DRIVERS OF CUSTOMARY LAND REGISTRATION (non) COMPLIANCE IN GHANA

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# Abstract

Despite several interventions over the years, Ghana has achieved limited success in its attempts at registering title to customary land. This has been a matter of concern to its government and development partners. Since land registration is central to land tenure security, which engenders investment and productivity, some have argued that tenure insecurity is a key issue creating and sustaining poverty in Ghana. Using data gathered through interviews with key stakeholders and land parcel owners in the Kumasi Metropolis, this research assessed the drivers of customary land registration (non) compliance in Ghana. The research found that registration costs, the lack of knowledge and socio-cultural perceptions of land registration significantly impact people’s ability and the decision to register customary land. Towards addressing these issues, the study recommends changes to the legal and institutional framework for land registration, mass public sensitisation and enforcement of the statutory regulations on land management and administration.

Keywords: land registration, customary land tenure, land administration project, Asantehene’s Land Secretariat, Kumasi, Ghana

# 1.0 Introduction

Land is a unique, valuable and immovable resource of limited quantity and constitutes the primary source of livelihood for many people in the Global South. It is a strategic socio-economic asset, most especially in poor societies where wealth and survival are measured by control of and access to land (United States Agency for International Development 2005). Research corroborates the enhancement of land tenure security through land registration which consequently attracts higher levels of investment and productivity (Deininger 2003). Land registration also spurs activity in land markets and leads to higher economic growth and development (Deininger and Feder 2009). It allows for the peaceful enjoyment of legitimate tenure rights and reduces the necessity to defend land rights through extralegal means. Enhanced security of tenure through land registration also increases the confidence of the landholder to be able to claim returns on any investments made on the land, to lease out the land for monetary considerations and also to be able to use the land as collateral for accessing credit (Feder and Nishio 1998).

As land is increasingly becoming scarce in many parts of Ghana, there is an intense competition for it which is driving lots of land conflicts in the country. Given the pervasiveness of these conflicts, land registration has become an essential element to secure legitimate land rights. Since it is an accepted fact in Ghanaian society that there is no land without an owner, by implication, there is the possibility of placing every parcel of land on a land register and registering the rights subsisting in the parcel (Larbi 2012). Statistics from the 2010 Population and Housing Census indicate that 49.1% of the population is rural; the majority of whom solely depend on primary land activities for their sustenance (Ghana Statistical Service 2013). According to the Ghana Poverty Reduction Strategy (GPRS) implementation blueprint, insecurity of tenure has a direct impact on poverty reduction and economic growth in Ghana (International Monetary Fund 2003). Sarpong (2006) also identified insecurity of tenure and access to land as the two significant factors creating and sustaining poverty in Ghana. Secured land tenure rights are thus paramount towards ensuring sustainable livelihoods in Ghana. Consequently, land access and security of tenure remain firmly on the development agenda of Ghana.

In furtherance of the objective to improve the current system of land administration in the country, the Land Administration Project (LAP) was launched in 2003 by the government of Ghana with the assistance of development partners. The primary objective of the project was to undertake land policy and institutional reforms and critical land administration pilots to establish a sustainable land administration system that is fair, efficient, cost-effective, decentralised and ensures land tenure security (Larbi 2012).

Despite these efforts and initiatives by the Government of Ghana, the World Bank and other foreign development partners to promote land registration for many years (Toulmin 2009; Awuah and Hammond 2013) only modest gains have been made over the years. Studies have attributed the low rate of land registration compliance in Ghana to a host of challenges such as the difficulties in accessing land registration institutions, lengthy and cumbersome processes and the associated high costs, corruption, and the lack of public awareness (Sittie 2006; Arko-Adjei 2011; Larbi 2012; Awuah and Hammond 2013). However, these studies are dated and not based on empirical studies of land parcel holders and other stakeholders in title formalisation. This has limited our understanding of the reasons underlying the low land registration uptake in Ghana.

Using data collected from officials from officials of the Lands Commission in Kumasi, the Asantehene’s Land Secretariat, chiefs and land parcel owners in the Kumasi Metropolis, this research assesses the factors driving customary landowners’ ability and decision to register land. The rest of the paper is organised as follows. Section 2 reviews the relevant literature and contextualizes the themes under study. In section 3, the research presents an overview of the study area and the methods. The empirical findings and discussions are presented in section 4. The study concludes with recommendations and policy implications for Ghana in the section 5.

