicts usually between different stools and/or between individuals;
- ii. Disputes between Chiefs and individual farmers over the rapid conversion of farmland into residential plots, without consultation and adequate compensation;
- iii. Inter-family and intra-family disputes over family land boundaries, the division of plots and proceeds from land sales, and the right to use certain parcels of land;
- iv. Disputes between Chiefs and local people over land allocation practices and the lack of transparency and accountability in land transactions;
- v. Compensation payments from government acquisitions being delayed or inadequate;
- vi. Disputes over multiple claimants to compensation payments;
- vii. Disputes between government institutions and subjects of particular stools/individuals;
- viii. Disputes between private individual developers and stools/families/individuals.

Aryeetey et al. (2007b) further noted that major land base conflicts that have the power to destabilise society and frustrate investment thereby retarding economic development also include:

- Conflicting claims to territorial lands arising from disputed histories and/or boundaries between ethnic groups as well as towns and villages 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 and unreliable cadastral maps;
- Compulsory acquisition by government of large tracts of land which are under-utilized or misapplied, resulting in intense disputes between traditional authorities and government; or resulting in landlessness and communal unrest among the youth; and
- Tenure insecurity due to conflicting interests between landlords and tenants.

The impact of land related conflicts or disputes are indeed far reaching and affecting individuals, communities and the nation as a whole. Conflicts 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, farms were destroyed due to conflict over land. The study also revealed that 40 % of respondents have been personally affected by land conflicts. These percentages varied from 40% in rural areas to 35% in urban areas and 23% in peri-urban areas. Crook (2005), on the contrary, identified that land disputes 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, unauthorised disposition of family land by an individual family member, and property

disputes between divorcees constituted about 52% of the total cases. Those cases which bordered on problems of land tenure like double sales and unauthorized disposition of land by somebody without proper title, allegedly 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 procedures used by the Land Sector Agencies. The informal procedures include customary arbitration by the Chiefs Courts 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 agreed by the disputing parties at the local level. This procedure of dispute resolution is 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 party 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 decisions 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 resolve disputes when brought before them. The Commission of Human Rights and Administrative Justice (CHRAJ) is also known to have used mediation in resolving disputes (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 disputes resolution. Others resort to the court because of 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 Chief's court or traditional procedures. The difficulty in dealing with the State courts stem 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, (2005) in his reports confirmed that litigants particularly in land cases are having severe delays. Of the respondents, 45 % had filed their case 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 had to attend court, mainly for the case to be adjourned without a hearing: 41% said they had attended court more than 21 times since the case began while a small group (6%) even claiming they had attended more than 100 times.

Alternative Dispute Resolution (ADR) involves a range of procedures which serve as alternatives to the adjudication 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 disputes outside the courtroom using the procedures of mediation or conciliation, negotiation, settlement conferences and adjudication. The advocates of ADR see it as a mechanism to provide solutions to complex problems that would better meet the needs

of disputants and their communities, reduce reliance on the legal system, strengthen local civic institutions, preserve disputants' relationships and teach alternatives to violence or litigation for dispute settlement. According to Wood (1998) ADR has the following advantages;

- i. The procedure is quite informal and structured as the court rules and at the same time it eliminates the acrimony and confrontation associated with courtroom litigation.
- ii. It provides more acceptable methods of settling disputes as it engenders greater participation of the disputants themselves in the settlement process.
- iii. It is quicker, less expensive and healthier as it provides opportunity for emotional needs to be expressed and addressed and in privacy too.
- iv. 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 are therefore not 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 harmonisation 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 noting that while these land courts have been established in some regions they are unable to cope with the volume of land cases still being handled by the traditional courts.



### **2.3.7 Access to Land and Livelihoods**

Land is an undeniable support to livelihoods and agriculture is the main economic activity which sustains livelihoods in the Ghanaian economy. Access to land is a fundamental means whereby the poor can ensure household food supplies and generate income. As the land market develops, there is the loss of agricultural lands for residential development and this aggravates poverty (Kasanga et al., 1996). This increases economic hardships with the vulnerable and marginalized in the society. Aryeetey et al., (2007a) assert that, the cause of people being deprived of their livelihoods include: distortions in the land market resulting from land expropriated by the state without compensation to communities for the loss of their usufruct rights; lands being sold off at a rapid rate without regard for the law; little or no accountability for the funds generated from land sales; lack of evidence of the use of royalties from land sales for community improvements; and the degradation of the soil and the environment through mining and sand winning activities.

In Ghana urban sprawl has failed to provide alternative livelihoods, except for occupations such as petty trading and food preparation. Other artisanal jobs like masonry, carpentry, plumbing and house wiring jobs provided by the booming construction sub-sector are temporary and also require training which is not available to many of those who have been deprived of their land. Aryeetey et al., (2007a) observed further, the strong relationship between loss of land, livelihoods and vulnerability of women. They reiterated that in cases where the entire community's farmlands are lost to urban development, women and children are those with fewer alternative livelihood



options. A typical scenario as noted by Maxwell et al. (1998) cited in Aryeetey et al., (2007a) is

“Ngleshie-Amanfro is a village near Accra. Due to traditional and religious reasons, women mostly supported their husbands on the farms. When their land was sold, the men were forced to find other work, but it is largely not work that their wives could do. Thus, unemployment among women is very high. The youth and the men have mostly resorted to casual labour in the construction, hunting and sand winning business but only a few of the women are engaged in hazardous occupation such as stone quarrying, street hawking or serve as porters in Kasoa market otherwise the majority of them are unemployed”.

Kasanga et al., (1996) have observed that in Gbawe in the Greater Accra Region, a positive scenario exists where, through transparency and wider engagement of the community, urban development has been promoted without undermining the livelihoods of indigenous community members. This therefore, shows that the process of land sales may make fortunes as well as spawn widespread poverty.

### **2.3.8 Customary Practice and Gender Disparities**

The contribution of women to the socio-economic development of Ghana is very significant. However, there are social, cultural, political, 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 rights and ownership of property may affect the rights of women to own land in some places. Apart from the lineage, marriage is another way of accessing land. However, when 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 or 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 rights diminish with marriage. These include:

- Marriage and its attendant domestic obligations reduce women's chances of acquiring land or comparatively larger portions than men. A wife is by tradition under obligation to help her husband on his own 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 patterns in the division of labour place land clearance in the hands of men, which gives them priority in original acquisition; possession of the usufruct land is normally given on the basis of ability and means to develop - such as ownership of financial resources, which many women tend not to have.
- The emergence of permanent crops such as cocoa and oil palm which require longer use of land have given preference to men who are more economically empowered to engage in it (Duncan, 2004)

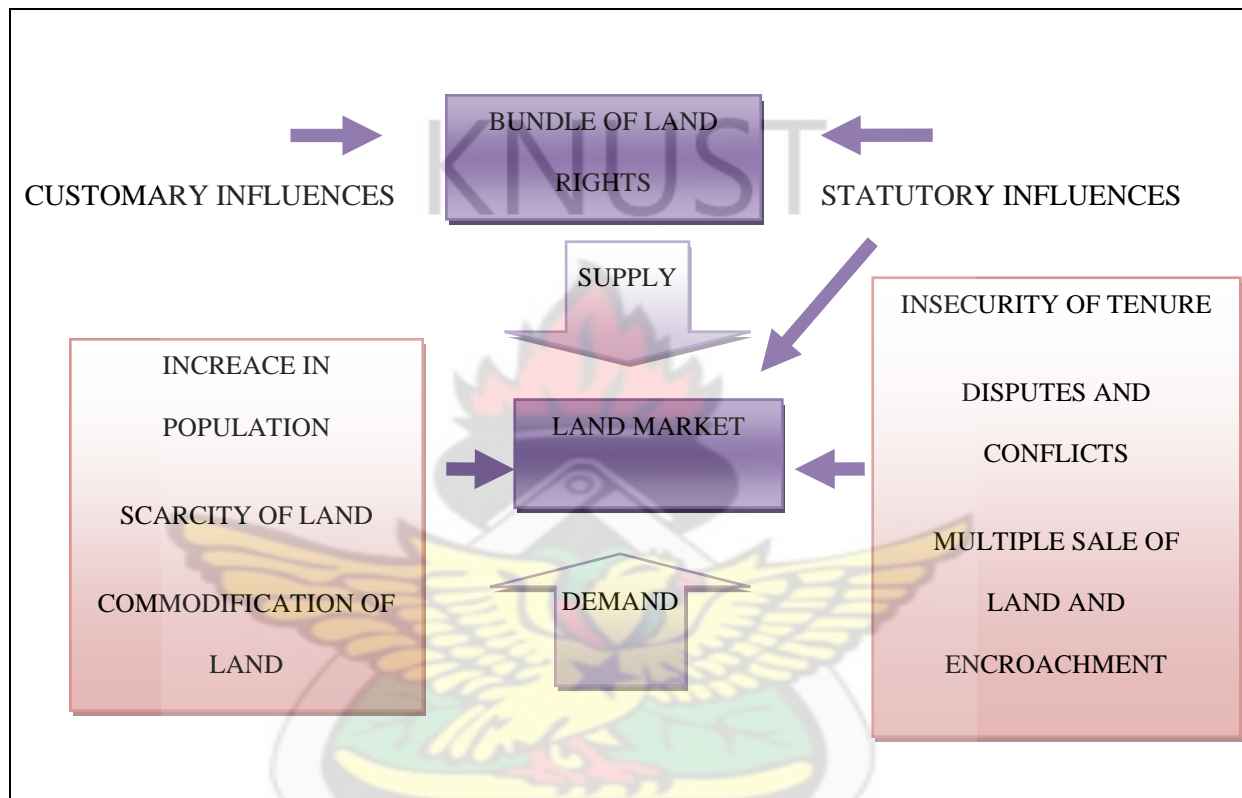
In Ghana, these customary practices persist, although there are laws protecting the rights of women as well as other groups of society with regards to land acquisition (Amu, 2005). The acquisition of properties was formally governed by systems of laws which generate much controversy particularly against women and children. For instance, when a person dies intestate, rules to be applied depend on whether the person was married under the Marriage Ordinance (Cap 127), or was a Muslim, whose marriage is under the Marriage of Mohammedans (Cap 129), or the person practices either a patrilineal or matrilineal inheritance system (Government of Ghana, 2002). Customary laws really offer little protection for the surviving spouse

since neither spouse has a right to the property of the other. Children in a matrilineal 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 behaviour. Even with patrilineal inheritance where children succeed their father, Nukunya (1972) noted that in Anloga, the daughters 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 a uniform law that would be applicable throughout the country. The provisions of the law aim at giving the deceased husband's surviving spouse and children a larger portion of his estates.

Despite these laws, current trends in the land market, proves that women are still disadvantaged. Amanor (1999) observed that with economic and political influence during this new economic liberalization, men are able to access credit and contracts than women which undermines women and youth rights 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 the youth lack secure rights in land, this practice is forcing them out of the mainstream agricultural sectors into other sectors. Other economic factors like the high transaction cost and land prices due to urbanization, constrain women's access to land (Antwi, 2002). The procedure for acquiring land often involves transaction costs which may be high for women who are

usually the head of farm households as well as female headed households in urban and peri-urban areas. Moreover, women tend to have lower incomes than men and are often denied credit.

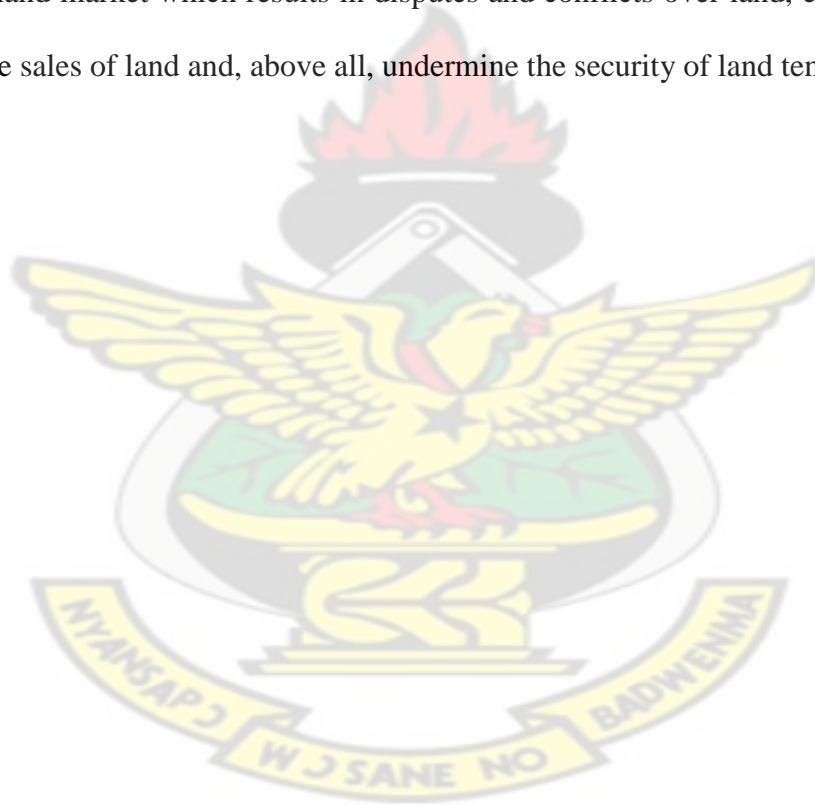
## 2.4 Conceptual Framework



**Figure 2.1: A Chart Showing the Conceptual Framework of the Research**  
Sources: Author, 2010

The Figure 2.1 above depicts the conceptual framework of the research. It has been noted already that land markets 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 interests 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 institutions for 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 subjected to external influences like population growth, urbanization, livelihood diversification and the commoditization of land which puts a lot of pressure on its use. 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 conflicts over land, encroachment and multiple sales of land and, above all, undermine the security of land tenure.



## **Chapter Three**

### **Study Area Profile and Research Methodology**

#### **3.1 District Profile**

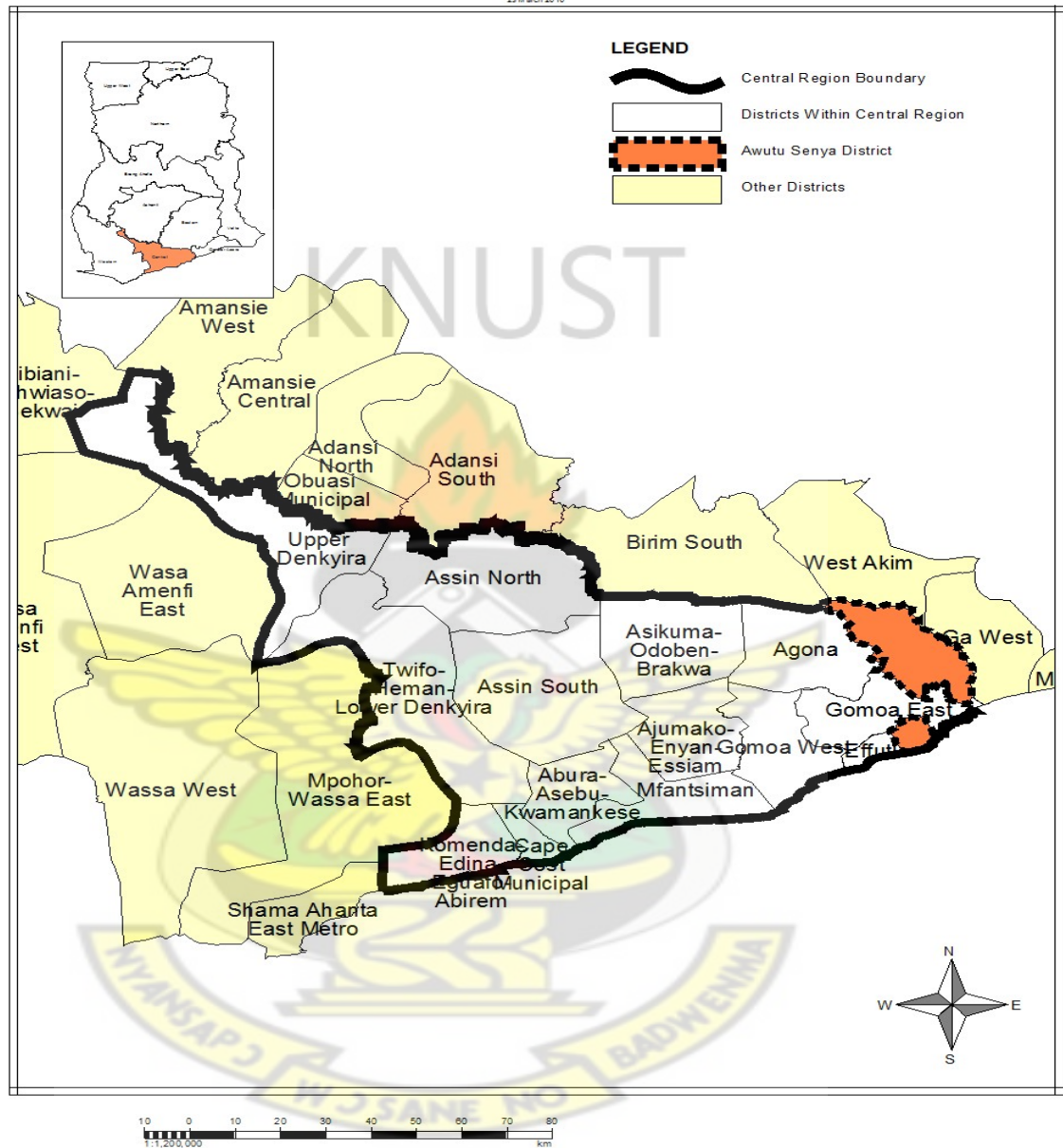
The Awutu-Senya District is one of the newly created districts in the Central Region. The district was carved out of the former Awutu-Efutu-Senya District in 2007 by Legislative Instrument 1847. The rationale was to facilitate the government's decentralization programmes and local governance system. The district has two traditional areas with the paramount stools located at Awutu and Senya. The people of the district are mainly Guans with other settler tribes.

##### **3.1.1 Location and Area Coverage**

The Awutu Senya District is situated between latitudes 5°20' North and 5°42' North and longitudes 0°25' West and 0°37' West on the eastern part of the Central Region of Ghana. It is bordered on the North by the West-Akim District, North-West by Birim-South, East by Ga-South District, West by Agona-West District, and South by Effutu Municipal and the Gulf of Guinea. The district covers an estimated area of 511.75 square kilometres. Map 3.1 is the map of the Awutu-Senya District within the regional context.



# AWUTU SENYA DISTRICT IN THE REGIONAL CONTEXT



### **3.1.2 Climate**

The district experiences a five-month dry season starting from November to March during which period the dry North-East Trade Winds dominate the area. The dry season is followed by a seven-month rainy season from April to October during which time the moist South-West monsoon winds dominate the area. The rainfall figures of the district are quite low, ranging from 40 cm to 50 cm along the coast but are higher inland with the mean annual rainfall between 50 cm to 70 cm.

