

Investigating Dispute and its Effect on Real Estate Transactions: Evidence from Traditional Urban City in Nigeria

Michael Ayodele Olukolajo¹, Ifeoluwa Benjamin Oluleye^{1*}, Abiodun Kolawole Oyetunji^{2,3}

¹Department of Estate Management, School of Environmental Technology, Federal University of Technology, Akure, Nigeria

²Department of Estate Management, Faculty of Environmental Sciences, University of Benin, Edo State, Nigeria

³Lancaster Environment Centre, Lancaster University, Lancaster, United Kingdom

*Corresponding author's email: iboluleye@futa.edu.ng

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Abstract

Clash of interest seems to be unavoidable in real estate matters. This could be due to the market's complexity and the heterogeneous participants involved. The study examined the causes of dispute and its implication on real estate transactions in Akure (a traditional urban city), Nigeria. Data were collected through questionnaires administered to the target respondents, which comprise disputant residents and Estate Surveyors, and Valuers. The results were analyzed with mean item score and agreement analysis. Findings are that multiple allocations of land and boundary conflicts are the significant factors causing disputes within the study area. It was also discovered that development delay and market interruptions are the substantial implication in the disputes arising from real estate transactions. The study recommends that the concerned authority on land matters should ensure proper land record-keeping. This will help put to check the problem of multiple land allocations. Also, the appropriate land boundary mapping should be done to mitigate issues arising from boundary conflicts.

Keywords: Causes of disputes, implications of disputes, real estate dispute, real estate transaction, Nigeria

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1.0 INTRODUCTION

Land is an economic resource and territory governed space that gives those who control it leverage over other people (Berry, 2009). Transactions or exchange of interest takes place on land. Every land has an owner, be it wasted or forest land (Buah, 1998). Land may be acquired from holders of the alienable interest through formal or informal land markets. Generally, land transactions are complex in nature and not without issues. In any dealings, social gathering, and transactions, people are bound to disagree (Zack, 1995; Anyebe, 2012; Okpaleke et al., 2014). Although real estate transactions thrive in a market devoid of chaos, disputes cannot be written-off when making property transactions. This is why Oluleye et al. (2020) submitted that disagreement or conflict of interest is inevitable when negotiating property investment. Disputes in real property could result in loss of properties and a threat to life if not properly managed. The interaction of market participants during real estate transactions could degenerate into dispute. It may arise during the marketing or from the bargaining to the concluding stage of the transactions. Olawore (2013) also asserted that disputes may arise from misunderstanding or trespass to rights and privileges and could amount to incurable bitterness.

Griffin (2002) observed that dispute is an unavoidable part of interpersonal relationships. People's interaction to achieve common objectives could lead to conflicting opinions, which could invariably affect their mutual relationship. This is because people are expected to have competing interests as they deal with one another. If the competing claims are not well managed, it could lead to a dispute (Agbi, 2013). However, Hellriegel and Slocum (2004) asserted that conflict might negatively or positively help problem-solving and sound decision-making and enhance innovations, thus increasing productivity. Almudsy (2007) and Tjosvold (2006, 2008) further affirmed that dispute is unavoidable. However, it may negatively affect the parties involved if not adequately managed. The effect of an argument on any transaction depends on how it is handled (Mullins, 2005; Adomi & Anie, 2006; Hatch & Cunliffe, 2006).

Disputes in real estate can arise in various forms and from several sources. For example, it could be those in residential or commercial properties, between landlord-and-tenant, those involving construction works, between boards and shareholders, property-management issues, broker-client-agent relationships, and broker-agent relationships (Sklar, 2012). Real estate disputes could arise from but not limited to an increase in population, invasion, maladministration, conflicting land use, increase in land and property price without due consent, non-payment of compensation during damages, inadequate knowledge of land laws, unclear boundaries, land ownership documents forgery and misunderstanding arising from property inheritance (Sackey, 2010).