# 2.0 Literature review

## 2.1 Overview of Ghana’s land tenure system

The term land tenure is derived from the Latin word "*tenere*" which means to hold. Tenure defines the methods through which individuals or groups acquire, hold, transfer or transmit property rights in land (Juma and Ojwang 1996). To many Ghanaians, land is of critical social, cultural and religious significance. It is widely regarded as a deity and a heritage won for the living by their ancestors in the various communities (Bugri 2012). Ghana’s land tenure system is usually described as one of legal pluralism. Dual tenure systems are in use whereby customary tenure system co-exists alongside statutory tenure system thereby creating a complex mix. On the basis of ownership, control and management, lands in Ghana are classified into two main categories, namely customary lands and public lands (Ministry of Lands and Forestry 2003).

The customary land tenure system encompasses lands belonging to specific communities or groups of people but are managed and held in trust for the people by chiefs, earth priests, traditional leaders and family heads (Alhassan 2006; Agbosu et al. 2007). Under the customary land tenure system, customary law has been modified with common law and equitable principles grafted onto it. Hence, the customary land tenure system is mainly unwritten and flexible, based on specific groups’ customs and cultural norms and location specific (Alhassan 2006; Agbosu et al. 2007). The right to use or to dispose of rights of use over land under the customary land tenure is premised on the fact that such rights are legitimately recognised by the landowning community or group where the rules on the acquisition and transfer of these rights are usually explicit and well-known (Paaga 2013). An estimated 80% of all lands in Ghana are customary lands (Bugri 2013). Landholders include families and communities represented by stools and skins. In the southern parts of Ghana, stools symbolise the traditional authority vested in chiefs as head of the community while skins symbolise the authority vested in chiefs in the Northern parts of the country. However, in the Upper East and Upper West regions of the country, the “*Tendamba*” ( who are the first settlers) or clans represent the landholding group (Kasanga and Kotey, 2001). Customary lands come under two categories: stool/skin lands and family lands.

Stool/skin lands are customary lands vested in chiefs, earth priests and other traditional leaders who hold the lands in trust for and on behalf of the entire landowning group (Kasanga and Kotey, 2001). In the case of family lands, these are customary lands acquired through purchase, long settlement, or conquest and jointly owned by specific families with a common ancestor either through a matrilineal or patrilineal family line (Arko-Adjei, 2011). Unlike stool lands, family lands are vested in clans and families and are held in trust for the family members by a family head (Kasanga and Kotey 2001). Customary lands are held and managed by the designated traditional authority of the tribe or landowning group. However, pursuant to Article 267 clause 3 of the 1992 Constitution, the disposition of rights in stool lands must be approved by the Lands Commission and must conform to the statutorily approved development plan for the area (Republic of Ghana 1992).

The statutory tenure system on the other hand controls lands acquired by the state through legislation such as the repealed Administration of Lands Act of 1962, the 1962 State Lands Act, the 1963 Lands Act, the 1965 Public Conveyancing Act, and the 1992 Constitution (Sarpong 2006). Lands held under the statutory tenure system are directly managed by the Public and Vested Lands Management Division of the Lands Commission (PVLMD hereafter). Public lands fall into two main categories. The first category comprises land parcels which have been compulsorily acquired for a public purpose or in the public interest under the State Lands Act, 1962 (Act 125) or other legal instruments for land acquisition known as state lands (Kasanga an Kotey, 2001). The second category known as vested lands are land parcels which have been vested in the President, in trust for a landholding community under the Administration of Lands Act, 1962 (Act 123) (*ibid*). The vesting of land is a type of legal intervention by the state in land ownership whereby the state takes over the management and allocation of customarily owned land but the revenue and other benefits accruing from the land go to the customary landowning group. Figure 1 presents the structure of the land tenure system in Ghana.