The mean annual temperature ranges from 22<sup>0</sup>C to 28<sup>0</sup>C. This, coupled with the rainfall pattern, favours the cultivation of many food crops particularly in the semi-deciduous forest areas. The coastal savannah is suitable for the cultivation of vegetables such as tomatoes, okra, pepper, cabbage, garden eggs and onions. The high temperatures and dry conditions along the coast also favour salt mining from the ocean.

### **3.1.3 Vegetation**

The vegetation of the district is made up of semi-deciduous forest and coastal savannah grassland. About 70% of the district is of semi-deciduous forest with cocoa and palm trees constituting the major crops cultivated. The forest zone covers the surrounding towns like Nyarkokwaa, Bontrase, Bawjiase and Osae-Krodua. The coastal savannah grassland is found along the Southern Coastal lands extending from Winneba to Senya.

The type of vegetation, to a large extent, influences the kinds of economic activities of the people. For example, the types of crops grown are akin to the vegetation type found in the area while vegetables are cultivated in the grassland areas, cereals, roots and tree crops are in the forest areas.

### **3.1.4 Soil Characteristics**

The district is underlined by Birrimian rocks which consist of granites and phyllites. The area is basically low-lying with protruding granitic rocks in some areas.

In the semi-deciduous forest zone, the soil type is characterized by loamy soil which supports many plants and therefore suitable for cultivating crops like pineapple, cassava, plantain, yam, maize, cocoa, cola-nuts, citrus and pawpaw.

Soils found in the Southern zone are clayey with high salinity and therefore do not support the cultivation of many crops. However, the vegetation in this zone supports the grazing of livestock. This zone therefore is conducive for farm animal production which is yet to be exploited.

### **3.1.5 Demographic and Socio-Economic Characteristics**

#### ***Population***

The total population of the Awutu Senya District as of the year 2000 was 121,052 people living in 197 communities. The District is made up of five (5) major urban centres namely; Kasoa, Senya-Bereku, Bawjiase, Bontrase and Awutu-Bereku. There are two urban councils and five Area councils; they are

- Awutu Area Council;
- Bontrase Area Council;
- Jei Krodua Area Council;
- Obrachire Area Council;
- Bawjiase Area Council;
- Senya Urban Council and
- Odupong-Kpehe (Kasoa) Urban Council.

The Awutus and the Senyas are the indigenous people in the District. Distinctively, the Awutus and the Senyas constitute the largest proportion of the ethnic groups who are neither Fantes nor Akans in the Region. There are other settler tribes of different ethnic backgrounds. These include the Ga-Adangbes, Akans, Ewes, Walas/Dagartis, Moshies, Basares and other smaller tribes. The main languages spoken are Fanti, Twi and English as the official language.

### ***Settlement Pattern***

The district exhibits the characteristics of both urban and rural settlements, with regards to its population and functionality. The five major urban communities in terms of functionality are Kasoa, Awutu-Bereku, Bawjiase, Senya-Bereku, and Bontrase. However, in terms of the 2000 population and housing census the five major urban communities are Odupong-Kpehe (Kasoa), Senya-Bereku, Bawjiase, Bontrase and Awutu-Bereku.

Though Awutu Bereku is considered as an urban community based on its population size, it does not exhibit the common characteristics of an urbanizing community. Its development is not as rapid as that of Odupong-Kpehe (Kasoa) despite it being the District Capital. It presently depends on Odupong-Kpehe (Kasoa) township for most of its services. However, Awutu-Bereku is presently serving both as an administrative town and a dormitory town. Presently, Odupong-Kpehe (Kasoa) township is exhibiting some characteristics of a typically rapid urbanizing community in the country. The factors accounting for this phenomenon are as follows:

- Nearness to Accra (City Centre)
- Peri-Urban nature

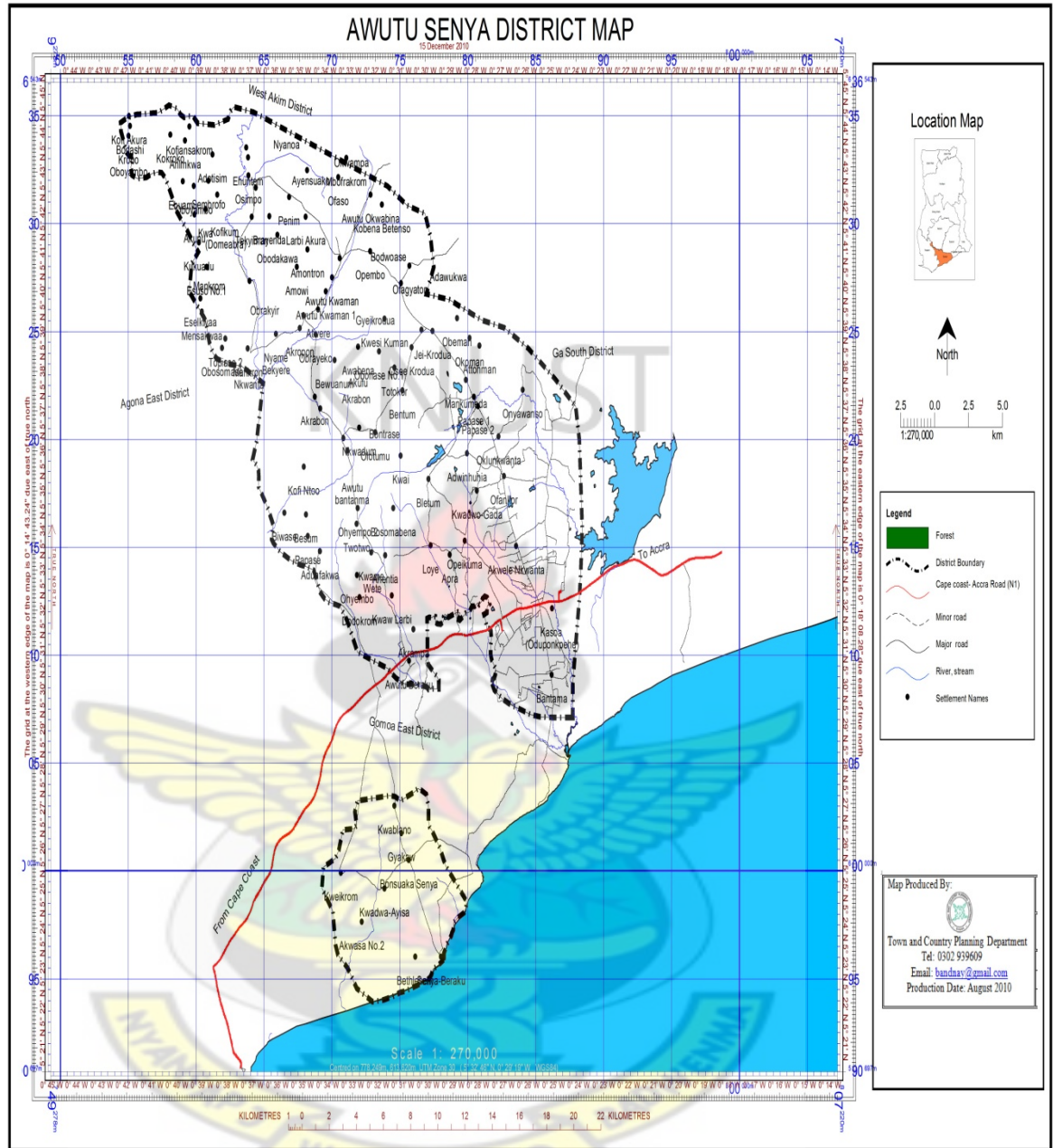
- Dormitory town for Accra
- Comparatively serene environment away from congestion in Accra

Senya-Bereku presently depends on Kasoa for almost all of its services. Despite it being the main fishing community in the districts, it is yet to receive any major investment especially with fresh water fishing.

Bawjiase can best be described as a nodal community, since it serves various communities in terms of transportation route to other adjoining major settlements such as Swedru, Winneba, Odupong-Kpehe (Kasoa), Koforidua, Asamankese and the fact of being a commercial centre especially on market days for traders from the aforementioned towns and other communities. It is also important to note that a smaller community in the district, named Jei Krodua, is developing very fast and would soon merge up with Odupong-Kpehe (Kasoa) township.

Even though, Bontrase has an urban population of 5000 it is characteristically a rural community. The inhabitants are mainly farmers and they lack social amenities. Access to portable water is a problem and they mostly depend on Odupong-Kpehe (Kasoa) for most services. Map 3.2 is the District Map of Awutu-Senya showing the various towns.





**Map 3.2: Awutu – Senya District Map**

**Source: Town and Country Planning District Office - Awutu-Senya**

### ***District Economy***

The main economic activity in the district is agriculture. Most of the people in the area engage in either fishing or farming activities to sustain their livelihood. In fact agriculture and related activities are known to employ about 46 % of the working population in the district. The fishing industry in the coastal community Senya also employs about 11 % of the population. Inland fishing is yet to catch up with the area though there is growing demand for fresh water fish especially tilapia. This sector constitutes a tremendous opportunity in the district for investors and for both the local and export markets. Wholesale and retail trade, agro-processing and the informal service sector again contributes tremendous support to the economy of the district. The Odupong-Kpehe (Kasoa) and Bawjiase market centres attract traders from other parts of the country on market days. However, the agro-processing sector is yet to receive the required investment for growth.

### ***Agriculture***

The District has a very high potential for irrigation farming. It can boast of the Kwekude and Okurudu rivers and dams. There is, however, the need for the district to undertake measures to fully utilize this potential.

The northern portion of the district is suitable for pineapple and vegetable production. There are large and medium scale farmers who produce pineapple for export. Bawjiase is noted for its cassava cultivation. Cocoa is also cultivated in Bawjiase and beyond. Prudent Farms, is one of the large commercial farms with about 20 out-growers. Other large scale pineapple farmers like Grand Mill Farms, Jei River Farms and George Field Farms operate in the district. Most of these large scale farmers

use irrigation systems powered with pumps along river banks, dams and dug-outs. Livestock production is also practised in the district but on a smaller scale.

Undeniably the Odupong Ofaakor area has been the pivot of development of the District. The Odupong Ofaakor Stool area covers almost 204.61 square kilometres out of an estimated total land area of 511.75 square kilometres of the District. The area is characterised by increasing land values reminiscent of similar areas in the country. This study revealed that agricultural land in the area is becoming scarce and is affecting the livelihoods of the people. As usual, sections of the Odupong Ofaakor land area have been a source of disputes making it appropriate to investigate. The choice of the area for study is also premised on the fact that the peculiar tribe in the area has a different land tenure system than that of its neighbours on which some literature exists.



## **3.2 Research Methodology**

### **3.2.1 Research Design**

The investigation adopted the Survey and Case study designs to study the land tenure practices in the Odupong Ofaakor area. A Survey according to Babbie, (2007) may be used in studies that have individual people as the unit of analysis. Although the method can be used for other units of analysis like groups, some individual persons must serve as respondents. In the study area the unit of analysis was the individual land owner or user. The approach used was therefore appropriate for the investigation.

An in-depth examination of a single instance of some social phenomenon, such as a village, a family, or a juvenile gang is what Babbie (2007) defines as a Case study. Basically the limitation of attention to a particular instance of 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 insights. The study adopted a combination of qualitative and quantitative approaches to research with various techniques of data collection. Case studies indeed are designed to bring out the details from the view point of participants by using multiple sources of data. It is significant to note here that the Case under study was the land tenure practices of the people of Odupong-Ofaakor.

### **3.2.2 Population and Sampling Frame**

Land owners and users in the Odupong Ofaakor area constituted the main population for this research and the fieldwork was based on a household survey. The traditional land owning group and grantees of land make up the main sampling frame from which various sampling units were selected for investigation. Officials of State land

administration agencies like the Lands Commission and Town and Country Planning Department also formed part of the sample unit.

### **3.2.3 Sampling Procedure**

A Multi-Stage Cluster sampling approach was adopted for this investigation and premised on both probability and non probability sampling techniques. This means that purposive and simple random sampling techniques were adopted. Ten (10) communities of urban and rural characteristics were identified within the area which formed the clusters from which various sampling units were selected for investigation. Purposive sampling was used based on the nature of the communities and their population characteristics to select six (6) of the communities comprising the Stool land area for the first stage of sampling. The six (6) communities used for the fieldwork were:

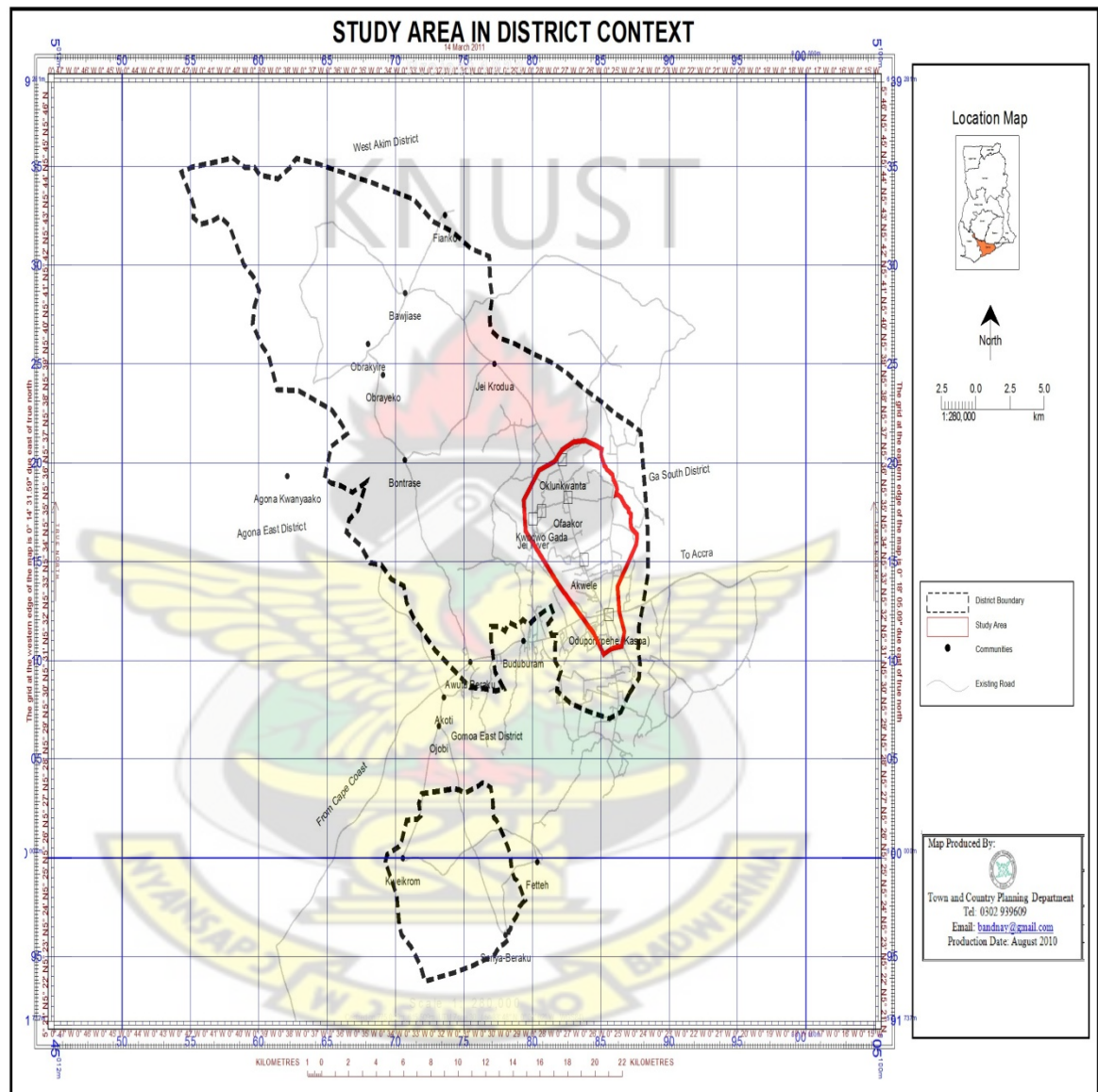
- Odupong-Kpehe (Kasoa),
- Akweley,
- Ofaakor,
- Kwadwo-Gada,
- Jei River Estates and
- Oklunkwanta.

The second stage of sampling constituted the use of both the purposive and simple random sampling techniques to select various sampling units for investigation. The purposive sampling approach was used to select chiefs, family heads and some opinion leaders who were interviewed on various subjects relevant to the study. Likewise, the simple random sampling was used to carry out the household survey where a total of Two Hundred (200) responses were obtained for analysis. The use of a table of random



numbers assisted in selecting respondents. A list of grantees of land through the Customary Land Secretariat (CLS) was sourced for this purpose.

The Awutu-Senya District Map below shows the study sites.



**Map 3.3: Awutu – Senya District Map with Study Sites**

**Source: Town and Country Planning District Office - Awutu-Senya**

#### **3.2.4 Data Sources**

Data for this report was based on both primary and secondary data collection techniques. This has been explained as follows:

##### ***Secondary Data***

The secondary data constituted a review and analysis of published and unpublished literature available. It was sourced from journals, articles, monographs, books, law reports and statutes to situate the study within the body of knowledge on the subject area. The use of the internet was of great help for the sourcing of secondary information for this research.

##### ***Primary Data***

Primary data was collected through surveys and interviews with chiefs and other land owners. Other methods of primary data collection were focus group discussions and direct observation. This approach was adopted to collect both qualitative and quantitative data.

#### **3.2.5 Field Instruments**

Primary data was collected using various instruments like semi-structured interviews, questionnaires, focus group discussions and direct observation. These have been thoroughly discussed below. However, prior to the start of the data collection a pilot survey was carried out. This helped the researcher and field assistants to familiarize themselves with the study area. Sample questionnaires were also administered to pre-test their validity.

### ***Semi-Structured Interviews***

Semi-structured interviews involved a series of open-ended questions based on the areas the researcher wanted to cover. The open-ended nature of the question defined the topic under investigation but provided opportunities for both interviewer and interviewee to discuss some topics in more detail (Babbie, 2007; Twumasi 2001). If the interviewee had difficulty answering a question or provided only a brief response, the interviewer used clues or prompts to encourage the interviewee to consider the question further (Twumasi 2001). In the semi-structured interview, the interviewer also had the freedom to probe the interviewee to elaborate on the original response or to follow a line of inquiry introduced by the interviewee.

In the Odupong Ofaakor area, semi-structured interviews were mainly carried out with selected members of the traditional land owing group. This approach was also adopted for the state land administration agencies as well.

### ***Questionnaires***

The questionnaires were mainly administered to grantees of land and included both closed-ended and open-ended questions. Prior to their 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 researchers after which they were tested on samples of the same communities the study was carried out.

A total of five (5) people were used for the administration of the questionnaires. This constituted the researcher and four (4) other graduates as field assistants. The field assistants were first of all briefed about how to administer the

questionnaires and were taken through some practical training during the pre-testing of the questionnaires.

The questionnaire was administered on two hundred (200) respondents randomly selected within the area. This approach was adopted for the collection of data since some of them were illiterates and could not read and write.

