

Leaseholds as Dominant Land Management Model for Delivery of Developable Land in Ghana: a Flawed Policy Choice

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SUMMARY

Ghana has adopted leaseholds as the main land management model for delivering land for development in the public sector since colonial times. With respect to customary lands since 1979 the grant of freeholds has been proscribed. It therefore means that almost 100 percent of land delivery for development is done through leaseholds. Leaseholds are, however, very technical models that require active management. They have strict legal frameworks for their operation. There are both express and implied covenants which both lessors and lessees must comply with. Two of the important express covenants relate to the permitted use of the leased land and the implied covenant to pay rent whether demanded or not. Unfortunately, the available evidence suggests that these two fundamental covenants in leases are not enforced to any appreciable extent. Arguably about 60 percent of rents on state lands have fallen into arrears while about 80 percent of rents on customary lands have fallen into arrears. Covenants related to permitted uses under the leases have been breached without any sanctions and whole residential areas such as East Legon Residential Area and the Airport Residential Area in Accra have been converted to commercial estates while the underlying leases are for residential uses.

The paper explores the underlying reasoning for this policy and argues that leaseholds are not the appropriate land management model for delivery of developable land in Ghana because the State appears not to have the capacity and machinery for managing leaseholds. It is time to rethink the leasehold policy and adopt more suitable land management models that can be easily managed by both the state and the customary sectors.

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