Real estate dispute has created diverse forms of bitterness and grievance among the parties in a transaction (Nwazi, 2017). This has sometimes resulted in property destruction and even loss of lives due to its improper management. The effect of disputes could either be negative or positive (constructive or destructive) depending on how it is being handled (Oyetunji & Ajayi, 2016). Various real estate activities such as letting, sales, property development, and management are prone to dispute since the parties involved may have a conflicting opinion. The degree of dispute is a function of the nature of the cause and complexity of the problem. It tends to affect transactions relating to construction development. Whether the impact of such a conflict will improve or end the transaction depends on the parties involved. However, the quest to determine the implication of the disputes on real estate transactions is an issue that needs proper investigation.

This study is done with a view to promoting peaceful co-existence among those involved in real estate transactions. The importance of land in Akure, a traditional urban settlement in the southwestern area of Nigeria, cannot be overemphasized. Due to the rights that land confers, tussles and claims leading to disputes do arise from land. For instance, on December 10, 2020, the vanguard newspaper reported how hoodlums sacked a Monarch from his palace due to a land dispute. Another piece of evidence was written in the same newspaper on December 3, 2020. Here, two persons were feared killed and the palace razed due to a clash over a land dispute. Due to the foregoing, it is imperative to understand the causes of dispute and their implication on real estate transactions in a typical fast-growing traditional urban settlement. The rationale for this study is that there is no clear-cut evidence that documents the impact and extent of dispute on real estate transactions in a traditional urban city in a developing nation like Nigeria. The central research questions pursued are: what are the factors responsible for real estate transaction disputes, and how do property managers view the implication of disputes on real estate transactions?

■ 2.0 LITERATURE REVIEW

2.1 Causes of Real Estate Dispute

Dispute is “an explicit strife that involves more than one party with differences in opinion, goals, values, and beliefs”. Man’s survival cannot be in obscurity; hence associating with others becomes imperative. Therefore, a dispute is unavoidable and very common when relating with others especially among owners and occupiers of land and landed properties (Oyeshola, 2005). Ojielo (2001) asserted that dispute is caused by various factors, usually in various stages, the warning stage, the emergence of the problem, the escalation stage, the violent stage, the de-escalation stage, and the outcome stage. Oyetunji and Ajayi (2016) affirmed that dispute often arises due to misrepresentation, backbiting, and envy in property management. Cotula et al. (2004) and van Donge and Pherani (1999) also identified some underlying factors such as population pressure, agricultural commercialization, and urbanization as the major contributor to the increasing number of land-related conflicts. The studies revealed that Africa’s current land tenure systems may not be well-equipped to resolve such disputes.

Due to the high demand for landed investment and housing and the fact that public sector housing provision is insufficient to meet citizens’ housing needs, private sector investors appear to take advantage that protects and advances their interests over the interests of their tenants. According to UNHabitat (2006), this is the trend in most parts of the developing and developed worlds. According to prior studies (Wahab & Adetunji, 2015; Wahab & Odetokun, 2014), many landlords have taken advantage of this opportunity to demand higher rent, while difficult tenants, according to Akogun and Ojo (2013) and Gbadegesin and Oletubo (2013), are always at odds with their landlords due to their previous experiences. As a result, landlord-tenant relationships are marked by distrust, resentment, power struggles, and each group’s struggle to get the most out of the relationship at the detriment of the other (Gbadegesin & Oletubo, 2013; Lemanski, 2009). This leads to disagreements that, if not resolved amicably, could degrade the relationship between the two groups even further and turn violent, resulting in a breach of public order. Sackey (2010) opined that the main causes of real estate and land disputes could be attributed to many factors which may include but are not limited to:

A. Population increase: An increase in the population often results in high demand for land and other corporal and corporal hereditaments. The fixed supply of land and its demand often results in independent use and competition for land ownership during sales, which often amount to a conflict of interest; hence the likelihood of dispute occurrence results in conflicts. The occurrence of monopoly in ownership of land among landholders can also cause land disputes. This is evident as some decide to own a large real estate while others do not, and the aftermath could be grievance and bitterness. The ownership can be due to economic position or inheritance. Also, an increase in population could lead to increased property demand, leading to an increase in the number of persons occupying tenanted properties. This may form the basis for disputes among tenants of differing backgrounds (Sklar, 2012).