### ***Focus Group Discussion***

The focus group discussion is a qualitative technique of data collection which involves interviewing a group of subjects which together prompt a discussion. The focus group is said to be a market research approach but not exclusively that. According to Babbie (2007) twelve (12) to fifteen (15) people are typically brought together to engage in a guided discussion of some issues relevant to the research. Twumasi (2001), however, puts the number at between five (5) and twelve (12) emphasising that it should not be more than twenty (20) people.

With regard to this study, a maximum of twelve (12) people constituted the two (2) focus group discussions that were carried out. These groups included samples of settlers and indigenes, men and women and some members of the traditional land owning group. Also members of the various landlords association in the area were included. The groups typically were constituted by eight men and four women. All the two groups also had six settlers and indigenes respectively.

### ***Direct Observation***

The direct observation approach aided the researcher to acquaint himself with the study area and all other activities that occurred there. This approach facilitated in identifying the land use pattern and the nature of structural developments taking place in the area.

Land dispute adjudication procedures under the customary set up was also observed through this method. It also helped to have first hand information about other issues relevant to the study.

### **3.2.5 Methods of Data Analysis**

The method of data analysis employed in this report was a descriptive statistical technique of data analysis involving the creating of summary values. It involved the critical examination and explanation of data collected during the fieldwork. Similar data was analysed separately and in comparison with other cases to project the land tenure and market relations in the area.

The responses from the questionnaires administered were analysed with the Statistical Package for Social Scientists (SPSS). After coding and numbering of the questionnaires, a template was prepared in the SPSS format where the various responses were imputed. These responses were thereafter analysed in the form of frequency tables, graphs and charts, cross tabulations with a Chi-Square ( $X^2$ ) analysis depicting clearly relationships between various variables under investigation.

The qualitative data collected from the interviews and focus group discussions were, on the other hand, analysed through the process of content analysis. The responses from the interviews, focus group discussions and direct observations were categorised into common themes for easy interpretation. These categorized themes were, however, reported by describing, interpreting and reconciling with other field data collected.



## **Chapter Four**

### **Presentation and Analysis of Results**

This chapter presents and analyzes the results from the field work undertaken for the research. The field data was collected using various methodologies as explained in chapter three of this report. The results were accordingly analyzed with the objectives of the study in mind. It was mostly explanatory with some statistical analytical instrument of cross tabulations, chi-square, frequency distribution tables, and graphically with pie and bar charts.

#### **4.1 Demographic Characteristics of Respondents**

##### ***Place of Origin and Sex Distribution of Respondents***

The methodology adopted for the study took into account the two critical variables of gender and place of origin of respondents. It revealed the unique characteristics of the respondents from the Odupong Ofaakor area. The responses showed that both male and female indigenes and non-indigenes owned land within the area. Out of a total of two hundred (200) responses from the household survey conducted, as many as 144 (72.0%) were males and 56 (28.0%) females. This shows that almost a third of the respondents were females. This is a clear indication that gender is not a barrier to land ownership.

Most land grantees in the Odupong Ofaakor area were not indigenes. The survey revealed that only 64 (32.0%) out of the total number of respondents were indigenes of the Odupong Ofaakor area and as many as 136 (68.0%) were non-indigenes. Out of these sums 51 (36.0%) males and 13 (23.0%) females were indigenes of the area while 93 (64.0%) males and 43 (77.0%) females were non-indigenes. Majority of land owners were, therefore, not natives of the Odupong Ofaakor area.

Similarly, among the non-indigenes, only 27 (20.0%) and 26 (19.0%) came from within the district and within the region respectively. As many as 83 (61.0%) came from other regions. Clearly, a greater number of the respondents were settlers from other parts of the country rather than areas close to the study area. Table 4.1 below shows the place of origin and sex distribution of respondents while Table 4.2 illustrates the place of origin of respondents.

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

			<b>Are you a Native of this Community?</b>		
			<i>Yes</i>	<i>No</i>	<i>Total</i>
<b>Sex of Respondents</b>	<i>Male</i>	Count	51	93	144
		% within Sex of Respondents	36.0%	64.0%	100.0%
	<i>Female</i>	Count	13	43	56
		% within Sex of Respondents	23.0%	77.0%	100.0%
<b>Total</b>	Count		64	136	200
	% within Sex of Respondents		32.0%	68.0%	100.0%

Source: Field Survey 2010

**Table 4.2: Place of Origin of the Respondents**

		<i>Frequency</i>	<i>Percent</i>	<i>Valid Percent</i>
<b>Valid</b>	<i>Within the district</i>	27	14.0	20.0
	<i>Within the region</i>	26	13.0	19.0
	<i>Another region</i>	83	41.0	61.0
	<i>Total</i>	136	68.0	100.0
<b>No Responds</b>		64	32.0	
<b>Total</b>		200	100.0	

Source: Field Survey 2010

### ***Age Distribution and Marital Status of Respondents***

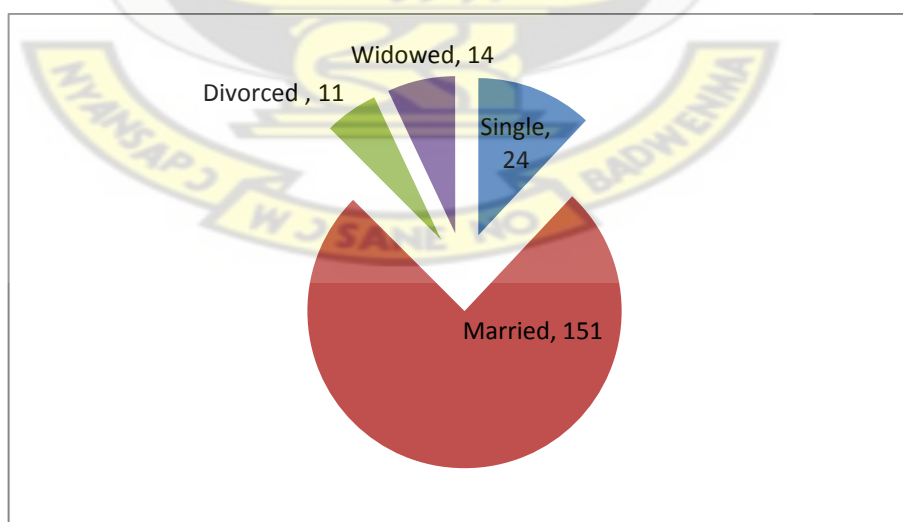
The questions on the distribution of age and marital status of the respondents generated varied responses. The age distribution of the respondents shows that the majority of land owners fall above the youthful age group of age forty. The responses show that 91 (46.0%) of the respondents, being the largest among the frequency distribution, were within the age group of 41-50 years. Forty-five, 45 (23.0%) followed by 23 (11.0%) constituted the age groups of 51-60 years and over 60 years respectively. Clearly, majority of the youth do not own land. Only 39 (19.0%) and 2 (1.0%) were within the age groups of 31-40 years and under 30 years respectively. Part of this distribution indeed falls within the youthful age distribution of 15 to 35 years. Accordingly, most of the youth did not own land in the area.

Again, majority of the respondents, as many as 155 (76.0%), were married. Twenty-four, 24 (12.0%) were single at the time of interview; 11 (5.0%) were divorced; and 14 (7.0%) were widowed. Table 4.3 depicts the age distribution and marital status of respondents and Figure 4.1 below shows the marital status of respondents.

**Table 4.3: Analysis of the Age Distribution and Marital Status of Respondents**

		Marital Status of Respondents					
			<i>Single</i>	<i>Married</i>	<i>Divorced</i>	<i>Widowed</i>	<i>Total</i>
Age of Respondents	<i>Under 30</i>	Count	2	0	0	0	2
		% within Age of Respondents	100.0%	.0%	.0%	.0%	100.0%
	<i>31-40</i>	Count	22	16	1	0	39
		% within Age of Respondents	56.4%	41.0%	2.6%	.0%	100.0%
	<i>41-50</i>	Count	0	78	7	6	91
		% within Age of Respondents	.0%	85.7%	7.7%	6.6%	100.0%
	<i>51-60</i>	Count	0	37	3	5	45
		% within Age of Respondents	.0%	82.2%	6.7%	11.1%	100.0%
	<i>Over 60</i>	Count	0	20	0	3	23
		% within Age of Respondents	.0%	87.0%	.0%	13.0%	100.0%
Total	Count	24	151	11	14	200	
	% within Age of Respondents	12.0%	76.0%	5.0%	7.0%	100.0%	

**Source: Field Survey 2010**



**Figure 4.1: A Pie Chart Showing the Marital Status of Respondents**  
**Source: Field Survey 2010**

### ***Educational and Employment Status of Respondents***

The survey also revealed that majority of the respondents, 84 (42.0%), were JSS/Middle School leavers. Fifty-Six, 56 (28.0%) had attained Secondary/Technical education while 29 (14.0%) had had Tertiary education. Thirty-One, 31 (16.0%) of the respondents, however, had had no education at all. Table 4.4 shows the educational level of respondents.

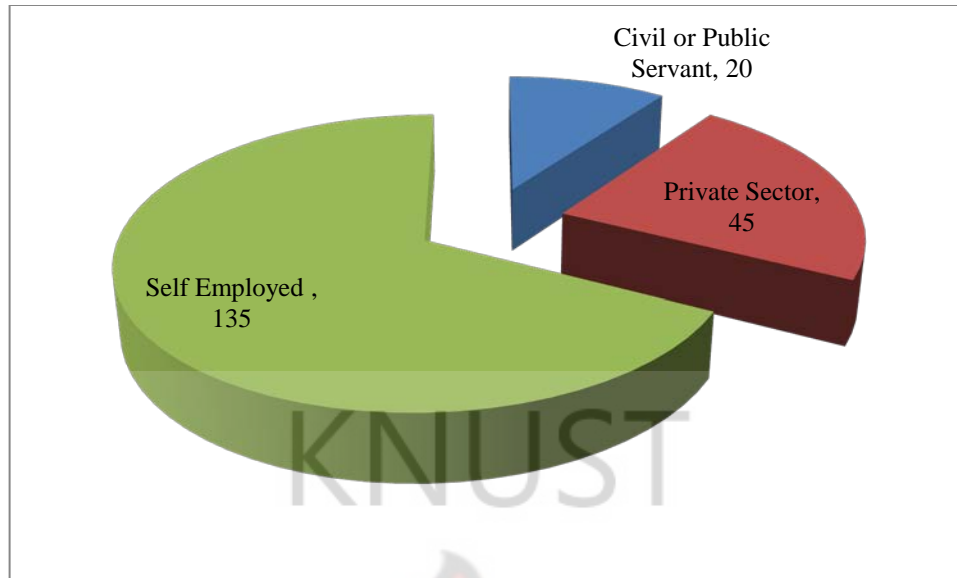
**Table 4.4: Educational Level of Respondents**

		<i>Frequency</i>	<i>Valid Percent</i>
<b>Valid</b>	<i>None</i>	31	16.0
	<i>JSS/Middle School</i>	84	42.0
	<i>Secondary/Technical</i>	56	28.0
	<i>Tertiary</i>	29	14.0
	<i>Total</i>	200	100.0

**Source: Field Survey 2010**

Most of the respondents were also self-employed. In fact, 135 (68.0 %) of the responses received, affirmed that they were self-employed. Again 45 (22.0 %) said they worked in the private sector while 20 (10.0 %) indicated that they were civil or public servants. 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 2010**

Further, out of the 31 (16.0%) respondents who had no education at all, thirty 30 (97.0%) were self-employed while only 1 (3.0%) of them was working with the civil or public service. Again, 83 (99.0%) of the self-employed and 1 (1.0%) of the civil or public service workers constituted the 84 (42.0%) respondents who had obtained JSS/Middle School education. Twelve, 12 (21.0%) civil or public servants, 27 (48.0%) private sector workers, and 17 (31.0%) self-employed constituted the 56 (28.0%) respondents who had secondary/technical education. Respondents who had tertiary education were distributed as follows; 6 (21.0%) were civil or public servants, 18 (62.0%) were private sector employees, and 5 (17.0%) were self-employed making a total of 29 (14.0%) respondents. Table 4.5 shows the educational and employment status of the respondents.

**Table 4.5 Analysis of the Educational Level and Occupation of Respondents**

		Occupation of Respondents				
			<i>Civil or Public Servant</i>	<i>Private Sector</i>	<i>Self Employed</i>	<i>Total</i>
Educational Level of Respondents	<i>None</i>	Count	1	0	30	31
		% within Educational level of Respondents	3.0%	.0%	97.0%	100.0%
	<i>JSS/Middle School</i>	Count	1	0	83	84
		% within Educational level of Respondents	1.0%	.0%	99.0%	100.0%
	<i>Secondary/ Technical</i>	Count	12	27	17	56
		% within Educational level of Respondents	21.0%	48.0%	31.0%	100.0%
	<i>Tertiary</i>	Count	6	18	5	29
		% within Educational level of Respondents	21.0%	62.0%	17.0%	100.0%
	Total	Count	20	45	135	200
		% within Educational level of Respondents	10.0%	22.0%	68.0%	100.0%

**Source: Field Survey 2010**

## **4.2 Land Tenure and Management Practices in Odupong Ofaakor**

### **4.2.1 Land Ownership and Interests in the Area**

The people of Odupong Ofaakor are Awutus, one of the Guan ethnic groups in Ghana. The Awutu Traditional area has three (3) Gates of which the Odupong Ofaakor is one. These Gates are separate families on their own with a right to a Stool. The others constitute the Awutu-Bereku and Bawjiase areas. The Awutu-Bereku area is the traditional capital of the Awutu people and the seat of the Paramount Stool. This means

that the Odupong Ofaakor area constitutes one of the Divisional Stools of the Awutu Traditional area.

It is believed that Nai Odupong, an ancestor, settled in the area in the 18<sup>th</sup> century. He was a hunter but latter engaged in trading activities with the Ga-Adangbe tribe while his family members engaged in farming activities to sustain their livelihoods. The Nai Odupong lineage, therefore, acquired the interest and right to the large parcel of land they now own. This means that the absolute right in the land is vested in that lineage. Presently, this right is vested in Nai Odupong Awushie Tetteh II, the paramount Chief of Odupong Ofaakor, who is the custodian of all lands in the area, held in trust for the members of the community. This nature of right being exercised is termed the allodial interest, which is vested in the Odupong Stool. The sub-Chiefs in the Odupong Ofaakor area also hold similar rights in land but they are accountable to the paramount Chief. This means that the sub-Chiefs are custodians of lands within their jurisdiction, which they hold in trust for their family members. These Chiefs usually derive their authority from the paramount Chief of the Odupong Stool. They hold sub-allodial interests in those lands.

Share tenancy, especially the *Abusa*, was practiced, but this right in land is becoming extinct due to the rapid urbanization of the area. This is because agricultural lands are now being leased for buildings. The Chief and his elders also revealed that another right in land, referred to as *Odokye*, which involved the situation where certain individuals had free access to some lands for cultivation, also existed in the past. However, these farmers were not entitled to give any portion of their produce to the landlord nor pay any kind of rent.

Apart from the allodial land ownership structures in the area, both indigenes and settlers enjoyed derivative interests and rights in land. Most of these rights in land have evolved over the years. The responsibilities that holders of traditional land rights are to perform have changed while other new derivative rights like the leasehold have been introduced. The investigation revealed various derivative interests and rights prevailing in the area and they include the following:

- ***Customary freehold or Usufruct:*** This land right is held by members of the Odupong Ofaakor community as well as some migrants. The Chiefs of migrant communities, like Kwadwo-Gada and Oklunkwanta, have such rights in their land. Most of the twenty-nine (29) people who hold such rights reported to have acquired the lands as gifts 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 rights 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 its ownership and use.
- ***Leaseholds:*** The majority of people, 147 (74.0%), in the area had acquired land for residential and commercial purposes and such lands had leases of various terms. In the case of residential buildings, a lease term of ninety-nine (99) years was prominent. Jei River Farms, the only large scale plantation in the area, also had a leasehold interest in their land. Apart from this, most of the leaseholders are supposed to perform other covenants like the payment of ground rents and development of the land within a three-year period. However, most of these leaseholders were not aware of the responsibilities that they have to perform to keep their land.

- **Tenancies:** Just about 12 (6.0%) in this community held tenancies. Most of the lands acquired through tenancy were being used for farming. The *Abusa* was the most common of the tenancies held in the area. It was revealed that holders of tenancies usually acquired such lands through the sub-Chiefs for farming purposes. They had free access to their land and could only use it for farming. The land could not be transferred to any other party but successors could inherit it as of right. However, such rights in land are no longer being given because of the rapid urban development in the area.
- **Licenses:** Individuals who had developed temporary structures like stores usually had licenses in the area. Similarly, some caretakers who are farming on some parts of the lands in the area were reported to be holding licenses. The holder of the license has the right to use it for a specific purpose and they do not have a right to transfer that right but their successors could benefit from the left over of their right.

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 interests in their land. As many as 147 (74.0%) of the respondents to this question held a leasehold right in their land while 29 (14.0%) held a freehold interest. Twelve (12) respondents or (6.0%) said they held tenancies and licenses concurrently in their land. Out of these totals 18 (12.0%) males and 11 (19.0%) females held freeholds, 112 (78.0%) males and 35 (63.0%) females held leaseholds, 8 (6.0%) males and 4 (7.0%) females held tenancies, 6 (4.0%) males and 6 (11.0%) females respectively held licenses in their land. Table 4.6 below shows the gender of respondents and the kind of right being held in land.



**Table 4.6: Analysis of Sex of Respondents and the Kind of Rights Held in Land**

		What Kind of Rights do you have in the Land					
			<i>Freehold</i>	<i>Leasehold</i>	<i>Tenancy</i>	<i>License</i>	<i>Total</i>
Sex of Respondents	Male	Count	18	112	8	6	144
		% within Sex of Respondents	12.0%	78.0%	6.0%	4.0%	100.0 %
	Female	Count	11	35	4	6	56
		% within Sex of Respondents	19.0%	63.0%	7.0%	11.0%	100.0 %
Total		Count	29	147	12	12	200
		% within Sex of Respondents	14.0%	74.0%	6.0%	6.0%	100.0 %

**Source: Field Survey 2010**

A significant discovery was that land grantees were not very much aware of the terminologies used in describing the various rights in land within the area. While some could explain the rights and implications therein others could not show any knowledge of the kind of land rights they held. For instance, about 98 respondents thus two-thirds of those who held leaseholds 147 (74.0%) in their land thought they had purchased the land and therefore, it belonged to them in perpetuity. They also thought they could do whatever they wished with the land and that no one could say anything about it. “I struggled to buy this land so whether it is leasehold or whatever, I do not care. It is mine.” - an interviewee reported. Almost all the freeholders, 29 (14.0%), thought they could lease portions of their land because it was given to them by the Stool to use. Although that was true, they could not tell into details what other rights they had and the limits to those rights.