Figure 1 The structure of Ghana’s land tenure system



Source: Amponsah (2018)

## 2.2 Historical development of land registration in Ghana

### 2.2.1 Colonial era

As land rights were not documented in pre-colonial times, it is assumed that modern-day land registration began in Ghana within the period when the country was under British Colonial rule. According to Agbosu (1990), attempts by the British colonialist and their local business partners in the late nineteenth century to acquire privately owned land gave rise to problems of conflicts over land and insecurity of title. These acquisitions were driven the need to compensate for the loss of revenue after the abolition of the slave trade by increasing the supply of precious metals, agricultural produce and other forest products (Agbosu 1990). This led to the rise in the demand for commodities such as timber, gold and other precious metals. Amanor (2009) notes that the rapid expansion of oil palm cultivation and the development of the cocoa industry marked a critical turn in the socio-economic life of the people of the then Gold Coast. This expansionist practice affected the fundamental aspects of communal land tenure systems that were based on group ownership of the land and its resource (Amanor 2009). Consequently, while land values appreciated, boundaries between adjoining landowners were not properly demarcated, surveyed and documented. This led to land conflicts, uncertainty of title and unending land litigation.

To restore sanity in land administration and guarantee a continuous supply of much-needed merchandise, the colonial administration instituted a system of land registration. According to Abdulai et al. (2007) land registration was first introduced in Ghana under the Registration Ordinance of 1883 (No. 8). Land registration under both the Registration Ordinance of 1883 and subsequent Land Registry Ordinance of 1895 (Cap 133) was by way of deeds and the recording of instruments relating to land. These laws governed land registration in all parts of Ghana except for the Northern and Upper regions (Abdulai et al. 2007).

### 2.1.2 Post-independence period to date

After independence in 1957, the first government of Ghana repealed the colonial era Land Registry Ordinance of 1895 with the Land Development Act of 1960. This was later replaced with the Farm Lands Protection Act of 1962 and finally the Land Registry Act of 1962 (Act 122), each successively replacing and improving on the preceding one (Alhassan 2006; Kuntu-Mensah 2006). The Land Registry Act, 1962 (Act 122) made provision for the registration of all instruments affecting land with the exception of a judge’s certificate. The Act also required that all instruments to be registered must have a site plan or a map that describes the land. However, legal effect of registration under Act 122 was an actual notice of the instrument to all persons and for all purposes as of the date of registration (Tutu et al. 2016).

Sittie (2006) notes that similar to the colonial land registration system, deeds registration under the Land Registry Act, 1962 (Act 122) was fraught with several challenges. Registration under the Act only covered the deed to land and did not grant title to the purchaser. Meaning, the process only granted an equitable interest in the land to the purchaser instead of transferring the rights in the parcel (Tutu et al. 2016). The law also excluded the registration of oral grants and transactions in land made under customary law and only provided for registration of land with written titles. In addition, the cadastral plans required as an attachment to the instrument for identification and establishment of boundaries were also mostly ignored (Tutu et al. 2016). This led to several incidences of overlapping claims over the same parcel of land and multiple registrations of different instruments relating to the same parcel of land as registration was not referenced to parcels. The consequences of these are numerous land conflicts and lengthy litigation (Sittie 2006).

The challenges with deeds registration under the Land Registry Act, 1962 (Act 122) necessitated the introduction of land title registration to help address the problems and improve security of tenure. Consequently, land title registration was introduced under the Land Title Registration Law, 1986 (PNDC Law 152). The primary aims of the law were to provide a system for the registration of title and interests in land, create certainty and facilitate proof of title to render dealings in land simple, safe, secure and to prevent the incidence of fraud in the land sector.

All interests in land recognized under customary law, the 1992 Constitution and the National Land Policy of 1999 could be registered under the Land Title Registration Law, 1986 (PNDC Law 152). The law was backed by state guarantee, meaning there is the provision of compensation by the state in situations where people who rely on the law suffer damages. It must be noted that the land registration under the Land Title Registration Law, 1986 (PNDC Law 152) applied only to areas that had been declared title registration districts by the Ministry for Lands and Forestry. This means that in areas not yet declared as title registration districts, deeds registration under the Land Registry Act, 1962 (Act 122) prevailed, thereby creating a dual system of land registration where title registration was applied in some parts whereas deeds registration prevailed in other parts of the country.