B. Delay and inadequate compensation payment: Shivji (1999) believed that disputes on land and landed properties might occur due to delay or inadequate payment of compensation. The Land Use Act of 1978 provides that whenever land is compulsorily acquired, compensation must be paid to any person whose right of occupancy is revoked. The law recognizes fair and adequate compensation. However, practically, things do not work out right because there are some problems with the law. The Act determines how compensation must be paid. Although the situations in 1978 are not the same in recent years, Nigeria still relies on the provisions of the Act as the basis for compensation payment. Even though compensation processes are fully adhered to, compensation may not be forthcoming. The aggrieved party always claims compensation payments are delayed or inadequate as it doesn’t reflect the land’s actual value and the unexhausted improvements therein. This could be the basis for disputes between acquiring body and the landowners (Shivji, 1999).

C. Maladministration: This means poor administrative management, inefficiency, or dishonesty. In property-related matters, it can be a situation where land administrators do not perform their expected duties. It represents the abuse of entrusted power for private gain while carrying out land administration and management functions. Land disputes may arise due to the nonchalant attitude of workers; for

example, improper land record-keeping, unnecessary bottlenecks, double or multiple allocations. In most land administrative agencies, there is a lack of a land register to show who owns what and where. This could subsequently lead to double land allocation.

D. Invasion and conflicting land use: Dispute in real estate also occurs when individuals with power politically or economically enter into undeveloped plots of other people (Sackey, 2010). Invasion usually happens when there is an increase in the demand for land. Some people may invade lands that have been left vacant by their original owners. Conflicting cases occur where the land use in the area does not complement one another. Sackey (2010) observed that where pastoralists and agriculturalists want to use the same land, particularly in rural areas, a dispute may arise. Where livestock destroys crops on a farm, could bring about conflicts.

E. Increase in land values: Land increases in value due to accessibility, technological and economic changes. This causes an increase in the value of landed properties and may affect the use and demand for land and landed properties; This reason can be a source for disputes. The increase in the value of land and landed properties may pose management problems, as many potential tenants may not accept the value. Even the property owner may put pressure on the property manager to inflate the value of the property.

F. Unclear boundaries: Sackey (2010) also opined that unclear boundaries could cause conflicts, particularly in unplanned areas. Unserved plots usually do not have clear boundaries and may lead to land-related disputes. In such places, people demarcate these boundaries with landmarks such as stones and growing trees. After some time, these marks get destroyed or transferred, and it results in disputes. In planned areas, some people claim ownership of portions they have encroached upon.

2.2 Implications of Real Estate Dispute

Patzak and Rattay (2012) posited that dispute is variation and conflicting opinion causing various forms of emotional involvement, and often impede successful real estate negotiation. In real estate development, the dispute often emerges as a result of difficult framework conditions. However, Patzak and Rattay (2012) noted that conflict is considered a threat to life because they are known with negative emotions such as anger and hatred. It is sufficient to recognize that real estate transactions and disputes cannot be separated. Wehrich and Koontz (2005) stated that every transactional process, real estate inclusive, entails complex interrelationship and a high degree of task independence, which could amount to friction. Also, differences in the parties' goals, the disparity in parties' perception about transactions, and improper communication are significant causes of dispute.