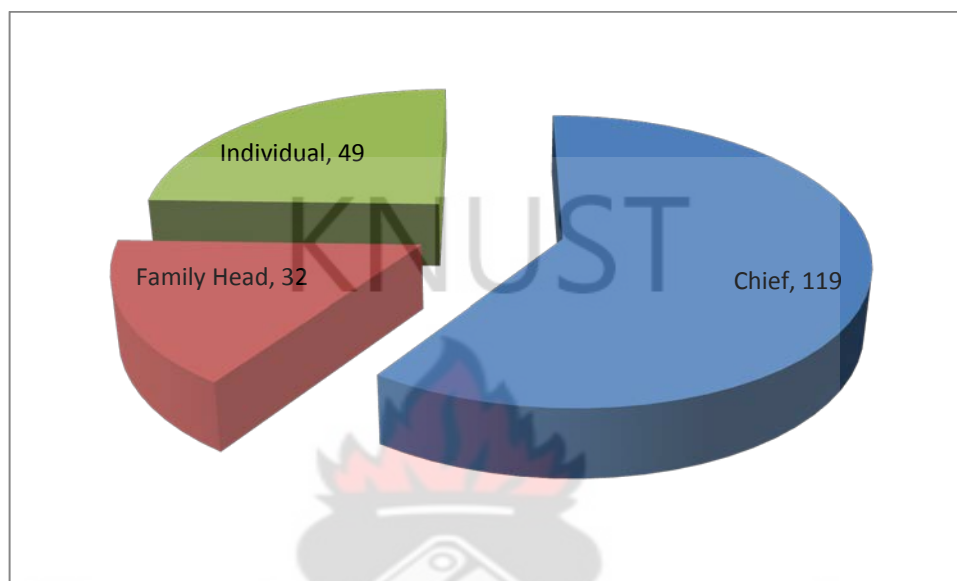
Importantly, it was discovered that 29 (14.0%) of the respondents held customary freehold interests in their land. These individuals were usually family

members who had either inherited their land or obtained it as a gift from the Stool. Those who got the land as gift from the Stool said they had acquired it as appreciation for assisting the Stool in many ways. Similarly, some settlers within the area held customary freehold interests in their land. For instance, the Chiefs of Kwadwo-Gada and Oklunkwanta confirmed they held a kind of freehold interest in their land. They, indeed, had the right to allocate these lands to other individuals. Their right was, however, limited in the sense that they usually sought the consent of the Stool in preparing documents (Indenture) for anyone who is allocated a piece of land.

Particularly, with the Kwadwo-Gada community, the Chief of that area, named Charles Gada, in an interview recounted that his late father settled in the area around the 1940s with the consent of the Odupong Stool. They were fortunate to be allocated a very large parcel of land on which they settled and cultivated but were supposed to pay yearly rents. They relocated to this present Kwadwo-Gada community five years before Ghana's independence. After the death of the *Asafotse* around the 1960's, (the head of the *Asafo* Group of Odupong Ofaakor at that time), the land was pledged to Kwadwo-Gada who financed his funeral. In the year 1999, because development was fast catching up with the area, the land was divided into three parts and a third of about 45 acres was given to the family to use forever. Similar accounts where the Chiefs gave them a third of the land they originally owned for their own use were given by other individuals holding freehold interests in the area.

The survey showed that the Chief and his elders had allocated most of the lands in the area. In reality they are the land owners and therefore have the exclusive right to allocate the land. As many as 119 (60.0%) land owners in the area acquired

their land from the Chiefs; 32 (16.0%) said it was from family heads; and 49 (24.0%) had acquired their land from individuals within the area. Figure 4.3 represents the grantors of land.



**Figure 4.3: A Pie Chart Showing the Grantors of Land**  
**Source: Field Survey 2010**

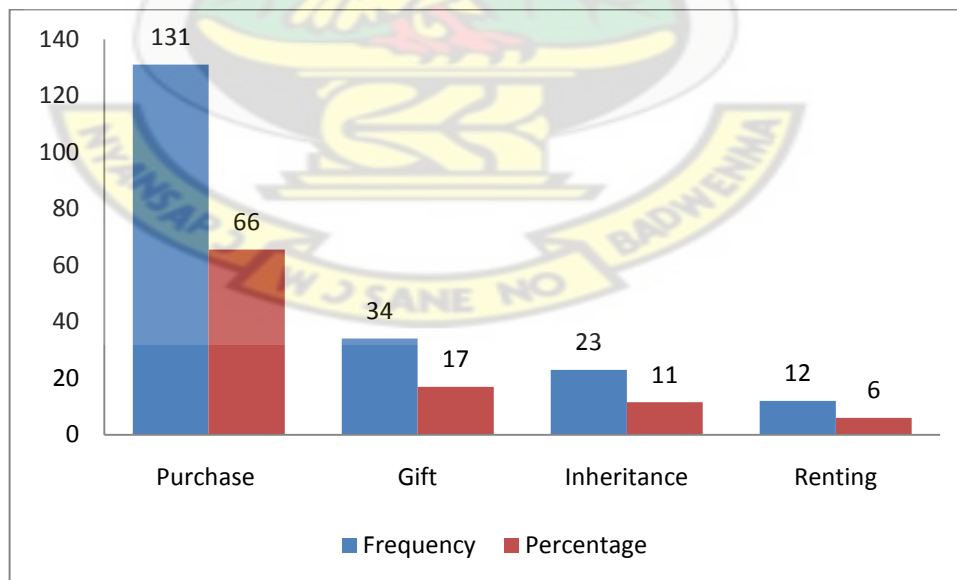
Presently, most lands in the area have been leased for building purposes. The survey revealed that 112 (56.0%) of the respondents owned only a plot of land in the area; 55 (28.0%) owned two plots of land; 26 (13.0%) owned three plots of land and 7 (3.0%) said they owned more than an acre of land. This clearly proves that most of the respondents have been allocated plots of land on leaseholds for residential development. This also confirms the trend where land use is fast changing from farming to residential and commercial uses thus depriving the people of the area of their source of livelihood. Table 4.7 shows the number of plots held by respondents.

**Table 4.7: Number of Plots Respondents Hold**

		<i>Frequency</i>	<i>Valid Percent</i>
<b>Valid</b>	<i>1 plot</i>	112	56.0
	<i>2 plots</i>	55	28.0
	<i>3 plots</i>	26	13.0
	<i>More than an acre</i>	7	3.0
<b>Total</b>		200	100.0

**Source: Field Survey 2010**

When respondents were further asked to specify how they acquired the land, 131 (66.0%) of them indicated that they purchased their land thus having a lease in the land; 34 (17.0%) got their land as a gift; 23 (11.0%) had inherited it; and 12 (6.0%) had rented the land. Indeed the majority of respondents purchased their land while the least number of respondents indicated that they had rented it which again confirms the changing land ownership structure in the area. Figure 4.4 below shows the mode of land acquisition.



**Figure 4.4: A Bar Chart Showing the Mode of Land Acquisition**

**Source: Field Survey 2010**

#### **4.2.2 Land Management Practices in the Area.**

The Odupong Ofaakor Stool owns all the land. In the past, the land was solely managed by the Chief and his elders on behalf of the members of the community. This practice has changed through the intervention of statutory management practices by which governments have established rules and regulations to regulate land management. The implementation of these regulations had, therefore, led to the establishment of various institutions which are in charge of land administration in the country, leaving the Chiefs with only the right to allocate their lands. These rights have been performed amid a lot of challenges.

The Odupong Ofaakor area covers about 204.61 square kilometers. Most of the boundary lines are not clearly demarcated and they still use natural features like trees, streams and mountains to show the extent of these boundaries. A lot of the lands which were allocated through oral grants have still not been documented. This breeds a lot of disputes among land developers. Disputes over boundaries have therefore persisted over the years.

Most land transactions are not documented because no proper record-keeping measures have been put in place. The few records that were kept in the form of copies of signed indentures, plans and other relevant land documents were not properly stored as they should be. The Customary Land Secretariat (CLS) established by the Land Administration Project (LAP) to assist in the management of land records in the area was also not functioning effectively. There is a lot of mistrust among the customary land owners and the managers of the Secretariat and this is the main cause of this inefficiency.



When respondents were asked as to what their perception of the customary and statutory tenure system was, 139 (75.0%) of them highly opted for the customary land tenure system whilst 46 (25.0%) disagreed that their rules were more effective than the statutory tenure. Though 15 (7.0%) did not respond to the question. Most of those who recommended the customary land tenure system reiterated that their rules were more effective and binding than that of the statutory tenure. For instance, land registration alone is very cumbersome. They recounted that the State's way of doing things was very bureaucratic and time wasting unlike the customary system where the transaction was completed as soon as one paid the customary fees. Table 4.8 shows the opinion of the respondents on the customary land tenure system in the area.

**Table 4.8: Opinion of Respondents on the Customary Tenure System**

		<i>Frequency</i>	<i>Percent</i>	<i>Valid Percent</i>
<b>Valid</b>	<b><i>Effective and binding</i></b>	139	69.5	75.0
	<b><i>Ineffective and non-binding</i></b>	46	23.0	25.0
	<b><i>Total</i></b>	185	92.5	100.0
<b>No</b>	<b>Responds</b>	15	7.5	
<b>Total</b>		200	100.0	

**Source: Field Survey 2010**

A further analysis of this opinion revealed that sixty-four (64) of natives of Odupong Ofaakor considered their customary tenure rules to be effective and binding while none of them thought otherwise. On the contrary, seventy-five (75) of non-native agreed that the customary tenure rules were effective and binding while forty-six (46) of the respondents who were not natives thought that the customary tenure rules were not effective and binding. A Chi-Square ( $X^2$ ) analysis showed a positive significant difference (95% confidence) between origin of respondents and the customary land

tenure in the area ( $X^2$  value 32.382). Table 4.9 shows an analysis of place of origin and the opinion of the respondents on the customary land tenure system.

**Table 4.9: Analysis of Place of Origin of Respondents and their Opinion of the Customary Tenure System**

		How effective and binding are the rules governing customary land holding in the area?		
		<i>Effective and binding</i>	<i>Ineffective and non-binding</i>	<b>Total</b>
<b>Are you a native of this community</b>	<i>Yes</i>	64	0	64
	<i>No</i>	75	46	121
<b>Total</b>		139	46	185

**Source: Field Survey 2010**

#### ***Gender and Land Tenure***

There are no clear gender discriminations against the ownership of land in the area. It was noted, however, that women owned land in the past although they could not cultivate very large farm sizes. Other women also had access to their husbands' or fathers' land which they cultivated. Most women in the past lacked the capacity to acquire land. However, these days this is changing since, according to opinions from the focus group discussions, some women now even have more money than men. Most of the youth on the other hand did not have the capacity to acquire land since the *drink money* that was required to be paid was high. The few who were privileged to own land in the area had acquired it through inheritance or gifts that they received for the services rendered to the Stool.

The people of the Odupong Ofaakor area practice the matrilineal system of inheritance. This inheritance practice allows for nephews and other male members of

the royal family to be heirs to the throne. With regards to property, the nephews have the right to inherit from their uncles. In this case, the wife and children were left with no right in land, if a man dies interstate. The lands which were cultivated in the past reverted to the family, if there were no successor. These practices have, however, changed over the years. In recent times wives and children directly inherit land and even family land could be transferred to them with the consent of other family members. The practice is no more strictly matrilineal. This was because of the passage of the Interstate Succession Law (PNDCL 111) in 1985 which has removed most of the inequalities and encouraged more women to own land. This was confirmed by the Queen Mother in an interview:

“In the past it was a bit difficult for women to have access to and own the land they want because we practice the matrilineal inheritance system but presently this is no more the practice. Now we women can own any land we want thanks to PNDCL 111 and other interventions.” (Naakye Asharkor: Queen Mother of Odupong Ofaakor).

#### **4.2.2.1 Land Acquisition Procedure**

In the past when land was in abundance, it was allocated to both indigenes and settlers to cultivate. An indigene is required to contact the Chief for a free access to a vacant land. After getting the land, the indigene may decide to present a bottle of schnapps to the Chief as a sign of gratitude. A migrant on the other hand, was usually accompanied by an indigene to see the Chief for a vacant land to cultivate or develop as a residence. He was requested to present to the Chief a bottle of schnapps and, in 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 rights 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.

This procedure of land acquisition has changed now as indigenes no longer get free access to land for whatever purpose. They are also requested to purchase it just like the settlers do. Even individuals who had large tracts of land given to them as gifts from the Chiefs to cultivate were losing part of them. This was revealed at the focus group discussions I had with land owners.

“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: 2010).

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

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 see the land owner. After the purpose for acquiring the land has been identified, both parties negotiate for the price to pay. The price of land varies mainly according to its location and by the factors of demand and supply. 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 land. After the payment of the required price, the necessary documents are prepared and the parties agree to it. Presently, it is only the head of family who has the responsibility to issue the necessary documents covering all land transactions.

The main difficulty 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 in 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 (layouts) in most parts of the area. The challenge 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 144 (72.0%) of land owners confirmed that they were satisfied whereas 56 (28.0%) were not satisfied. This was a clear indication that a lot more needed to be done to improve land acquisition procedures in the area. Out of these 99 (69.0%) males and 45 (80.0%) females were satisfied with the land acquisition procedures while 45 (31.0%) of the males and 11 (20.0%) of females were not satisfied. Table 4.10 depicts an analysis of gender and the satisfaction of respondents on the land acquisition procedure. 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 complaints of delays in the signing of indentures as well as the payment of high drink monies. Table 4.10 shows an analyses gender and the satisfaction of respondents about the procedure of land acquisition.



**Table 4.10: Analysis of Gender and the Satisfaction of Respondents on the Procedure for Land Acquisition**

			Are you Satisfied with the Procedure for Land Acquisition?		<i>Total</i>
			<i>Yes</i>	<i>No</i>	
<b>Sex of Respondents</b>	<b>Male</b>	Count	99	45	144
		% within Sex of Respondents	69.0%	31.0%	100.0%
	<b>Female</b>	Count	45	11	56
		% within Sex of Respondents	80.0%	20.0%	100.0%
<b>Total</b>		Count	144	56	200
		% within Sex of Respondents	72.0%	28.0%	100.0%

**Source: Field Survey 2010**

#### **4.2.2.2 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 and, 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 175). About 47 (24.0 %) 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, 153 (76.0%) acknowledged that they had a document covering their land while 47 (24.0%) did not have any kind of land document. A further analysis revealed that the two (2) respondents under 30 years, had land documents. With the respondents between ages 31 – 40, 33 (85.0%) had land documents while 6 (15.0%) did not have. Again 78 (86.0%) of those between the ages of 41 – 50 had land documents while 13 (14.0%) had none. Thirty-Seven, 37 (82.0%) of the respondents within the ages 51 – 60 also had land documents while 8 (18.0%) did not have any. Finally, 3 (13.0%) respondents over 60 years had documents covering their land while 20 (87.0%) did not have any land document. Tables 4.11 show an analysis of age of respondents and those who had land documents.



**Table 4.11: Analysis of Age and Respondents who had Land Documents**

			Do you have a Document Covering the Land?		<i>Total</i>
			<i>Yes</i>	<i>No</i>	
<b>Age of Respondents</b>	<b><i>Under 30</i></b>	Count	2	0	2
		% within Age of Respondents	100.0%	.0%	100.0%
	<b><i>31-40</i></b>	Count	33	6	39
		% within Age of Respondents	85.0%	15.0%	100.0%
	<b><i>41-50</i></b>	Count	78	13	91
		% within Age of Respondents	86.0%	14.0%	100.0%
	<b><i>51-60</i></b>	Count	37	8	45
		% within Age of Respondents	82.0%	18.0%	100.0%
	<b><i>Over 60</i></b>	Count	3	20	23
		% within Age of Respondents	13.0%	87.0%	100.0%
<b>Total</b>		Count	153	47	200
		% within Age of Respondents	76.0%	24.0%	100.0%

**Source: Field Survey 2010**

When respondents who had documents were further asked to specify the kind of land documents they had on their land, 41 (24.0 %) of the respondents revealed that they had unsigned indentures, which were not legitimate land documents either. Similarly, quite a good number of respondents, about 73 (41.0 %), had signed indentures; 36 (20.0 %) were still processing their indentures at the land registry; and 27 (15.0 %) of the sample had registered indentures but 23 (11.0 %) of the total

respondents failed to respond. Table 4.12 shows the kind of documents the respondents had.

**Table 4.12: A Table Showing the Kind of Documents Respondents had**

		<i>Frequency</i>	<i>Percent</i>	<i>Valid Percent</i>
Valid	<i>An Unsigned Indenture</i>	41	20.5	24.0
	<i>Signed Indenture</i>	73	36.5	41.0
	<i>An Indenture in the Process of Registration</i>	36	18.0	20.0
	<i>A Registered Indenture</i>	27	13.5	15.0
	<b>Total</b>	177	88.5	100.0
No	<b>Responses</b>	23	11.5	
Total		200	100.0	

**Source: Field Survey 2010**

#### **4.2.2.3 Land Covenants**

Usually parties to any kind of agreement have certain terms and conditions that they are supposed to comply with. The same is required when land is acquired. Both parties agree on certain terms which they must comply with. This is usually found in the document that is prepared and signed by the parties involved. Even though majority of the sampled population agreed to have a kind of covenant with the land owners, they were not certain as to the details and implications of those covenants such as to pay ground rent and the right for the grantor to re-enter the land subject to failure to develop the land within the specified three year period. Indeed most of the respondents, thus 147 (74.0%), confirmed that their lands were for building purposes and not for any other use. They could not mention other agreements that pertain to the transactions they had entered into. For instance, although leaseholders were supposed to pay a yearly ground rent as well as perform other responsibilities, most of them were not aware.

The greater number of respondents, 175 (87.0%), agreed to having a covenant with the land owners whereas, 25 (13.0%) of the respondents did not know whether they had a covenant with the land owner or not. Additionally, thirty-nine (39) of natives agreed to have a covenant with the customary land owners while twenty-five (25) of the natives said otherwise. On the contrary, one hundred and thirty-six (136) of the non-natives affirmed having a covenant with the land owners. This shows a positive significant difference (95% confidence) between origin of respondents and their opinion as to covenants in their land ( $X^2$  value 60.714).

As to what kind of covenants respondents have in their land, 101 (58.0%) of them indicated they were supposed to build on the land. Others affirmed that they were to pay ground rent and respect the rules and regulations governing the land use. In fact the responses were mainly multiple where two or more of the covenants in land were selected. However, 22 (13.0%) of the respondents were not aware of any kind of land covenant they had with the land owners. Tables 4.13 show the analysis of place of origin of respondents and knowledge of covenants in land.