Following concerns over the numerous laws in the land sector which created multiple overlaps and contradictions, in 2020, the Land Act, 2020 (Act 1036) was introduced to streamline and consolidate the over 166 pieces of legislation in the land sector, including the Land Registry Act, 1962 (Act 122) and the Land Title Registration Law, 1986 (PNDC Law 152). Section 80 of the Land Act, 2020 (Act 1036) recognises three systems for recording and registration of land and interests in land, names:

(i) recording of customary interests and rights by Customary Land Secretariats;

(*ii*) registration of instruments relating to land; and

(*iii*) registration of title, interests and rights in land.

This implies that a dual registration land registration system still prevails under the Land Act, 2020 (Act 1036).

## 2.3 The current state of land registration in Ghana

According to Kuntu-Mensah (2006) though rapid urbanisation and the increasing privatisation of land especially in the urban areas was expected to improve land registration compliance in Ghana, most land transactions are not registered. Sittie (2006) also adds that upon commencement of the title registration system in 1986, policymakers anticipated that as much as 70% of landowners in every declared district would register their titles before new areas are declared as title registration areas. With these projections in mind, it was expected that implementation of title registration will be in a systematic way and as a result encourage registration. This notwithstanding, whereas the entire Greater Accra region has been declared a title registration district, Accra, the national capital with over one million land parcels and where compulsory titling started, only an estimated 2% of lands have been registered (Sittie 2006). It therefore comes as no surprise that after over a century of land registration, less than 10% of Ghana’s land area has been registered (Sewornu and Barry 2015). However, Awuah and Hammond (2013) have reported a lower land registration rate of 5% throughout entire country.

Previous studies have cited logistical constraints, high service charges, lack of public awareness, cumbersome procedures, delays, travel time and corruption in the land sector as some reasons for low rate of land registration compliance in Ghana (Sittie 2006; Arko-Adjei 2011; Larbi 2012; Awuah and Hammond 2013; Sewornu and Barry 2015). However, these issues necessitated the implementation of the Land Administration Project (LAP), a multi-donor assisted project with the primary objective to undertake land policy and institutional reforms and critical land administration re-engineering for establishing a sustainable decentralised land administration system that is fair, efficient, cost-effective and that ensures land tenure security (Larbi 2012). Following the successful completion of the LAP, one would have expected a substantial uptick in land registration usage in Ghana. Yet, Quaye (2020) reports that land registration rates remain low in Ghana. A question thus emerges as to why land registration uptake remains low in Ghana despite the numerous interventions over the years. In this study, we examine the drivers of customary land registration compliance in Ghana using the Kumasi Metropolis as a case study.

# 3.0 Methodology

This study adopted a qualitative case study approach. Data was collected in Ghana from July 2022 to October 2022. Yin (2009) supports the appropriateness of qualitative case study research because it enables researchers to explore a phenomenon within its context using data collected from multiple sources.

The Kumasi Metropolis was selected as case study for two reasons. First, as the most populous city in Ghana (Ghana Statistical Service 2021), Kumasi is noted for its centralised and proactive customary land administration system. As the customary lessor of all stool lands within the Kumasi metropolis, the *Asantehene*[[1]](#footnote-2) consents to every parcel of stool land allocated by any divisional chief, sub-chief or caretaker chief within the city. Therefore, after one acquires land within the Kumasi metropolis from a chief, the sale documents (popularly known as the allocation paper) must first be presented to the king for his consent and registered at the Asantehene’s Land Secretariat (ALS hereafter) before onwards submission to the statutory land registration agencies. Abdulai et al. (2007) note that there are 288 sub-chiefs in Kumasi who are in charge of the day-to-day management of land in their respective communities on behalf of the Asantehene. Consequently, Asantehene’s Land Secretariat records a high number of customary land transactions. Secondly, Kumasi has over the years benefited from several initiatives aimed at improving land administration. Notable among these initiatives include the Systematic Land Titling Pilot Project under the Land Administration Project (LAP) and the Asantehene’s Lease Documentation Project.