Okpaleke (2014) noted that real estate disputes would hamper the associated returns and overall multiplier benefits to the economy when not well managed and resolved. Lebovits and Hidalgo (2009) also expressed that real estate involves many intertwined relationships between individuals of varying backgrounds, to which a potential dispute between the parties can occur during negotiation. According to Babawale (2007), real estate disputes can also lead to adverse impacts, and as part of risk management procedure, efficient mitigation of the adverse impact of real estate dispute would involve a resolution process that, amongst others, address the three key variables of uncertainty, time and cost. These three parameters are sensitive to every investment analysis. More so, the delay and the resulting costs of litigation leave businesses feeling disenchanted by the court system. This has enhanced the increasing pursuit of alternative dispute resolution (ADR) as a fair, appropriate and effective means of resolution of disputes in various business spheres (Aina, 2012).

Similarly, improper management of disputes could lead to an escalating response, ultimately leading to violence and long-term fission of society, leading to accumulation of animosity, hatred, loss of life, loss of properties, and prejudice (Olukolajo, 2012). This was supported by Oyetunji and Ajayi (2016) that the consequence of dispute includes facing criminal charges, destruction of properties, loss of income and time, damage to landlord's properties, bodily injuries to parties, poisoning and death, distrust, and noisy and rowdy environment, and discomfort to neighbours. Ojielo (2001) avowed that if disputes are not properly addressed, it can lead to adverse effects. Riskin (1996) argued that conflicts between real estate parties could begin with petty squabbles and escalate into cancerous disputes. The occurrence of real estate conflicts can reduce motivation, turnover, increase absenteeism, and cause confrontation, leading to severe and violent crimes.

As noted earlier, disputes can either be constructive or destructive, depending on how they are handled. When they are poorly managed, they become catastrophic. They can hinder national peace, progress, and security. The consequence of dispute includes facing criminal charges, damage to landlords or co-tenants' belongings, loss of income and time, bodily injuries to parties, poisoning and death, distrust, noisy and rowdy environment, and discomfort to neighbours. Walton and Dutton (1969) found that dispute leads to low trust, which negatively affects performance. Its improper management can lead to the unwillingness of the individual to continue to participate in such transactions. Dispute is a natural phenomenon in every transaction, and how it is managed determines whether the results will be positive or negative (Oyetunji & Ajayi, 2016). Kassab et al. (2006, 2010) affirmed that dispute remains a bone of contention in real estate with the probability of causing project failures and abandonment. Furthermore, when there is a dispute among the real estate construction workers on-site, it could lead to break in communication and delay.

3.0 METHODOLOGY

3.1 Study Area

In achieving the study's aim, the causes of disputes in real estate cases and their impact on real estate transactions were investigated using Akure as a case study. Akure is a traditional city in Nigeria; it existed long before the country's British colonial rule. The city is located within Ondo State in the southwestern part of Nigeria. It lies approximately on latitude 7°15' North of the Equator and longitude 5°15' East of the Greenwich meridian. It is bound in the North by Ekiti and Kogi State, in the East by Edo State in the West by Oyo and Ogun State and in the South by Atlantic Ocean. The city is located approximately 700km on the south-west of Abuja, the Federal Capital of Nigeria and 350km to Lagos. Akure is a medium-sized traditional urban centre and became the Ondo State headquarters in 1976, resulting

in people's heterogeneous movement and activities into the city. The rapid development in the city has accounted for the influx of people into the city for employment and other related activities. This stemmed from the town's political status, which was initially a provisional headquarter and later a state capital. The city morphology has changed over time to assume its present status with its attendant land-use problems, as experienced in similar medium-sized urban centers in Nigeria. The suitability of the study location is premised on the fact that it is a traditional city with cases of land disputes. Akure, as a case study for this research, is an urban city that thrives on the property market forefront as an investment in real estate keeps cropping up daily, contributes to the development of the economy of the nation as a whole. This makes the demand for all types of properties rise daily as the migration into the state increases. This sometimes leads to reported cases of real estate dispute leading to chaos and violence in the study area. Akure is a traditional settlement with regular land disputes daily. The demand for properties in the property market and the influx of people makes the market attractive for prospective investors.