**Table 4.13: Analysis of Place of Origin of Respondents and Knowledge of any Covenant with the Land Owners**

		Do you have any Covenants with the Land Owners?		
		Yes	No	Total
Are you a Native of this Community	Yes	39	25	64
	No	136	0	136
Total		175	25	200

Source: Field Survey 2010



#### **4.2.2.4 Land Use and Development**

The land use pattern within the Odupong Ofaakor area is typically a fast urbanizing rural neighbourhood. It is believed that about 40 people add up to the population of Odupong-Kpehe (Kasoa) every day. Most agricultural lands in the area are rapidly being developed into buildings for various uses. 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 parts of the study area had no planning scheme (layout) except for Odupong-Kpehe (Kasoa); the other neighbourhoods lack appropriate planning schemes. 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 a town. They sometimes reduce the normal plot sizes just to create additional plots 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 the respondents were asked whether they considered the acquisition of permits important, the majority of them, 174 (92.0%), responded in the affirmative while only 15 (8.0%) responded in the negative but 11 (5.0%) of the respondents failed to answer the question. Amongst these figures forty-seven (47) of natives said the acquisition of permits before developing was important while twelve (12) of them considered it as not important. On the contrary, one hundred and twenty-seven (127) of non-natives recognized the importance of permit

acquisition while three (3) of them thought the acquisition of permit was not important. The majority of respondents maintained that the acquisition of permits was important since it ensured that development conformed to layouts. It would also not make developers build in areas which have not been earmarked for such purposes like roads and public parks. Interestingly, some respondents thought it was important because their buildings would not be demolished when they acquired a permit. Those who respondent in the negative said they did not see the need for acquiring a permit before building on their own land. Furthermore, a significant positive difference (95% confidence) was found between the origin of respondents and the opinion of respondents on the acquisition of permits ( $X^2$  value 18.058). Table 4.14 below shows the place of origin of respondents and their opinion on the acquisition of permits.

**Table 4.14: Analysis of the Origin of Respondents and their Opinion on the Acquisition of Permits**

		<b>Do you think the Acquisition of Permit is Important?</b>		
		<i>Yes</i>	<i>No</i>	<b>Total</b>
<b>Are you a Native of this Community</b>	<i>Yes</i>	47	12	59
	<i>No</i>	127	3	130
<b>Total</b>		174	15	189

**Source: Field Survey 2010**

Out of the large number of respondents who considered the acquisition of permits before building very important, as many as 151 (76.0%) of them did not have permits while 49 (24.0%) of them agreed to having acquired a permit before developing their land. Out of these totals two (2) of the respondents under 30 years had acquired permit. Eight, 8 (21.0%) of the respondents between ages 31 – 40 had acquired permits

while 31 (79.0%) had no permits. Among the respondents between ages 41 – 50 years, 22 (24.0%) had acquired permits while 69 (76.0%) did not have permits. Again 12 (27.0%) of the respondents between ages 51 – 60 had permits while 33 (73.0%) had not acquired permits. Also 5 (22.0%) of the respondents over 60 years had acquired permits before developing their land while 18 (78.0%) did not have permits. Table 4.15 below shows an analysis of age and respondents who had acquired permits before developing their land.

**Table 4.15: Analysis of Age and Respondents who had Acquired Permit before Developing their Land**

		Did you acquire a Permit Before Developing the Land?			
			<i>Yes</i>	<i>No</i>	<i>Total</i>
<b>Age of Respondents</b>	<i>Under 30</i>	Count	2	0	2
		% within Age of Respondents	100.0%	.0%	100.0%
	<i>31-40</i>	Count	8	31	39
		% within Age of Respondents	21.0%	79.0%	100.0%
	<i>41-50</i>	Count	22	69	91
		% within Age of Respondents	24.0%	76.0%	100.0%
	<i>51-60</i>	Count	12	33	45
		% within Age of Respondents	27.0%	73.0%	100.0%
	<i>Over 60</i>	Count	5	18	23
		% within Age of Respondents	22.0%	78.0%	100.0%
<b>Total</b>		Count	49	151	200
		% within Age of Respondents	24.0%	76.0%	100.0%

**Source: Field Survey 2010**

It was also revealed that most of the respondents, 32 (65.0%), who had permits took between 6 – 12 months to acquire those permits, while 17 (35.0%) of them used under 6 months to acquire the permits before developing their buildings. Within these figures 16 (43.0%) males acquired their permits under 6 months while 21 (57.0%) used between 6 – 12 months to acquire the permits. Also 1 (8.0%) female acquired her permit under 6 months where as 11 (92.0%) of the females used between 6 – 12 months. Clearly it can also be observed that a very large number of the respondents 151 (76.0%) failed to respond because they did not have permits therefore they could not know how long it took them to acquire the permit. Table 4.16 analysis gender and the duration of permit acquisition.

**Table 4.16: Analysis of Gender and the Duration of Permit Acquisition**

		How long did It take you to Acquire the Permit?			
			<i>Under 6 Months</i>	<i>6-12 Months</i>	<i>Total</i>
<b>Sex of Respondents</b>	<b>Male</b>	Count	16	21	37
		% within Sex of Respondents	43.0%	57.0%	100.0%
	<b>Female</b>	Count	1	11	12
		% within Sex of Respondents	8.0%	92.0%	100.0%
<b>Total</b>		Count	17	32	49
		% within Sex of Respondents	35.0%	65.0%	100.0%

**Source: Field Survey 2010**

#### ***Town and Country Planning Department***

The Office of the Town and Country Planning Department at the premises of the Awutu-Senya District Assembly was a new District office. Its establishment by the

Town and Country Planning Ordinance, 1945 (Cap 84) mandates it to plan, manage and promote harmonious, sustainable and cost effective development of human settlements in the country and in accordance with sound environmental and planning principles. This District Office, among other things, was established to perform the following functions;

- Prepare district spatial development framework plans
- Prepare Structure Plans for urban settlements
- Prepare Sector Plans or detail planning schemes
- Revise spatial planning schemes
- Monitor urban development processes and recommend to management at the District Assembly
- Facilitate the processing of development and building permits and
- Contribute to the preparation of District Medium Term Development Plans

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

The Town Planning office in the District had been provided with a well furnished office for their operation. It was discovered that the District was a pilot area for the Land Use Planning and Management Project (LUPMP) which seeks to reform



land use practices in the country. As a result of this, they benefited from a well furnished office with computers, plotters, scanners, printers, furniture and some GIS software for their operation.

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

- i. Lack of Base Maps for plan preparation;
- ii. Traditional authorities have allocated public right of space to private developers within the entire approved planning scheme areas;
- iii. Private surveyors and draughtsman do not respect the activity of the Department as they condone and connive with the public to assign land demarcated for roads and public right of space to residential use;
- iv. Natural reserves and waterways were given out and developed as residential uses;
- v. Virgin lands ripe for planning schemes at Ofaakor are being demarcated by land owners and their agents against all efforts to stop them;
- vi. Land guards scare officers of the Department from operating effectively;
- vii. The District Assembly was not giving the office the needed support since no allocation of revenue generated comes to the office;
- viii. There was sub-division and rezoning of plots without the knowledge of the Department;
- ix. Planning schemes were prepared and implemented by unqualified surveyors in the district without approval of the Assembly;

- x. Developers are ignorant of the operation and functions of the Land Sector Agencies and the limits of the Customary Land Secretariat; and
- xi. There is inadequate logistics to support departmental operations, for instance, there had been no financial support from the Head Office and LUPMP for the maintenance of office equipment, vehicles, and no allowances had been provided for staff members over the period.

#### **4.2.2.5 Land Registration Procedure**

To ensure security of rights in land transactions, one requires an efficient land documentation procedure. This could be done only through registration. Deeds Registration which was governed by the Land Registry Act, 1962 (Act 122) is the prominent form of registration in the area. There was, however, a pilot Land Title Registration project under the Millennium Challenge Account Programme which covers some lands within the area. The communities of Abro Nkwanta, Kwado-Gada, Ofaakor and Larbi have some of their parcels of land under this pilot registration. In fact, a total of about 3800 parcels of land were being piloted in the Awutu-Senya District. Most land owners in the area recognized registration of land as important, though most of them had not registered their land at the time of the study. During the administration of the questionnaires some of the respondents enquired, if we could be of help in assisting them to register their land. They asked: “Why are you asking so many questions on our land, will you help us to register our lands”.

The survey revealed that majority of the respondents, 143 (72.0%), perceived the security of their rights in land through registration while 57 (28.0%) of the respondents agreed that they could develop their land without registration. Most of

them thus believed that land registration will make their land rights very secure. Out of these figures 110 (76.0%) of the males and 33 (59.0%) of the females perceived land tenure security through registration while 34 (24.0%) males and 23 (41.0%) of the females believed that when their land was developed it would be secured. A Chi-Square ( $X^2$ ) analysis confirms a positive significant difference (95% confidence) between gender and the security of land rights ( $X^2$  value 6.032). Table 4.17 shows an analysis of gender and perception of security of land rights.

**Table 4.17: Analysis of Gender and Perception of Security of Land Rights**

		How do you Secure your Interest in the Land?			
			By Registration	By Developing the Land	Total
<b>Sex of Respondents</b>	<b>Male</b>	Count	110	34	144
		% within Sex of Respondents	76.0%	24.0%	100.0%
	<b>Female</b>	Count	33	23	56
		% within Sex of Respondents	59.0%	41.0%	100.0%
<b>Total</b>		Count	143	57	200
		% within Sex of Respondents	72.0%	28.0%	100.0%

**Source: Field Survey 2010**

In an attempt to find out whether they had registered their land, most land grantees, 173 (86.0%), said they had not registered their land yet, whilst 27 (14.0%) of the respondents confirmed that they had registered their land. Among these figures seventeen (17) were males while ten (10) were females. Conversely, one hundred and twenty-seven (127) males and forty-six (46) females confirmed that they had not registered their land. This shows a positive significant difference (95% confidence)

between gender and respondents who have registered their land ( $X^2$  value 1.264). Table 4.18 shows an analysis of gender and respondents who have registered their land.

**Table 4.18: Analysis of Gender and Respondents who had registered their Land**

		Have your registered your land?		
		Yes	No	Total
Sex of Respondents	Male	17	127	144
	Female	10	46	56
Total		27	173	200

**Source: Field Survey 2010**

Almost all the 173 (86.0%) respondents who had not registered their land had complained about the unfavourable procedure of registration. These complaints ranged from the high fees charged to the bureaucratic nature of the registration procedure. Moreover, it was revealed that the actual cost of registering land was higher than the official cost. Therefore, they argued strongly for the streamlining of the whole system to enable them to register their land within a very short time and at a minimal cost.

Among the respondents who had registered their land as well as those in the process of registering their land who responded as to their opinion of the land registration procedure, 15 (21.0%) of them were satisfied with the procedure of registration while 55 (79.0%) were not satisfied. Among these figures 5 (22.0%) natives and 10 (21.0%) non-natives were satisfied with the registration procedure. On the other hand, 18 (78.0%) natives and 37 (79.0%) non-natives were not satisfied with the registration procedure. This shows that quite a greater number of the respondents had reservations about the land registration procedure in the area. This was clearer when compared with the number of grantees who had not registered their land. A Chi-Square

( $X^2$ ) analysis revealed a positive significant difference (95% confidence) between origin of respondents and satisfaction of land registration procedures ( $X^2$  value 0.002). Table 4.19 shows place of origin of respondents and their satisfaction with the land registration procedure.

**Table 4.19: Analysis of Place of Origin of Respondents and Satisfaction with the Land Registration Procedures**

		Are you Satisfied with the Registration Procedure?			
			Yes	No	Total
Are you a Native of this Community?	Yes	Count	5	18	23
		% within are you a native of this community	22.0%	78.0%	100.0%
	No	Count	10	37	47
		% within are you a native of this community	21.0%	79.0%	100.0%
Total		Count	15	55	70
		% within are you a native of this community	21.0%	79.0%	100.0%

**Source: Field Survey 2010**

#### ***The Lands Commission***

The Cape Coast office of the Lands Commission Secretariat is responsible for the Odupong Ofaakor area. This office was established by the 1992 Constitution of Ghana and subsequently 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 a more efficient and cost effective manner. The Regional office now provides land registration services to enhance land tenure security.



It was discovered that the State had acquired land for the Prison farms at Brigade and no compensation had been paid in that regard. Similarly, compensation had not been paid for lands acquired for relocating the Kasoa market. Quite apart from this, some lands had been acquired and were being used as schools, cemeteries and roads but were not being managed by the Lands Commission.

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

- i. Granting of consent and concurrence to all Stool land transactions;
- ii. Providing land registration services to all land transactions;
- iii. Providing land surveying and mapping services;
- iv. Valuation and stamping of land documents; and
- v. Resolving land disputes through the use of Alternative Dispute Resolution (ADR) mechanisms.

An interview at the Lands Commission confirmed some of the developments in the study area. A Lands Officer at the Commission indicated that the situation at Kasoa was very chaotic as a lot of people continued to move to 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 getting enlightened as to the importance of land registration with the support of the Land Administration Project.

#### **4.2.3 Land Dispute Resolution**

In the Odupong Ofaakor area, there was a challenge in ensuring the security and certainty of rights in land. This is partly as a result of the indeterminate boundaries of stool lands and the inefficient land markets resulting in encroachment and multiple sales of land parcels. Most land transactions were also not documented mainly because of the 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.

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 very prominent in the area. The Odupong Ofaakor Stool was in dispute with the Gomoa-Fette people which had made it very difficult for the Odupong Ofaakor people to parade their Chief around the Akweley area without any fight. There were also unresolved boundary disputes with the Amanfrom, Tuba, Nyayano, and Obom communities. Indeed court judgments have been given on some of these cases up to the Appeal Court but the situation still persists.

When the 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, 56 (32.0%), responded in the affirmative while 121 (68.0%) responded in the negative. However, about 23 (12.0%) of the respondents did not respond to the question with the reason that the question will bring back bad memories. Amongst these figures two (2) of the respondents under 30 had not lost any part or all of their land before. 17 (44.0%) of the respondents between ages 31 – 40 had lost their land while 22 (56.0%) had not lost their land. Again 24 (26.0%) of the respondents between ages 41 – 50 had lost their land

before while 67 (74.0%) had not. Also 15 (33.0%) of the respondents between ages 51 – 60 confirmed having lost their land while 30 (67.0%) responded in the negative. These figures confirm the fact that encroachment and multiple sales of land parcels were rife within the area and breeding a lot of disputes. It was again confirmed that because a lot of people allocate lands in the area they sometimes do enter into other peoples land unknowingly. Table 4.20 below shows an analysis of age and respondents who had ever lost part or all of their land before.

**Table 4.20: Analysis of Age and Respondents who have ever Lost part or all of their Land before.**

<b>Age of Respondents</b>			<b>Have you ever Lost Part or all of the Land you own or use before?</b>		<b>Total</b>
			<b>Yes</b>	<b>No</b>	
<b>Under 30</b>	Count		0	2	2
	% within Age of Respondents		.0%	100.0%	100.0%
<b>31-40</b>	Count		17	22	39
	% within Age of Respondents		44.0%	56.0%	100.0%
<b>41-50</b>	Count		24	67	91
	% within Age of Respondents		26.0%	74.0%	100.0%
<b>51-60</b>	Count		15	30	45
	% within Age of Respondents		33.0%	67.0%	100.0%
<b>Total</b>	Count		56	121	177
	% within Age of Respondents		32.0%	68.0%	100.0%

**Source: Field Survey 2010**

The majority of land purchasers, 111 (56.0 %), responded that they had had a counter claim to their land before while 89 (44.0%) had never experienced any counter claim. Out of these figures 36 (56.0%) of the natives had had counter claims on their land while 28 (44.0%) had not. Also 75 (55.0%) of the non-natives have had counter claim on their land while 61 (45.0%) had not. Table 4.21 below shows the place of origin of respondents and those who had had a counter claim of their land.

**Table 4.21: Analysis of Place of Origin and Respondents who have had any Counter Claim to their Land**

			Have you had any counter Claim to your Land?			
			Yes	No	Total	
Are you a Native of this Community?	Yes	Count	36	28	64	
		% within Are you a native of this community	56.0%	44.0%	100.0%	
	No	Count	75	61	136	
		% within Are you a native of this community	55.0%	45.0%	100.0%	
Total			111	89	200	
			% within Are you a native of this community	56.0%	44.0%	100.0%

**Source: Field Survey 2010**

When those who suffered disputes over their land were, however, asked to specify the way they were resolved, the majority of them 94 (73.0) indicated that the Chiefs and their elders intervened. Ten, 10 (8.0%) went to the courts to seek for justice, 8 (6.0%) went to a family head while 17 (13.0%) of the respondents used other means like talking to the other party or consulting renowned people in the community to

intervene in resolving the situation. Out of these figures 10 (19.0%), 31 (57.0%), 8 (15.0%), 5 (9.0%) of respondents who were natives of the Odupong Ofaakor area used the courts, chief and elders, family heads and other forms of dispute adjudication procedures respectively. Also 63 (84.0%) and 12 (16.0%) of the respondents who were not natives used the chief and elders and other forms of dispute adjudication procedures respectively. Table 4.22 shows an analysis of place of origin of respondents and the procedure for dispute adjudication.

**Table 4.22: Analysis of Place of Origin of Respondents and the Procedure of Dispute Resolution**

			How was it Resolved?					
			Court	Chief and Elders	Family Head	Others	Total	
Are you a Native of this Community	Yes	Count	10	31	8	5	54	
		% within Are you a native of this community	19.0%	57.0%	15.0%	9.0%	100.0%	
	No	Count	0	63	0	12	75	
		% within Are you a native of this community	.0%	84.0%	.0%	16.0%	100.0%	
Total			Count	10	94	8	17	129
			% within Are you a native of this community	8.0%	73.0%	6.0%	13.0%	100.0%

**Source: Field Survey 2010**

The Chiefs and elders of the Odupong Stool usually sat in state at the palace on Tuesdays and Fridays every week. This was the period they discussed issues affecting their community including matters affecting land. During this period land disputes were brought before them for arbitration. After complaints have been made a date is fixed for the parties in dispute to appear before the council of Chiefs and elders.



The issue is thoroughly discussed in the presence of the disputing parties and a ruling is made.

The Customary Land Secretariat also had a dispute arbitration mechanism that was used when such situations arise. A dispute arbitration committee was constituted by the staff of the secretariat to attempt to deal with any land dispute which was brought before it. Those that were not resolved were reported to the palace for a second attempt at arbitration.

The respondents particularly indicated that though the customary system of arbitration was not so efficient, they preferred to go for it because the Chiefs and elders were the land owners and would be in the best position to resolve any such case when it arises. The decisions from customary arbitration were not so binding. The members of the focus group discussion therefore questioned why the State could not give the Chiefs some power to ensure that their judgments were enforced to the letter. As to why the State courts were not used as a first instance in dispute situations participants of the focus group discussion revealed:

“Land disputes in this area are very common and most at times we want the issues to be resolved quickly so that we can build but the courts do not provide that. There are always delays in using the courts and the huge cost involved does not encourage us to use them though we prefer them to the customary arbitration” (Focus Group Discussion: 2010).

In fact, this reflected in the responses obtained when they were asked to specify their preference for a form of dispute arbitration mechanism where the majority 107 (53.5%) choose the state courts because their decisions were more binding.