Data was collected from primary and secondary sources. For primary data, purposive and simple random sampling were adopted to select interview participants. Purposive sampling was employed to select two officials of the Asantehene’s Land Secretariat, six officials of the Lands Commission and three chiefs. The informants were selected given their experience, understanding and knowledge of the issues examined. The interviews were targeted at discovering the factors that account for the current state of land registration uptake as well as the policies and initiatives that have been instituted to enhance land registration rates in the city. The research also sought stakeholders’ opinions on how the initiatives introduced over the years have either improved or worsened land registration compliance rates, and the procedures and fees charged for land registration.

Table 1 List of the categories of interview participants

|  |  |
| --- | --- |
| **Category of participants** | **Number of participants interviewed** |
| Officials of the Asantehene’s Land Secretariat | 2 |
| Officials of the Lands Commission | 6 |
| Chiefs | 3 |
| Land parcel owners | 21 |
| **Total** | **32** |

To select land parcel owners for the interviews, land registration records for the past ten years was collected from the Land Registration Division of the Lands Commission and sorted according to the various suburbs of the Kumasi Metropolis. Based on the data obtained, four suburbs comprising the two suburbs with the lowest number of land parcel registrations for the past 10 years and the top two areas with the highest number of parcel registrations for the last 10 years were selected. As in Table 1, twenty-one land parcel owners were interviewed. To give every parcel right owner within the selected areas an equal chance of being interviewed, simple random sampling was adopted selecting interviewees. Interviews with land parcel owners were designed to examine participants’ knowledge on land registration and their perceptions of it. The interviews also zeroed in on their reasons for registration and non- registration and their perception of relevance of land registration. Interviews were conducted until data saturation was achieved. Saunders et al. (2018) state that data saturation constitutes a key criterion for determining when to conclude data collection in qualitative research. Secondary data was collected from archival materials, newspaper articles, project leaflets and compensation reports.

Interviews were audiotaped and subsequently transcribed by the researchers. Data sourced from the interviews were categorised according to themes and analysed thematically. This enabled a comparison of opinions and the perceptions of different study participants on the issues examined. To facilitate the data analysis, interview transcripts were coded based on themes using the qualitative data analysis software NVivo version 12. Data analysed were presented using descriptive narratives. Using descriptive narratives enabled the research to incorporate diverse participants’ opinions to support the findings (Hancock and Algozzine 2011). To ensure methodological and data source triangulation, secondary data gathered from online articles, reports, journals and archival materials were combined with data obtained through interviews into a single discussion.

# 4.0 Findings

## Land registration processes in Kumasi and their implications

From our interviews with chiefs, officials of the Lands Commission and the Asantehene’s Land Secretariat, the research noted that when an applicant negotiates and pays for land from a chief, the next step is to secure the allocation note and cadastral plan/site plan. The chief prepares the allocation note and the cadastral plan which must be paid for by the applicant. Afterwards, the applicant submits the allocation note and a cadastral (site) plan of the allotted land parcel to the ALS. The ALS then creates a file for the application and forwards the applicant’s documents to the PVLMD for a title search. The rationale for the search is to ascertain if the allotted land parcel is a stool land and verify if the parcel is free from any encumbrances. Once the search is over, the applicant is made to pay the customary “drink money” and other fees and charges at the ALS. The drink money is approximately 1/3 of the initial purchase price of the land. The ‘drink money’ is a moral token offering usually paid to chiefs (stools) in the southern part of Ghana. It is usually in the form of cash or a bottle of schnapps, to start negotiations on the terms of the lease (Mireku et al. 2016). However, with the increase in the demand for land, this ‘drink’ or ‘drink money’ is no longer just a pre-negotiation fee. Instead, it is now requested by the chiefs in huge sums of cash.

Subsequent to this is the preparation of the lease document. This is prepared and executed at the ALS. The lease specifies the term or duration of the agreement which is 99 years for residential uses and 50 years for industrial purposes. The lease also specifies the location of the parcel, the geographical coordinates and definition of the parcel, the annual ground rent payable by the lessee, the commencement date as well as the expiry date of the lease. The executed lease agreement is then released to PVLMD for government concurrence after which the lease document is forwarded to the Land Valuation Division of the Lands Commission for valuation and assessment of stamp duty. The lease document is then submitted to the Land Registration Division of the Lands Commission. However, to finalise the registration, the Survey and Mapping Division of the Lands Commission prepares and submits a Land Title Parcel Plan of the leased land to the Land Registration Division of the Lands Commission after which the land title certificate is issued. Figure 2 summarises the procedures for land registration in Kumasi.