3.2 Data Collection Approach

A survey research design was employed to assess causes of dispute and its effects on real estate transaction in real estate transactions in the study area. Data were collected by administering questionnaire instruments on practicing Estate Surveyors and Valuers and the residents who have been involved in real estate transaction disputes. The estate surveyors and valuers were used in this study because they are involved in the sales and lease of landed property within the state. The chosen estate surveyors and valuers were selected based on the census of the operating firms within Akure. Also, the disputants are randomly selected from the number of cases brought before the Ijoko Ojogbon panel in the year 2019. The Ijoko Ojogbon is a government backed program aired on Ondo State Radio-vision Corporation for resolving land dispute within the state. This panel mediates on disputes that arise during land transactions within Akure. This program is a dispute resolution approach for resolving land dispute matters in the study area.

Information sourced in this study includes causes of dispute in real estate and the implication of the conflicts on the eventual outcome of their transactions in real estate. Out of the 24 questionnaires administered to the estate surveyors and valuers, only 20 (83.33%) were retrieved while, out of the 60 administered to the disputants, 54 (90.00%) were retrieved, vetted and considered valid for the data analysis

3.3 Method of Data Analysis

3.3.1 Mean Item Score

This is a quantitative analysis technique used for prioritizing the level of importance of variables. The mean item score analysis was used in this study to ascertain the relative priorities that the target participants attributed to the causes of real estate dispute in the study area and the implications of real estate dispute in the study area.

3.3.2 Agreement Analysis

Agreement analysis is an approach used to compare and determine the consensus between the views of two or more groups on the same constructs or variables of measurements. This approach, as employed in Adabre et al. (2020), was used in this study. This method adopted in this study was computed using the formulae:

$$R_i = \sum_{j=1}^N (R_{ij}) \quad (i)$$

Rank Agreement Factor (RAF) is given by the equation:

$$RAF = \frac{\sum_{i=1}^N |R_{i1} - R_{i2}|}{N} \quad (ii)$$

Maximum Rank Agreement Factor (MRAF) is defined as

$$MRAF = \frac{\sum_{i=1}^N |R_i - R_{i2}|}{N} \quad (iii)$$

Disagreement percentage (DP) is illustrated by:

$$DP = \frac{\sum_{i=1}^N |R_{i1} - R_{i2}|}{\sum_{i=1}^N |R_i - R_{i2}|} \times 100 \quad (iv)$$

$$\text{Agreement percentage (AP)} = 100 - DP \quad (v)$$

■ 4.0 RESULTS AND DISCUSSIONS

Table 1 Causes of dispute in real estate matters

S/N	Causes of dispute	ESV		Residents		Agreement analysis		
		Mean	Rank	Mean	Rank	R _i	(R _{i1} -R _{i2})	/(R _{i1} - R _{i2})/
1	Boundary conflict	4.65	2	4.54	1	3	1	16.39
2.	Multiple allocation of land	4.75	1	4.37	2	3	1	16.39
3.	Multiple sales/letting of properties	4.50	4	4.35	4	8	0	11.39
4.	Conflicting and Competing uses/rights on common and collective land	4.45	5	4.37	2	7	3	12.39
5	Illegal Sales/Lease of state land	4.55	3	4.19	8	11	5	8.39
6.	Violent land acquisitions such as clashes and wars	4.30	7	4.22	6	13	1	6.39
7.	Unauthorized sales of common or collectively owned property	4.20	10	4.30	5	15	5	4.39
8.	Improper use or disposal of common property	4.25	8	4.17	9	17	1	2.39
9	Inheritance conflicts	4.15	11	4.20	7	18	4	1.39
10	Ownership conflicts due to lack of land registration	4.25	8	4.11	10	18	2	1.39
11	Poor land administration and management	4.10	13	3.94	12	25	1	5.61
12	Acquisition and non-payment of compensation	3.90	15	3.91	13	28	2	8.61
13	Land grabbing	3.80	16	4.00	11	27	5	7.61
14	Dispute over increase in land values	4.10	13	3.67	16	29	3	9.61
15	Disputes over the distribution of revenue from customary land	3.75	17	3.59	17	34	0	14.61
16	Increase in demand for landed properties	3.65	18	3.69	15	33	3	13.61
17	Improper land privatization (e.g. unfair land distribution or titling)	4.15	11	3.76	14	25	3	5.61
18	Destruction of property	3.75	17	3.41	18	35	1	15.61
						$R_{i2} = 19$	Sum=41	Sum=161
						.39		.78