With the preference for a dispute adjudication mechanism, most respondents, 107 (54.0%), favoured the use of the state courts for the resolution of their

disputes whilst 93 (46.0%) of them chose the customary system of dispute arbitration. Out of these responses eighty-five (85) males and twenty-two (22) females preferred the use of the courts while fifty-nine (59) males and thirty-four (34) females said the customary arbitration was ideal. A positive significant difference (95% confidence) was shown between gender and the choice of a dispute resolution mechanism ( $X^2$  value 6.317). Among those who chose to use customary arbitration of disputes a large number reasoned that since the Chiefs and elders were the land owners, they would have the capacity to deal with the situation promptly, although they noted that they would go to the law courts, if the dispute was not resolved. On the contrary, most of the respondents who preferred to use the State courts argued that decisions from the courts were binding on the parties. Table 4.23 shows the gender of respondents and the preference of a dispute arbitration mechanism.

**Table 4.23: Analysis of Gender and the Preference of a Dispute Resolution**

		<b>Mechanism</b>		
		<b>Which of the following arbitration forms will you prefer when you are confronted with land disputes?</b>		
		<i>State courts</i>	<i>Customary mechanism</i>	<b>Total</b>
<b>Sex of Respondents</b>	<i>Male</i>	85	59	144
	<i>Female</i>	22	34	56
<b>Total</b>		107	93	200

**Source: Field Survey 2010**

Moreover, just about 88 (61.0%) of the respondents who used various dispute resolution mechanisms were satisfied with how it was resolved while 57 (39.0%) were not satisfied. Among these figures were 63 (57.0%) males and 25 (71.0%)

females who responded favourably to the kind of dispute resolution mechanism they used while 47 (43.0%) males and 10 (29.0%) of the females showed dissatisfaction. This confirmed a positive significant difference (*95% confidence*) between gender and satisfaction with a dispute adjudication mechanism ( $X^2$  value 2.230). Table 4.24 shows the gender of respondents and their satisfaction with a dispute resolution mechanism.

**Table 4.24: Analysis of Gender and the Satisfaction of Respondents with a Dispute Resolution Mechanism**

			Were you Satisfied with how it was Resolved?		
Sex of Respondents	Male	Count	Yes	No	Total
		% within Sex of Respondents	63	47	110
			57.0%	43.0%	100.0%
	Female	Count	25	10	35
		% within Sex of Respondents	71.0%	29.0%	100.0%
Total		Count	88	57	145
		% within Sex of Respondents	61.0%	39.0%	100.0%

**Source: Field Survey 2010**

#### **4.2.3.1 The Customary Land Secretariat (CLS)**

The many identified challenges in land tenure and management in Ghana has resulted in the Land Administration Project (LAP). An aspect of the institutional reform component of this project focuses on streamlining customary land administration by establishing new and strengthening existing Customary Land Secretariats (CLS). This is aimed at making customary land administration transparent and accountable to the people. To this end, pilot CLS were established to facilitate the implementation of the

concept and so far, there are about 37 established CLS in the country. There is no doubt that the success of this project will improve the land rights and market situation in the country. The ultimate goal of the CLS was the provision of a database of land ownership which has multiple benefits in terms of eliminating land disputes, enhancing security of land tenure and broadening rights to land through formal transaction which will eventually attract and promote investment in the country.

The Odupong-Kpehe's Land Secretariat was one of the new pilot Secretariats established under the LAP project. The land owners were required to provide a suitable office space while the LAP project furnished their office with computers, printers, scanners, a photocopier, furniture and a filing cabinet. A motor bike was also provided to make the staff mobile. The LAP project also provided training for the staff of the CLS to ensure effective and accountable land management. Again, the land owners agreed to meet the recurrent expenditure and provide details of all land transactions to the Secretariat. They were also required to constitute a land management committee and allow changes where necessary to existing land management structures.

The staff strength of the Secretariat was nineteen (19). Four (4) were office staff and fifteen (15) constituted the field staff. Those at the office do the administrative work while the field staff regularly monitors developments on the lands and report to the office. They also take prospective purchasers of land to inspect vacant plots available. According to the head of the Secretariat their functions include:

- i. Keeping and maintaining accurate and up to date records of land dealings in the locality

- ii. Resolving all land disputes and preventing them from regenerating into conflicts
- iii. Facilitating the proper documentation of all land rights in the community
- iv. Educating people on issues of land acquisition, use and registration
- v. Keeping records of fees and charges associated with land grants and periodically rendering accounts
- vi. Collaborating with the land allocation committee to properly manage lands in the community.

The Secretariat identified a number of constraints that hinder the effective performance of its work to include:

- i. The CLS does not have most of the records of land transactions taking place in the area. This is because a lot of people, including the sons and nephews of the Chiefs and elders of the area, allocate most of the lands and most of these allocations do not pass through the office;
- ii. This situation was reported to have led to a lot of encroachments and multiple sales of lands which bring about disputes. “Our office is inundated with such cases all the time”, an interviewee reported;
- iii. The CLS does not handle a lot of the land transactions in the area making revenue to the office very small. This does not help in the effective running of the office;
- iv. There are always delays in signing of indentures prepared putting a lot of pressure on the CLS most of the time;
- v. The most significant problem was that there was lack of effective coordination between the palace and the CLS which is the cause of this delay. Indeed a lot of



mistrust exists amongst the managers of the CLS, the Chiefs and elders and other family members.

#### **4.2.4 Changing Land Tenure and Livelihoods**

Land under the customary tenure is believed not to be alienable and members of the land owning communities could cultivate any portion of the land so far as no other member was doing so already. This was also the practice in rural Odupong Ofaakor for many decades when land was used exclusively for farming. Crops such as maize and cassava, vegetables and lately pineapples were usually cultivated. About ten (10) years ago there were a lot of large scale pineapple plantations in the area. These pineapples were grown for export and indeed they had ready market abroad bringing in a lot of money. Most of the people in the area including the youth and women were engaged in these plantations as farm hands. However, this has persistently changed as a result of the dynamics in population growth and rapid urbanization. Land was therefore, being commoditized for residential and commercial uses. This had put a lot of stress on lands in the area aside the inefficiencies of the land market.

This situation has serious implications for sustaining the livelihoods of people in the area. A typical scenario was that Jei River Farms had appropriated most of the land for large scale pineapple plantation in the study area and as a result, agricultural land was no longer available for allocation. Jei River Farms was the only large scale pineapple plantation left in the area. It was also revealed that most individuals who were cultivating in the area were caretakers of people's lands. In confirming this situation an attempt was made to acquire a piece of land for farming but it failed. We were rather directed to go to other communities like Bawjiase and its environs to get some. Lands in

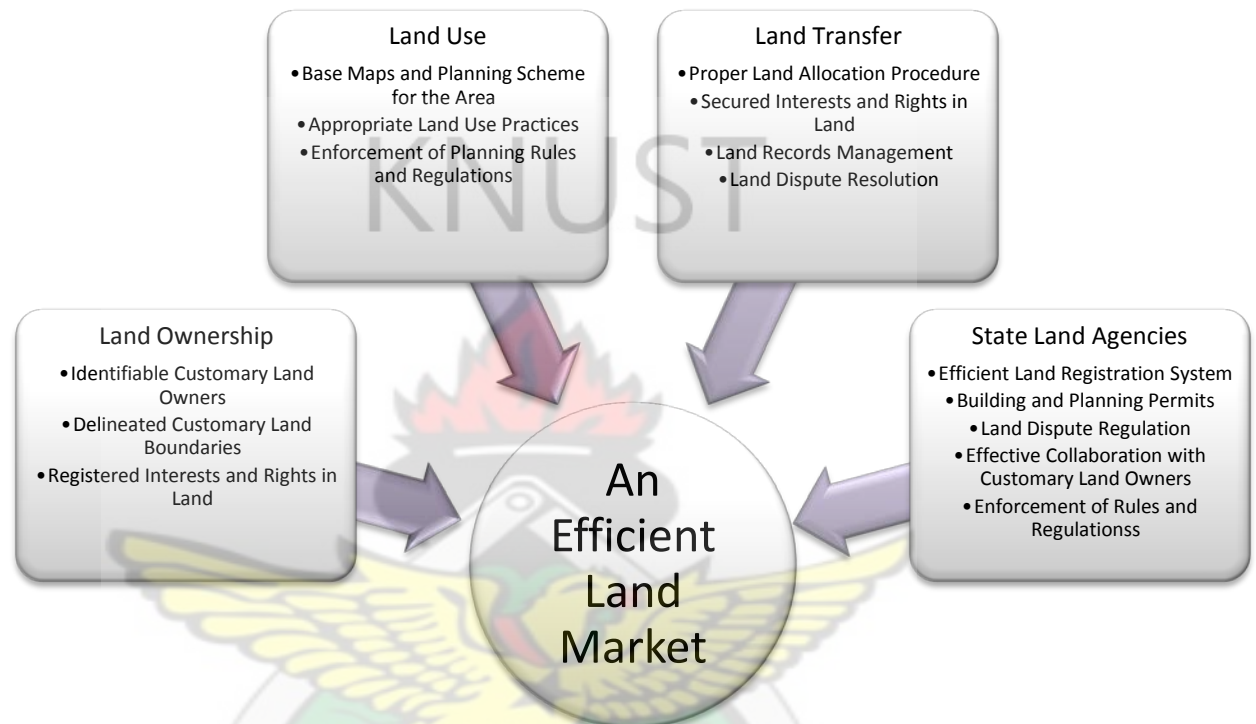
these areas were not for the people of Odupong Ofaakor and therefore, were not part of the study.

An interview with Charles Gada, the head of the Kwadwo-Gada community revealed that most of them had acquired farm lands from other areas while the youth were either going to school or learning a trade. Others were also doing meager jobs to support their livelihoods. He noted that trades such as masonry, carpentry, mechanics and electricians were most common and they got jobs from people who were constructing their buildings in the area. Most of the women engaged in trading activities at the notable Odupong-Kpehe (Kasoa) market.

#### **4.2.5 Land Tenure Practices and Efficiency of the Land Market**

The effectiveness of regulating land tenure practices in Ghana is a prerequisite for ensuring an efficient land market. In Ghana both customary and statutory tenure institutions interplay in the land market. They are involved in various activities which affect the land market one way or the other. Therefore, there is the need for an effective collaboration of all these institutions in their practices. The land market situation as had been presented revealed a much disorganized scene where there were a lot of challenges. In the Odupong Ofaakor area the allocation of land was problematic. Various individuals, apart from the Chief and his elders, do allocate land. The unavailability of base maps and planning schemes, as well as the activities of unqualified surveyors in the area has compounded the situation. The end result has been widespread encroachment and multiple sales of land which was breeding a lot of disputes in the area. Most landowners in the area have also not registered their land and the boundaries of the customary lands were yet to be delineated. An effective

collaboration of all stakeholders will, however, ensure that sanity is brought into the management of land in the area. Below is a pictorial illustration of the relationship between land tenure practices and the efficiency of the land market.



**Figure 4.5: A Chart Showing the Concept of an Efficient Land Market**  
**Source: The Author, 2011**

Importantly, this concept has been presented graphically to illustrate the situation in the Odupong Ofaakor area. It is noteworthy that when land tenure practices like being able to legally identify the customary land owners through well delineated and registered boundaries and ensuring proper land use practices by having base maps and planning schemes for the area are available, an efficient land market will automatically prevail. Similarly, if tenure practices like an improved land transfer system exist and there is a proper land allocation procedure, the land market would be

efficient. Registered land rights, good land records management and dispute resolution mechanism will ensure same. In addition, professionalism in the State Land Agencies that will provide an efficient land registration and building and planning permit issuing procedures, effective land disputes adjudication mechanisms and the enforcement of land tenure rules and regulations, as well as effective collaboration with the customary land ownership institution will create sanity in the system. All these must indeed interact in a very efficient and effective manner to improve the land market in the area.



## **Chapter Five**

### **Discussion of Results**

The results of the investigation are thoroughly discussed in this section of the report. It is significant to note that very revealing findings have been made from this investigation. The discussions have been done bearing in mind the literature review. This is referred, to bring about a holistic view of the situation in the Odupong Ofaakor area. Typically, the people of Odupong Ofaakor are losing their land to residential developers resulting in farmers in the area losing their livelihoods. The land market situation in the area is also very chaotic with a whole lot of problems. These include encroachment and multiple sales of lands which often lead to disputes.

#### **5.1 Demographic Characteristics of Respondents**

The study revealed that most of the people who had acquired land were not indigenes of the Odupong Ofaakor area. Indeed only 64 (32.0%) of the respondents were indigenes whilst the majority, constituting 136 (68.0%), were not indigenes of the area. Of these figures 51 (35.0%) males and 13 (23.0%) females were indigenes of the area while 93 (65.0%) males and 43 (77.0%) females were non-indigenes. Obviously most of the respondents were not from the Odupong Ofaakor area. Out of those who were not indigenes, as many as 83 (61.0%) of them did not come from anywhere in the Central Region. This clearly shows an influx of people of other origins into the study area. The Ewe tribe was the dominant group of people who settled in the area in the past. In fact, the Chiefs of Kwadwo-Gada and Oklunkwanta communities are Ewes. They were originally farmers but now, as a result of inadequate farm lands, they engage in other



activities to support their livelihood. Other tribes found in the area include the Gas, Fantis, Walas/Dagartis, Moshies and Basares.

Significantly, male respondents were more than the female. About a third, 56 (28.0%), were females whilst 144 (72.0%) were males. Those who responded to the questionnaires were supposed to own land in the area. The fact that about a third of females responded confirms the trend that females now own land. In the past most women did not own land although there was no gender discrimination with respect to land ownership. Usually, their husbands owned the land while they held rights to use it. It was also revealed that the perception that majority of women did not have the capacity to acquire land in the area has changed. With regards to age, it was revealed that most land owners were above the youthful age group. Forty-one (41) of the respondents were below the age of forty. Even that, 39 (20.0%) of them fell within the age group of 31- 40 years. Obviously, the majority of the youth in the area did not own land. This was because they did not have the financial capacity to acquire the land. Others thought that land acquisition was not a priority. Importantly, the situation where most people above age forty are those who can acquire land must be a serious concern for all stakeholders involved in the poverty reduction drive.

Furthermore, it was discovered that majority of people who owned land in the area had only Middle School or Junior Secondary School education. Actually 84 (42.0%) had attained JSS/Middle School qualification whilst 31 (16.0%) did not have any educational qualification at all. The others had secondary, technical or tertiary education. In contrast with the employment status of respondents it was observed that the majority of the respondents, 135 (68.0 %), were self employed. These people were

usually found in the informal sectors of the economy either as farmers, traders or practicing a kind of trade. The rest were formally employed by the private sector or were either in the public or civil service.

## **5.2 Land Tenure and Management Practices in Odupong Ofaakor**

### **5.2.1 Land Ownership and Interests in the Area**

The fact that the greater part of lands in Ghana is communal in nature where the land is held by stools, skins and families in trust for the members of their community is undisputable. It is argued that in spite of various interferences which have resulted in changes over the years, the customary tenure system still remains resolute (Kasanga et al. 1996; Woodman, 1996). Amid the diverse concepts and practices inherent in this tenure system, certain similarities exist (Kasanga and Kotey, 2001; Agbosu et al., 2007). These similarities were found to be present at the Odupong Ofaakor area. The Odupong Stool was therefore, the allodial owner of about 204.61 square kilometers (40%) of the land area in the Awutu-Senya District. This was acquired through discovery and settlement by an ancestor Nai Odupong who was a hunter. This allodial interest is believed to be communally owned and therefore, it is managed by the Stool on behalf of the members of the community. This type of allodial interest in land is described by Bentil-Enchil, (1964) as based on the principle that a transfer can only be made by the Chief subject to the consent and concurrence of the principal elders of the stool. Other community members were entitled to hold derived interests like the customary freehold, tenancies and licenses. These facts agree with the literature (Kasanga et al. 1996; Woodman, 1996; Aryeetey et al., 2007a). There were sub-Chiefs within the area who are responsible for their respective jurisdictions and therefore take

care of issues pertaining to land tenure in those areas. They are accountable to the Paramount Chief of the Odupong Stool. These sub-Chiefs also do allocate land and ensure that disputes affecting land in their areas are properly resolved. Significantly, there was no incidence where the allodial interest in land was held by a sub-Stool or an individual in the area. Therefore, the courts decisions in the cases *Nyasemhwe and Ano. v. Afibiyesan* [1975] 1 G.L.R. (297-300) and *James Town (Alata) Stool and Ano. v. Sempe Stool and Ano.* [1989-90] G.L.R. 393 where it was held that individuals and sub-Stools respectively could hold the allodial interests does not prevail in the area.

The study area had various derived interests and rights in land although the leasehold has become the dominant form of right in land in the area as a result of the exigencies of housing development resulting from increased population growth in the area. Most people are now having access to land for residential and commercial purposes thus putting a lot of pressure on agricultural land. As a result, allocation for agricultural use is no longer being done since such lands are not available. Usually a plot or two is purchased for the development of buildings. These leaseholds on the average are purchased at very exorbitant prices since demand for land is very high in the area. The *drink money* that is paid is now determined by the market value, instead of the bottle of schnapps which used to be the consideration. Depending on the location of the plot, an appropriate sum is charged as the *drink money*. Usually plots located within the more urbanized areas as well as those along major road networks attracted higher prices. This phenomenon was also reported by (Kasanga and Kotey, 2001). Quite a number of land owners, 29 (15.0%), also had customary freehold interests. These individuals had the right to allocate the land to other individuals with the consent of the

Odupong Stool. Most of the owners of these freehold interests are believed to have acquired it as a gift or through inheritance. That the customary freehold is perpetual and heritable was true though no case of abandonment was confirmed to make it revert back to the stool. Evidently, the incidental rights that a customary freeholder is entitled to are overwhelming. This makes it look like an allodial title in present days although it is not. Therefore, Asante's (1975) assertion that the usufruct in stool land has matured into a 'freehold' owing to modernisation is quite true.

It was typical in the area that most people could not explain the kind of rights and interests that they believe to be holding nor their implications. For instance, most leaseholders thought they had purchased the land and so it was theirs and therefore were not obliged to any other restrictions. Only a few knew of the 99 year term in the leasehold clause. This situation is definitely one of the causes of the chaos in the allocation and development of land in the area. The Chief and his elders allocate most lands within the community although other individuals and sub-Chiefs also do allocate land but with the approval of the Chief. The head of family signs all the land documents in the area because the Chief is old and infirm. The issue of land allocation is very problematic in that, usually, apart from those supposed to allocate land, the uncles, nephews and sons of these people also do same creating a situation where there is widespread multiple sale and encroachment of lands in the area. These have resulted in a lot of land disputes and litigations.