Figure 2. Customary land registration procedures in Kumasi

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Source: Authors’ construct

As shown in Table 2, applicants are required to pay specific fees at each stage of the land registration process. Some land title holders also revealed aside from the official fees, that they had to cover other incidental costs such as transportation for site inspections and stamp duty assessment, and the costs of hiring of survey equipment for cadastral surveys. Aside from this, they complained about corruption in the land agencies as evident in this comment from one land parcel owner:

*“Some officials have taken up land registration as their private jobs to supplement their income. The official turnaround time for land registration is 3 months, yet some parcel owners in my area finalised their registration after two years due to their refusal to pay unofficial charges. Others start the registration processes and abandon it midway due to their inability to afford the expensive fees”.*

Table 2 Fees and charges for customary land registration in Kumasi[[2]](#footnote-3)

|  |  |  |  |
| --- | --- | --- | --- |
| **Agency** | **Purpose** | **Approved fee (GHȼ)** | **Fee in USD ($)** |
| PVLMD | Search fees | 50 | 4.37 |
|  | Inspection fees | 40 | 3.50 |
|  | Lease Processing fees | 500 | 43.75 |
|  | Concurrence fees | 80 or 0.25% of land value[[3]](#footnote-4) | 7.0 |
|  | Plotting fees | 80 or 0.25% of land value | 7.0 |
| Survey and Mapping Division of the Lands Commission | GCR | 30 | 2.63 |
|  | Presentation fees | 50 | 4.37 |
|  |  Administrative fees | 70 | 6.12 |
|  | Regional Number | 350 | 30.62 |
|  | Preparation of cadastral plan | 500 | 43.75 |
| Land Valuation Division of the Lands Commission | Processing fees | 30 | 2.63 |
|  | Presentation fees | 30 | 2.63 |
|  | Stamp duty[[4]](#footnote-5) | N/A | N/A |
| Land Registration Division of the Lands Commission | Registration fees | 245 | 21.44 |
|  | Publication fees | 360 | 31.50 |
|  | Preparation of LTPP  | 600 | 52.50 |
| ALS | Filing fees | 100 | 8.75 |
|  | Processing fees | 400 | 35.00 |
|  | Drink money  | 1st Class Areas | 10,500 | 918.64 |
| 2nd Class Areas | 6,500 | 568.68 |
| 3rd Class Areas | 3,500 | 306.21 |
| 4th Class Areas | 2,500 | 218.72 |

Source: The Lands Commission, Kumasi and the Asantehene’s Land Secretariat

With a current national daily minimum wage of GHȼ14.88 (US$1.30) (Ghana News Agency 2022) coupled with the fact that an estimated 6.4 million (representing 24.2%) of Ghana’s population are poor whiles more than 2.2 million (representing 8.4%) are extremely poor (Ghana Statistical Service 2019), land registration remains a costly undertaking for most people. It is therefore not surprising that officials of the land sector agencies revealed that land registration compliances rates were higher in the high-end suburbs of the city whereas fewer land parcels were registered in the lower-class areas of the city. Commenting on the cost of land registration, an official of the PVLMD remarked that:

*“The cost of registration processes is high and beyond the financial reach of most parcel owners in Kumasi. Aside the official administrative charges, applicants must pay an amount as “drink money” to the ALS*. *This discourages most parcel owners in the low-income brackets from registering and thus limits land registration to the rich at the upper end of the income ladder”.*

Previous research on land registration in Kumasi further substantiates this argument. In 2012, under the Asantehene’sLease Documentation Project, which provided a highly subsidised and simplified pathway for land registration in Kumasi, Amponsah (2018) reports that 15,100 parcel owners applied to register their lands within the 9-month project duration. Based on this, we argue that the prohibitive cost of registration accounts for some parcel owners’ preference for extralegal methods such as land protection vigilantes (known in local parlance as land guards), erecting walls around their land parcels and mounting of warning signs to title registration. This is consistent with the arguments of Deininger et al., (2003) and Barry et al., (2012) that the cost of land registration processes significantly impacts peoples’ ability and decision to formalise their title to land.