### **5.2.2 Land Management Practices in the Area.**

Most people who own land in the Odupong Ofaakor area still prefer the customary tenure system despite the many statutory interventions. As a result of these statutory

interferences the Chiefs and elders, who are supposed to manage lands in trust for their members, have been restricted to the allocation of their land. Apart from the allocation of land, they also assist in dispute arbitration and collaborate with the State authorities in performing their functions. These collaborations need to be intensified to help streamline the challenges in land allocation in the area. This view is also held by Kasanga et al. (1996), who claim rightly that, regardless of these intervening laws land transfer, land rights and marketing activities are still being governed by the Stools, family heads and individuals amid all the imperfections.

The area has no properly demarcated boundaries and natural features like trees and streams are still being used to delineate their boundaries. This situation has created a lot of disputes. It is not surprising therefore, that the people of Odupong Ofaakor have boundary disputes with almost all their neighbours. Some of these disputes have gone through the court system but still persist. A typical dispute which has persisted is that between the people of Odupong Ofaakor and the Gomoa-Fette community. This always results in clashes when the Odupong Ofaakor people attempt to parade their chiefs around the Akweley area.

Importantly, no proper land records keeping practices were observed. Most oral grants made in the past have not been recorded yet. These circumstances have also been reported elsewhere to be the cause of the many land disputes in Accra (Antwi, 2002). Even the Customary Land Secretariat which was established to ensure that these customary land holders keep accurate records is not performing effectively. A number of constraints have been enumerated which prevent them from being effective in their work. Prominent among these problems is the mistrust between the Chiefs and elders



and the managers of the CLS. Also, since a lot of people allocate land in the area which does not pass through the Secretariat, they are denied those records.

Significantly, there was no obvious gender discrimination with land ownership in the area but it was inferred that women were mostly not in the position to acquire and own land. In the past when land was in abundance women had unlimited access. They usually cultivated their husbands' and fathers' land. Indeed, women seem not to be economically and socially empowered to deal in land but this practice seems to be changing now. Although the inheritance practice in the area is matrilineal, the situation has changed. The practice is no more strictly matrilineal. This was because of the passage of PNDCL 111 in 1985 which has removed most of the inequalities and encouraged more women to own land. The findings showed that customary land tenure practices were rapidly changing according to demographic, market and cultural influences. However, these changes have occurred amid a lot of challenges, most of which have resulted from the inefficiencies that exist in both the customary and state institutions supposed to have oversight on land management in Ghana.

#### **5.2.2.1 Land Acquisition and Documentation**

The acquisition of land is quite simple in the Odupong Ofaakor area. Anybody who requires land is directed to see the land owner and after the use of the land has been identified, the price is negotiated. Although prices of lands are quite high, one could pay in instalment. However this is changing due to the rush for land in the area. The difficulty is being able to identify a genuine land which will not bring any problems in the future. Evidently, only the Chief is supposed to sign all land documents emanating from the area but since he is old and sick the signing delays. However, the case where

several individuals also allocate land creates a lot of anarchy in the area. Apart from the Customary Land Secretariat (CLS), the sons, nephews and uncles of the Chiefs and elders do allocate land. Most of the time, the land is paid for before any document is given to the grantee. Even after the document is issued, since not all land owners have documented their oral transactions on their land, other parties also claim to be the owners of those lands. The outcome is the increasing rate of disputes within the area usually resulting from the persistent multiple sale and encroachment of land. This problem is being aggravated by the fact that there are no planning schemes in the area and that unqualified surveyors normally demarcate most of these lands.

Appropriate sections of the Conveyance Decree of 1973 (NRCD 175) spells out the procedures required for land acquisition. This includes the fact that transfer of interest can only be done with a written document signed by the person making it or his duly authorized agent. It was discovered, however, that most of these provisions were not complied with. A number of land grantees do not have the appropriate documents to support their claim. Quite a number of oral grants were also available, particularly with the customary freeholders. These grantees did not have any document covering those agreements made some time ago. Most of those that had a kind of document on their land did not have a registered document. Actually, 153 (76.0%) acknowledged that they had a document covering their land while 47 (24.0%) did not have any kind of land document at all. Significantly, 41 (23.0 %) of the respondents who had a kind of document on their land had unsigned indentures which were not genuine either. Likewise, 73 (41.0 %), had signed indentures; 36 (20.0 %) were still processing their indentures at the land registry; and 27 (15.0 %) of the sample had registered indentures.

Additionally, most of the grantees of land were not aware of the details of the covenants that pertain to their land and their implications. The majority of respondents, 175 (87.0%) indicated to having a covenant with their land owners while 25 (13.0%) were not aware of any covenant. For instance, most of the leaseholders in land were not aware that they were supposed to pay a yearly ground rent on their land. Nevertheless, others confirmed the knowledge of some covenants on their land such as to build and use the land for that purpose only. The seriousness of these imperfections has been emphasized by Larbi et al., (1998) and Antwi, (2002), who assert that the informal nature of customary tenure have resulted in a situation where majority of land owners have houses built and occupied but the freeholder's right are not officially recognized. Indeed, the argument for formalization of customary land tenure suggests a proper documentation and registration of all land transactions. A good registered title in land will prevent land disputes and all the other inefficiencies which currently prevail in land tenure and management in the study area and elsewhere.

#### **5.2.2.2 Land Registration**

The security of land tenure in the Odupong Ofaakor area is seriously challenged. This is due to the anarchy in land allocation and the fact that most oral transactions are yet to be put into writing. The customary land boundaries have not been demarcated yet and cases of encroachment and multiple sale of land abound, breeding a lot of disputes in the area. The majority of respondents to the questionnaire 143 (72.0%), believed that registering their land will ensure security of their rights while about 57 (28.0%) of them thought their land will be more secured, if they develop them. Significantly, 110 (76.0%) of males and 33 (59.0%) of females perceived land tenure security through

registration while 34 (24.0%) males and 23 (41.0%) of the females alleged that when their land was developed it would be secured. A Chi-Square analysis with a (95% *confidence*) revealed a positive significant difference between gender and security of land rights at ( $X^2$  value 6.032). Although most people in the area knew the importance of land registration, just a few had registered their land. The responses received indicated that only 27 (14.0%) of the respondents had registered their land. The remaining 173 (86.0%) had not registered their land. Respondents complained of the bureaucratic nature and high cost of land registration. The actual cost of registering land was identified to be higher than the official cost. This was because most people in the area usually sought the assistance of agents who did the registration on their behalf.

Those who had done the registration themselves indicated that they usually had to pay additional monies without being issued receipt, just to push their files through. Indeed the challenges of land registration frustrated most land grantees from going ahead with the registration of their land. Clearly, the land registration procedures had serious defects which needed to be checked. In actual fact, title registration was reported in the literature to have suffered from a number of design and implementation defects (Kasanga and Kotey, 2001; Somevi, 2001; and Sittie, 2006) as the institutions of State responsible for registration had been inefficient. Similarly the Land Registry Act, 1962 (Act 122) which regulates Deeds Registration is outdated with its numerous challenges. In reality, the lack of registration among the people of Odupong Ofaakor and other areas is because of the numerous problems facing the institutions supposed to provide these services.

### 5.2.2.3 Land Use and Development

The land use characteristics of the Odupong Ofaakor area depicts a rapidly urbanizing area resulting from the changing rural set up where most agricultural lands are being built up and being turned into townships. Land is no longer being allocated for agricultural purpose but rather leasehold rights are being created for the development of houses. This raises a lot of planning concern particularly since there are no planning schemes in most of the area yet lands are being allocated every day. The fact that a lot of people who are members of the customary land holding community are involved in the allocation of land by collaborating with unqualified surveyors to demarcate the plots clearly depicts the kind of chaos in the area. It was, therefore, not surprising that multiple sale of land and encroachment were prevalent in the area. Although the majority of people in the area considered the acquisition of permits before developing very important, almost all of them had no permits. It was revealed that 151 (75.0%) of them did not have permits while 49 (25.0%) of them had acquired permits before developing their land. The analysis of age and respondents who acquired permits before developing their land revealed that two (2) of the respondents under 30 years had acquired permit. Eight, 8 (20.0%) of the respondents between ages 31 – 40 had acquired permits while 31 (80.0%) had no permits. With the responses from ages between 41 – 50 years, 22 (24.0%) had acquired permits while 69 (76.0%) did not have permits. Again 12 (27.0%) of the respondents between ages 51 – 60 had permits while 33 (73.0%) had not acquired permits. Also 5 (22.0%) of the respondents over 60 years had acquired permits before developing their land while 18 (78.0%) did not have permits. It was also discovered that the majority of respondents, 32 (65.0%) who had permits took



between 6 – 12 months to acquire those permits, while 17 (35.0%) of them used under 6 months to acquire the permits before developing their buildings.

The Town Planning office in the District seems to be very much aware of the situation but appears helpless. Their capacity to enforce decisions that will ensure an efficient planning is limited by the unavailability of base maps and planning schemes in the area. It was reported that there was sub-division and rezoning of plots without recourse to the office. Again, unqualified surveyors and the Chiefs had collaborated to allocate public rights of space and virgin lands earmarked for planning to developers whilst land guards terrorized staff when they went out for inspection. Amid these challenges the Town Planning office had been trying to create awareness among these communities through education. Nevertheless, the situation continued unabated.

### **5.2.3 Land Dispute Regulation**

The overwhelming land dispute situation in the Odupong Ofaakor area raises more questions as to the effectiveness of the interventions made so far by the Land Administration Project. The area has benefited from a trained staff and well furnished office for the Customary Land Secretariat and there are other interventions like the pilot land title registration by the Millennium Development Authority and the pilot Land Use and Management Project in the District to improve land tenure and management. Yet the situation of multiple sale and encroachment of land abounded. This raises questions about how effective these projects have been since disputes in the area is overwhelming. The land boundaries with other communities had not yet been demarcated. A lot of people were involved in the allocation of land in the community and most oral land transactions were also not properly documented. Perhaps this is the cause of the surge in

land disputes in the area. It was noteworthy therefore, that when respondents were asked whether they had had a counter claim on their land before, 111 (55.0%) of them responded in the affirmative, while 89 (45.0%) responded in the negative. It was again revealed that 36 (56.0%) of the natives had had counter claims on their land while 28 (44.0%) had not. With the non-natives, 75 (55.0%) of them had had counter claim on their land while 61 (45.0%) had not.

In resolving land disputes in the Odupong Ofaakor area various procedures were identified to be at play and the two major ones were the state courts and the customary arbitration. It was revealed that most people in the area, 94 (73.0%), sought redress with the Chiefs and elders through customary arbitration, while only 10 (8.0%) went to the courts. Other forms of dispute resolution that prevails in the area include consulting family heads 8 (6.0%) and other dispute arbitration mechanisms like consulting renowned individuals in their locality, 17 (13.0%) to assist in resolving the issues. It was revealing that most of those who had used customary arbitration considered it not so effective. These respondents reiterated that often, decisions reached were not binding on the parties. One party can renege on the agreements arrived at Crook et al., (2007). Understandably, therefore, the majority of the respondents preferred the state courts as a way of resolving their disputes when they were asked to determine their preference for a dispute resolution mechanism. In fact, 107 (54.0%), of the respondents preferred the courts while 93 (46.0%) chose the customary form of arbitration. Obviously land disputes in the Odupong Ofaakor area is widespread and proactive measures must therefore be put in place to resolve these disputes.

#### **5.2.4 Changing Land Tenure and Livelihoods**

The rate at which agricultural land is being converted into residential developments is alarming. This is because it is seriously affecting the livelihoods of both indigenous and settler farmers in the area. The people of Odupong Ofaakor are mostly farmers who were into the cultivation of food crops and vegetables like maize, cassava, pepper and cabbage. At a point in time, pineapple cultivation and export earned them a good income. The problem currently is that almost all of them had lost their farm lands making them turn to other neighbouring communities like Bawjiase and Bontrase to acquire land. The youth were reported to have turned into learning trades like masonry, carpentry and plumbing jobs while most of the women engage in trading activities at the Kasoa market. Indeed, this situation was reported by Kasanga et al., (1996) when they affirmed that as the land market develops people tend to lose their agricultural land for residential development which aggravates poverty. This situation was similarly reported in a more elaborate form by Aryeetey et al., (2007a). The Odupong Ofaakor people are really losing their livelihoods to settlers for residential development. In a focus group discussion participants said:

“Our lands are finished! We no longer have farm lands to cultivate and this has been our headache. We have been wondering what our children will live on in the future so we now take education very serious; at worse they should learn a trade.” (Focus Group Discussion: 2010).

Similarly, other people reported this experience although they wished the government could intervene in some way. They argued that the government can establish some industries in the area which will employ their people. Indeed there is the need for a pragmatic action to help the people out of poverty.

### **5.2.5 Implication of Land Tenure Practices on the Efficiency of the Land Market**

The practices in the Odupong Ofaakor area have indeed had an influence on the land market in the area. As noted early, the practice in the area is in a disorganized state where a lot of family members do allocated land apart from the Chiefs and elders. The activities of unqualified surveyors and the lack of planning schemes have worsened the situation. This has led to the surge in cases of encroachment and multiple sales of lands. Worse of all, most people in the area do not have registered land documents. It was clear from the survey that only 27 (14.0%) of the respondents had registered their land. The management of land records was poorly done while the boundaries to their lands had not been properly delineated. This potentially breeds a lot of disputes in the area and the economic implication is obvious. In fact many of these issues are found elsewhere and have been discussed in the literature (Kasanga, et al., 1996; Larbi et al., 1998; Antwi, 2002). Indeed, the customary tenure practices in the Odupong Ofaakor area is not a good incentive for an efficient land market. The many problems as enumerated earlier do hinder the activities of the land market.

## Chapter Six

### Summary of Findings, Recommendations and Conclusions

#### 6.1 Summary of Findings

The analysis of the results and the discussions thereafter presents a lot of issues confronting land tenure and management in the Odupong Ofaakor area. This study has indeed revealed a number of land market constraints and challenges in addition to the customary tenure practices in the area. Although there are more constraints in the land tenure practices in the area, very significant contributions have been made by stakeholders to improve the system which is commendable. A summary of the findings is therefore presented below:

1. The study revealed that land was owned by a Stool in the area. Indeed the allodial ownership in the land was vested in Nai Odupong Awushie Tetteh II, the paramount Chief of Odupong Ofaakor, to be held in trust for the members of that community. This right in land was acquired through discovery and settlement thereof by an ancestor Nai Odupong who was a hunter around the 18<sup>th</sup> Century.
2. The indigenous people in the area held usufruct rights in land along with some settler communities like the Kwadwo Gada and Oklunkwanta communities. In the past, access to land was virtually free of charge. *Odokye* was a kind of right in land where individual farmers had free access to land for cultivation and they were not obliged to pay for it. Later the *Abusa* tenancy arrangement became dominant where a third of the produce from the farm was shared with the



landlord. Customary land tenure practices though continue to govern land ownership in the area.

3. Presently, the leasehold is the dominant derivative right in land where most individuals acquire land for the development of their residences. Other interests and rights in land include, the customary freehold interest, tenancies like the *Abusa* and licenses exist alongside. Significantly, it was discovered that most of the people who responded to the questionnaires were not aware of the terminologies used in describing the various rights in land.
4. The land management practices in the area have changed overtime as a result of statutory interventions in land tenure, leaving the Chiefs and elders with the authority to only allocate land. Despite these facts, their customary boundaries were not well delineated and most oral dealings had not yet been documented. Moreso, there were no proper records keeping measures and the few land records that were kept like indentures and maps, were not properly stored as the CLS established to ensure land records management was not functioning effectively.
5. Although the people of Odupong Ofaakor practice the matrilineal inheritance system there were no clear gender discrimination since women had access to land through their husbands and fathers. It was realised that some women own land despite the fact that they seem not to have the capacity to own and cultivate large parcels of land. Most of the youth on the contrary did not have the capacity to access land but they usually owned land through inheritance or as gifts.

6. Land was in abundance in the past, and both indigenes and settlers had access to any land size they wanted so far as no other person was using that land. Individuals who had access to these lands were required to present a bottle of schnapps in gratitude. It was found that migrants were usually accompanied to the Chiefs by an indigene to access land while women were accompanied by a male counterpart. Importantly, it was revealed that all these practices have changed and that these days, even indigenes do not have free access to land. They were also supposed to purchase it just like the settlers do. As a result, individuals who owned usufruct rights in large parcels of land were losing part to the Chiefs.
7. 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. The situation was worsening as a result of the lack of planning schemes in the area and the activities of unqualified surveyors who usually connived to allocate other people's land. This situation had led to a lot of cases of encroachment and multiple sales of land; a situation which had been the cause of disputes in the area.
8. In compliance with the Conveyance Decree of 1973 (NRCD 175), land transaction were required to be documented. However, in the Odupong Ofaakor area, most of the people who claimed to have a kind of document on their land did not have genuine documents. On the contrary, the survey revealed that most grantees of land agreed to have a kind of covenant in their land but almost all of

them did not know the details and implications of those covenants they had entered into.

- 9.** The Odupong Ofaakor area typically was a fast urbanizing rural setup where land use was changing from agricultural to residential uses. These changes, however, were not subjected to effective monitoring by the TCPD because they lacked the capacity to enforce some of the decisions. The lack of planning schemes in the area and the activities of unqualified surveyors who connived with the many landlords in the area to allocate land had complicated the situation. For instance, there was sub-division and rezoning of plots without approval. Public rights of way were being developed and virgin lands earmarked for planning schemes were being demarcated and allocated while all efforts to stop them had failed.
- 10.** The Awutu-Senya District office of the TCPD was a new fully furnished office with all the necessary office equipment to work with but their activities were not being felt in the area. It is important to note here that the TCPD does not issue permits to developers but rather it is the Statutory Planning Committee of the Assembly. The practice in the area, though, was that when all the requirements were met, a temporary permit was issued to the applicant while awaiting the final approval at the next sitting of the Committee which meets every quarter in a year.
- 11.** The majority of the respondents in the survey, 143 (72.0%), perceived that when their land was registered, it made it more secure while others revealed that they would develop their land to ensure its security. Most of the respondents although

had not yet registered their land as only 27 (14.0%) had registered. They complained of the bureaucratic nature and high cost involved in the registration. The Lands Commission which was responsible for the registration of all lands in the area confirmed the many challenges in the area but noted that they had reduced as a result of the educational campaigns that were organized from time to time.

**12.** Land disputes indeed derail the security of land rights and in the Odupong Ofaakor area, the indeterminate boundaries of Stool lands and inefficiencies in the land market result in many cases of encroachment and multiple sales of land; the cause of many disputes in land. Most land transactions were also not documented including oral dealings in the past. For example, the boundary dispute with the Gomoa-Fette people did not allow the Ofaakor community to parade their Chief around the Akweley area without a fight. There were also reported disputes with Amanfrom and other communities.

**13.** In resolving land disputes various procedures were at play; the Chiefs' court, State courts, family heads and consulting renowned individuals were used in dispute resolution. The majority of respondents 94 (73.0), went to the Chiefs to settle any dispute that they had because they considered the Chiefs to have the capacity to resolve them as owners of the lands. It was revealed that their decisions usually were not so binding on the parties and therefore the Courts were resorted to, if the situation persisted. It was noteworthy that majority of the respondents 107 (54.0%), said they preferred to use the State courts in resolving disputes as against 93 (46.0%) agreeing to the customary form of arbitration.

**14.** The people of Odupong Ofaakor are farmers and they depend on the produce from the farm in sustaining their livelihoods. They usually cultivate crops like maize, cassava and vegetables but lately pineapple cultivation for export has become very prominent bringing in a lot of money. As a result of the urbanization of the area, agricultural land was no longer available. Rather, people go to other neighbouring communities to acquire land. The youth were into learning trades like carpentry, masonry and plumbing while the women engaged in trading at the Kasoa market.

## **6.2 Recommendations**

This section presents the recommendations of the study done.

### **6.2.1 Codification of Customary Laws**

The customary land tenure system is dominant in most parts of the country particularly, the Odupong Ofaakor 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 Odupong Ofaakor area most of the people were not aware of the terminologies used in describing the various land rights. Again, various covenants that were related to specific land rights were not known. It is significant in this regard to codify all rules and regulation on land tenure in Ghana and harmonise them with enacted legislations.

### **6.2.2 Improved Land Acquisition Regime**

The procedure for land allocation in the Odupong Ofaakor area was very chaotic in that a lot of the royal family members were involved in addition to the Chiefs and the CLS. This situation was complicated by the unavailability of planning schemes and the



activities of unqualified surveyors in the area. As a result, encroachment and multiple sales of land were rife in the area. It was important that the procedure was streamlined to reduce all these problems. The strengthening of the land allocation committee to handle the allocation of land will be in the right direction. In that regard, the CLS should be made the first point of call for people who want to acquire land.

### **6.2.3 Strengthening the Town and Country Planning to Enforce Planning Schemes**

The impact of the TCPD was not being felt in the area. As a result, public rights of way were being developed without permission in addition to sub-divisions and rezoning of plots. Also virgin lands earmarked for planning schemes were being demarcated and allocated and efforts to stop them had failed. These situations were complicated by the lack of planning schemes in the area and the activities of unqualified surveyors who conspired with the many landlords to allocate land. The District Assemblies must collaborate with the government to provide planning schemes for the area. Most importantly, the Town and Country Planning Department must have the requisite powers to enforce planning regulations. In that regard, the Land Use Planning and Management (LUPM) project must champion this course.

### **6.2.4 Enhanced Land Registration Procedure**

Importantly, the land rights in the Odupong Ofaakor 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 new procedure must ensure that the costly and bureaucratic nature of land

registration was eliminated. The full implementation of the One-Stop-Shop concept of the Land Administration Project must be encouraged in this regard. This would ensure that applicants to the Lands Commission get their registered land documents within a short time. Ultimately, systematic land title registration must be introduced throughout the country.

#### **6.2.5 Better Collaboration with Statutory Agencies**

The Odupong Ofaakor customary land owners seem not to be effectively collaborating with the State land agencies. As a result of this, the CLS was not functioning effectively. The mistrust was overwhelming particularly because there was lack of understanding of the concept by the Chiefs. The TCPD also complained about the Chiefs conniving with unqualified surveyors to demarcate virgin lands and public right of way for people. The Chiefs need to have foreknowledge of decisions to be taken in respect of their lands but not after they have been taken. It is necessary therefore that these statutory land agencies collaborate more effectively with the land owners to ensure that all opinions are heard and incorporated into decisions to be implemented.

#### **6.2.6 Restructuring of the Customary Land Secretariat**

The establishment of the Customary Land Secretariat (CLS) was welcomed by all stakeholders in the area yet their activities were being constrained. The most significant problem facing the CLS was the mistrust between the Chiefs and the managers of the CLS. The CLS are to be run and managed by the land owners who are the Chiefs. It is not a government property though they established it. Their core function is to manage records of land transaction in the area but since not all transactions pass through the office there is a difficulty. As a result they lose revenue which could be used in running

the office. It is recommended that the CLS is made the only point of call for all applicants who want land. This will ensure that they are financially sustainable. Records of land transactions will also be improve. Eventually, the Chiefs must take ownership of the operations of the CLS and run it like a business entity.

#### **6.2.7 Effective Land Dispute Adjudication Procedure**

The unavailability of properly delineated customary boundaries and the increasing situation of encroachment and multiple sale of land have resulted in many cases of land disputes. Most land transactions were also not properly documented not to talk of registration. The government as a matter of urgency should facilitate the demarcation of boundaries of customary lands in the area and promote systematic land title registration. Eventually, the Phase II of the LAP must ensure that activities in the land market are improved. More land courts should be established and the use of Alternative Dispute Resolution mechanism must be encouraged to help reduce the cases of land disputes.

#### **6.2.8 Provision of Alternative Livelihoods**

The fast urbanization of the area has resulted in the loss of agricultural land which was used by most of the people in the area. Indeed, farming sustains the livelihoods of most people in Odupong Ofaakor. However, due to the unavailability of agricultural land in the area, most farmers have moved to other communities in search of land. Yet more people, particularly the youth, are left idle without engaging in any economic activity. It is therefore very significant that all stakeholders come on board to provide an alternative livelihood for the people. For instance, a lot of agro-processing industries could be established to process agricultural produce within the district and elsewhere.

### **6.2.9 Decentralization of State Land Agencies**

Most of the State land agencies did not have offices in the district apart from the TCPD and the Office of Administrator of Stool Lands (OASL) which had a container office for collecting ground rent. The people within this area indeed need an effective land registration service and a court for resolving the many land disputes in the area. It is important that these services are brought closer to them. A district office, particularly for the Lands Commission, is recommended. This would reduce, to some extent, the frustration of travelling long distances for registration services which in themselves need to be improved.

### **6.2.10 More Educational Campaigns**

Issues relating to land tenure are very technical and require professional expertise. Dealings in land therefore require the advice of professionals like surveyors. It was discovered from the surveys carried out in the study area that most 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 provide them with a genuine document on their land let alone registering it. Other people also did not know that they must secure a permit before putting up buildings on their land. An intensified educational campaign on these issues would minimize the number of defaulters. This would ensure that developments conform to planning schemes in the area and land disputes were reduced to the barest minimum.

## **6.3 Recommendations for Further Research**

Importantly, it is recommended that future studies in the Odupong Ofaakor area should conduct further analysis of the impact of land tenure dynamics on sustaining livelihoods

of the people. An in-depth study of the impact of land tenure practices on food security and poverty reduction in the whole district is also recommended.

#### **6.4 Conclusions**

The land tenure practices and land market situation has been extensively studied in the Odupong Ofaakor area. Just like other parts of the country where similar studies have been done, the land market was problematic. In areas where there was increasing urbanization, resulting in high land values, a lot of pressure was brought to bear on land. The ineffective land markets in these areas have resulted from poor boundaries of customary lands, poor land records management and the disregard for rules on land tenure. In the Odupong Ofaakor area for instance, a lot of members of the royal family were involved in the allocation of land which made it chaotic. In addition to the lack of planning schemes in the area, the activities of unqualified surveyors complicate dealings in the land market resulting in challenges of encroachment and multiple sales of land. This breeds land disputes and at times results in long litigations on land. Most people in this area do not have registered titles on their land and the acquisition of permits prior to building was not their priority. Such situations were not investment friendly and also derail the peace in the country. The rapidly urbanizing Odupong Ofaakor has resulted in agricultural land, which was cultivated to sustain livelihoods, not being available anymore. Farmers in turn go to other neighbouring communities to get access to land while the youth learn trades like masonry and plumbing to support the booming construction industry in the area. A lot more people in the area are alarmingly being deprived of their livelihood. Alternative livelihoods like the establishment of factories to process agricultural produce must therefore be provided to support such people.



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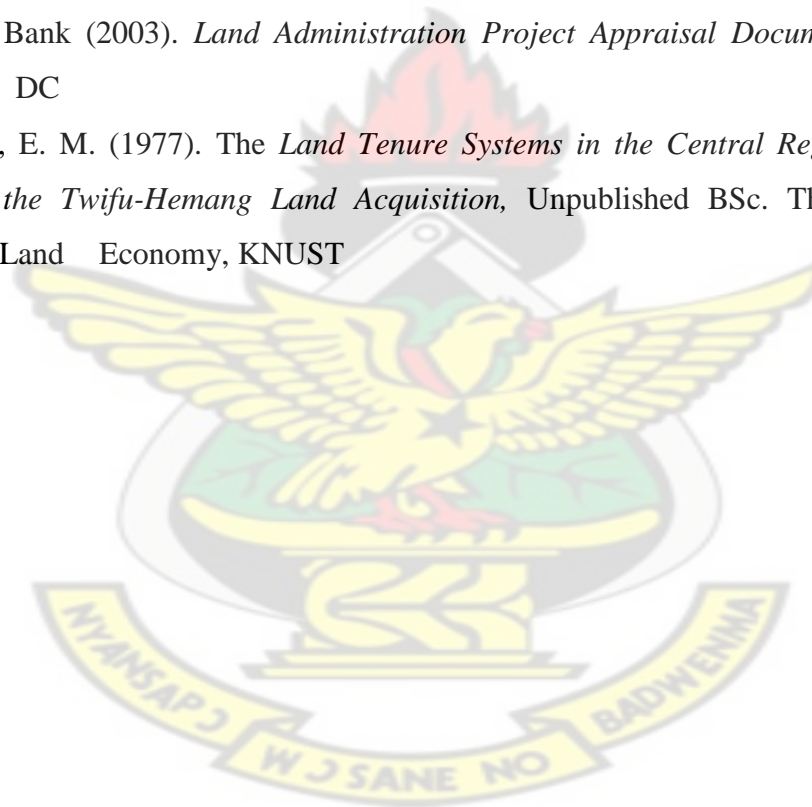
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## Appendix

### Questionnaires and Interview Guides

**Kwame Nkrumah University of Science and Technology**

**College of Architecture and Planning**

**Department of Land Economy**

**Customary Land Tenure Practices and Land Markets in Ghana: A Case Study of**

**Odupong Ofaakor**

- ✓ *Please, kindly assist in answering the following questionnaires. Be assured that the answers provided will be solely used for academic purpose.*
- ✓ *Kindly tick the appropriate answer(s) to the questions and where required provide your own answer by writing in the spaces provided.*

### **Questionnaire for Land Grantees or Developers**

#### **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 ☐ JSS/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 District    ☐ within the Region  
☐ another Region    ☐ Other (specify).....

8. What brought you to this area? ☐ Work ☐ Marriage ☐ Settlement ☐  
Others (specify).....

### **Land Rights and Ownership**

9. What is the extent 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 in the land? ☐ Freehold ☐ Leasehold ☐  
Tenancy ☐ License ☐ Others (specify).....
13. Explain your choice above Please?
14. When was the land acquired?
15. What use was it acquired for? ☐ Farming ☐ Building ☐ Others  
(specify).....
16. What is the land being used for now? ☐ Farming ☐ Building ☐ Others  
(specify).....

### **Land Management Practices in the Area**

17. What is your opinion about the procedure for land acquisition?
18. How did you pay for the land? ☐ Lump sum ☐ Instalment  
☐ Other (specify).....
19. How much did you pay for the land?
20. Are you satisfied with the drink money you paid? ☐ Yes ☐ No

21. Do you own other lands in the community? ☐ Yes ☐ No
22. Do you have a document covering your land? ☐ Yes ☐ No
23. If yes, what kind of document is it? ☐ An unsigned indenture  
☐ Signed indenture ☐ Indenture in the process of registration  
☐ A registered indenture ☐ Other (specify).....
24. Do you have any covenants with the land owners? ☐ Yes ☐ No
25. If yes, what is the covenant about? ☐ To build on the land ☐ To cultivate the land ☐ To pay ground rent ☐ Not aware of any covenant ☐ Other (specify).....
26. How effective and binding are the rules governing customary land holding in the area? ☐ Effective and binding ☐ Ineffective and non-binding
27. Explain your answers please?
28. Are you satisfied with the procedure for land acquisition? ☐ Yes ☐ No
29. How do you secure your interest in the land? ☐ By registration ☐ By developing the land ☐ Other (specify).....
30. Have you registered your land? ☐ Yes ☐ No
31. If no, why have you not registered your land?
32. Where did you register your land? ☐ Lands Commission ☐ Land Title Registry ☐ Other (specify).....
33. What problems did you face in registering your land?
34. Are you satisfied with the registration procedure? ☐ Yes ☐ No
35. What is your opinion about the registration procedure?
36. Have you ever lost part or all of the land you own or used before?

☐ Yes ☐ No

37. How was it lost? ☐ Compulsory Acquisition ☐ Re-zoning

☐ Other (specify).....

38. Were you compensated? ☐ Yes ☐ No

### **Land and Disputes**

39. Have you had any counter claim to your land? ☐ Yes ☐ No

40. How was it resolved? ☐ Court ☐ Chief and Elders ☐ Family Head

☐ Other (specify).....

41. Were you satisfied with how it was resolved? ☐ Yes ☐ No

42. Do you know of any land disputes in the area? ☐ Yes ☐ No

43. What is the nature of the dispute?

44. How are disputes now different from the past?

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

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

☐ State courts ☐ Customary mechanism

47. Explain your answer please?

### ***If Land is being used for Farming Answer Questions 48 to 53***

48. What kind of farming do you undertake? ☐ Crop farming ☐ Mixed

Farming ☐ Mix Cropping

☐ Animal Farming ☐ Others (specify).....

49. What is the size of your farm land?

50. What crops do you cultivate on your land?

51. What animals do you rear on your land?
52. What land covenant do you have with your landlord?
53. What rights specifically is involved in the cultivation of your land?

***If Your Land is being used for Developing a Building Answer Questions 54 To 61***

54. Did you acquire a permit before developing the land? ☐ Yes ☐ No
55. How much did it cost you to acquire a permit?
56. How long did it take you to acquire the permit? ☐ under 6 months ☐ 6-12 months ☐ 12-18 months ☐ 18-24 months ☐ 24 months and above
57. Do you think the acquisition of permit is important? ☐ Yes ☐ No
58. Explain your answer?
59. Are you satisfied with the procedure for acquiring the permit? ☐ Yes ☐ No
60. Who enforces planning regulations in the area?





61. Please kindly rate these responses according to your satisfaction level by ticking the appropriate choice.

	Very satisfied [1]	Satisfied [2]	Don't know [3]	Dissatisfied [4]	Very dissatisfied [5]
Procedure for land acquisition					
Drink money paid					
Land registration procedure					
Building permit acquisition procedure					
Customary land dispute resolution procedure					

Thank you!

**Kwame Nkrumah University of Science and Technology**

**College of Architecture and Planning**

**Department of Land Economy**

**Customary Land Tenure Practices and Land Markets in Ghana: A Case Study of**

**Odupong Ofaakor**

**Interview Guide for Land Owners**

- ✓ *Please, kindly assist in answering the following questionnaires. Be assured that the answers provided will be solely used for academic purpose.*

**Land Rights and Ownership**

1. What is the land tenure history in this area?
2. Who are the principal land owners in the area?
3. How does your land extend? ☐ less than five acre ☐ between five and ten acres ☐ more than ten acre
4. What is the size of the land you own?
5. What is the land use pattern in the area?
6. What kind of rights do you give in the land? ☐ Freehold ☐ Leasehold ☐ Tenancy ☐ Licence ☐ Others (specify)
7. Explain your choices above please?
8. What is the system of inheritance in the area? ☐ Matrilineal ☐ Patriarchy

**Land Management Practices in the Area**

9. What are the main ideology underlying traditional land management in your community?
10. What is the procedure for acquiring land?

11. Indicate whether these groups of people can acquire land? ☐ Men ☐  
Women ☐ Strangers ☐ Indigenes ☐ Young men
12. Are procedures for land acquisition different among any of these groups?  
☐ Yes ☐ No
13. If yes, why?
14. How is the cost of land determined?
15. How is revenue from land spent?
16. Does the community benefit from the land? ☐ Yes ☐ No
17. Explain your answer please?
18. What covenants are agreed on during land acquisition?
19. How effective and binding are the rules governing customary land holding in the area? ☐ Effective and binding ☐ Ineffective and non-binding
20. Explain your answer?
21. What do these people require to access land? ☐ Strangers ☐ Women  
☐ Young men .....
22. Have you ever lost part or all of the land you own or used before?  
☐ Yes ☐ No
23. How was it lost? ☐ Compulsory Acquisition ☐ Re-zoning  
☐ Others (specify)
24. Were you compensated? ☐ Yes ☐ No
25. Do you engage the services of any professionals? ☐ Yes ☐ No
26. Which professionals do you engage and for what?
27. Do you have records on land dealings? ☐ Yes ☐ No

28. How are they kept?
29. Do you deal with the statutory land agencies? ☐ Yes ☐ No
30. How do you collaborate with the statutory authorities?
31. What is your opinion about their efficiency?
32. Do you have planning layouts for your land? ☐ Yes ☐ No
33. How was it prepared?
34. Do you involve the Town Planning office in the preparation of plans?  
☐ Yes ☐ No
35. Do you conform to the planning layout in allocating land? ☐ Yes ☐ No
36. Do you ensure that developers use land for purposes acquired for?  
☐ Yes ☐ No
37. Do you collaborate with planning authorities in ensuring development agree with standards? ☐ Yes ☐ No
38. How do you achieve that?

### **Land and Disputes**

39. Are there disputes over land in the area? ☐ Yes ☐ No
40. What is the nature of the disputes?
41. How are they resolved?
42. Are there disputes over land among indigenous families of the community?  
☐ Yes ☐ No
43. If so, how different are they from the past?
44. Are there disputes over land with other stools/families? ☐ Yes ☐ No
45. Are there disputes over land between families and the government?

☐ Yes ☐ No

46. Are there disputes over land with strangers? ☐ Yes ☐ No

47. Were there disputes over land in the past? ☐ Yes ☐ No

48. What was the nature of the disputes?

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

#### **Trends in Land Tenure and Livelihoods**

50. What is the main source of income and economic livelihood for community members today?

51. How have these economic activities changed in the last two decades with growing population pressure?

52. Is agricultural land still available? ☐ Yes ☐ No

53. Are indigenes of this community going to the city for work? ☐ Yes ☐ No

54. Are people turning away from farming for work in the commercial and service sector and why?

55. Who migrate more: ☐ Men ☐ Women ☐ Young men?

Thank you!



**Kwame Nkrumah University of Science and Technology**

**College of Architecture and Planning**

**Department of Land Economy**

**Customary Land Tenure Practices and Land Markets in Ghana: A Case Study of**

**Odupong Ofaakor**

**Interview Guide for State Land Agencies**

✓ *Please, kindly assist in answering the following questionnaires. Be assured that the answers provided will be solely used for academic purpose.*

1. What are your main functions?
2. How do you relate to chiefs and other land owners as you perform your duties?
3. What are your activities in the Odupong Ofaakor area?
4. Which legislations regulate your activities?
5. What constraints do you face with your work?
6. What are the challenges you face in the performance of your duties?
7. What attempts have you made in resolving them?
8. Which challenges are still persistent?

Thank you!

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