## 4.2 Perceptions of the relevance of land registration

Our interviews also revealed that while some parcel owners do not have any knowledge of the existence of a mandatory statutory land registration system, others were under the impression that the land registration was unnecessary and a waste of resources because the allocation papers issued by chiefs were sufficient proof of title. We observed that parcel owners with lower levels of education had such mindset. However as stated by Supreme Court of Ghana in the case of *Boateng (No. 2) v. Manu (No. 2) & Another (2008) SCGLR page 1119*, the issuance of allocation papers is just the initial process to evidence that an individual or an organisation has acquired land. The allocation paper thus cannot by itself be conclusive of acquisition of land and does not confer any legal title on the holder (Mireku et al., 2016). The judicial precedent has been reaffirmed in the case of *Nana Bediako Atwere (substituted by John Kwame Owusu) v. Osei Owusu (Alias Yaw Owusu Achiaw), Supreme Court of Ghana Civil Appeal No. J4/36/2010* on the 18th of May, 2010. The implication is that valid title land is only constituted when the document purporting the transfer of title contains the names of the parties, the nature of the grant and the duration of the grant. It must also contain the size and location of the parcel, the price paid for the land, the annual rent payable and signature or thumbprint of the parties (Mireku et al. 2016). As these features are missing on allocation notes, parcel owners cannot claim title to their parcels by solely relying on allocation papers. We argue that some parcel owners consider allocation papers as concrete proof of title to their lands since they have achieved perceived security of tenure through allocation papers, political tolerance and continuous undisturbed possession.

Furthermore, some parcel owners shared the view that one needs to register land only when the title certificate is required as a collateral to secure credit. Therefore, they perceived land registration as a requirement for only businesspeople. One official of the ALS recounted several instances where land parcel owners had approached their office to register their land parcels *“as part of loan conditionalities”*. This goes to show the extent to which the lack of awareness and social perceptions impact land registration uptake rates in Ghana. This finding reinforces Awuah and Hammond (2013) argument that the educated and formal sector employees tend to register their title to land because were likely to be aware of the mandatory registration requirement and its relevance.

# 5.0 Conclusion

This paper has examined the drivers of customary land registration compliance in Ghana using Kumasi as a case study. From the findings, it is evident that the cost of registration, the lack of awareness of the legal requirement for land registration and relevance of registration, and social perceptions of land registration are the drivers of land title formalisation rates.

Under Regulation 3 subsection 2 of the National Building Regulations, 1996 (LI 1630) *“an applicant under regulation 2 shall satisfy the District Planning Authority that he has good title to the land relevant to the plans”.* Subsection 3 also stipulates that *“No approval shall be granted to any applicant who does not have a good title to the land, and, for the purposes of this regulation, good title shall be in accordance with a certificate issued by the Chief Registrar of Land Titles or any other agency so authorized”*. In this this aspect, we recommend that authorities must require title formalisation as a precondition for the of building permits as stipulated under Regulation 3 subsection 2 of the National Building Regulations, 1996 (LI 1630). This will compel land parcel owners to formalise their land title before commencing any developments on them.

More critically, there is the need to holistically review the fees and charges for land registration. The high number of land title applications recorded during the Asantehene’s Lease Documentation Project attests to the impacts of cost on land registration compliance rates. There is therefore the need for authorities to explore ways through which the costs of land registration can be reviewed in line with national income levels to encourage title formalisation rates.

Considering public perceptions of land registration, this research calls for the concerted efforts at educating the public on the relevance of land registration. This brings to fore the need to include public sensitisation as a major component of future land administration initiatives.

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1. The *Asantehene* is the King of the Ashantis. [↑](#footnote-ref-2)
2. All charges are calculated based the standard plot size of 0.25 acre [↑](#footnote-ref-3)
3. GHȻ 80 or 0.25% of the land value is charged depending on which is higher [↑](#footnote-ref-4)
4. Estimated based on the value of the land, the unexpired term of the lease and the discretion of the valuer [↑](#footnote-ref-5)