Table 1 shows the causes of real estate disputes as expressed by the respondent Estate Surveyors and Valuers, and residents. According to the Estate Surveyors and Valuers, Multiple allocation of land ranked 1st with a mean score of 4.75 while Boundary conflicts ranked 2nd with a mean score of 4.65. However, according to the residents' response, boundary conflicts rank 1st with a mean of 4.54, and multiple allocations of land rank 2nd with a mean score of 4.37. Conflicting and Competing uses/rights on common and collective land also has a mean score of 4.37 same as multiple allocations of land. Increase in demand for landed properties and destruction of properties rank as the least causes of real estate disputes with a mean score of 3.65 and 3.41.

From Table 1, the rate of agreement and disagreement between the two groups is given as:

$$DP = (41/161.78) \times 100 = 25.34\%$$

$$AP = 100 - 25.34$$

$$AP = 74.66\%$$

The percentage agreement among the respondents based on the investigated causes of dispute in the study area is 74.66%. This suggests a significant level of understanding of the opinion that exists between both parties on these factors. As seen in Table 1, boundary conflict was ranked 2nd by Estate Surveyors and valuers, while the disputants ranked 1st. This implies that there is relative consensus in this response due to closeness in their ranking. Based on the agreement analysis and the opinion of the two respondents, 14 out of the 18 variables of causes of dispute have their $R_{i1}-R_{i2} \leq 3$. This could be one of the main reasons for the high level of agreement in the ranking as the level of agreement increases as $R_{i1}-R_{i2}$ tends towards zero, since $R_{i1}-R_{i2}$ of zero indicates a perfect agreement. The findings in this survey corroborate that of Sackey's (2010), that boundary conflicts is a major factor responsible for real estate disputes.

Table 2 Implication of dispute on real estate transaction: estate surveyor's perspectives

Implications	Mean	Std. dev.	Mean diff (Test value =3)	Sig.	Rank
Hinders real property development	4.75	0.550	1.750	.000*	1 st
Delay in disposal/letting of properties	4.60	0.681	1.600	.000*	2 nd
Termination of business relations	4.30	0.801	1.300	.000*	3 rd
Accumulation of animosity, hatred, loss of lives & properties	4.25	1.118	1.250	.000*	4 th
Low tenant-occupancy ratio	4.20	0.768	1.200	.000*	5 th
Disastrous effects on individuals, groups and countries	4.20	0.696	1.200	.000*	5 th
Reduction in investment opportunities for the economy	3.80	0.616	0.800	.000*	7 th
Destruction of real properties	4.15	0.875	1.150	.000*	8 th
Extensive negative effects on economic, spatial and social development	4.10	0.912	1.100	.000*	9 th
Loss in Property value	4.10	1.071	1.100	.000*	9 th
Hampers the associated returns & overall multiplier benefit to the economy	3.80	0.834	0.800	.000*	11 th
Adverse impacts and increased investment risk	3.80	0.894	0.800	.001*	11 th
Lack of access to land	3.55	0.887	0.550	.012*	13 th

The result in Table 2 revealed that real estate disputes hinder real property development as it ranked 1st with a mean score of 4.75. Delay in the disposal/letting of properties ranked 2nd with a mean score of 4.60, while termination of business relation ranked 3rd with a mean score of 4.30 and accumulation of animosity, hatred, loss of lives and properties ranked 4th with a mean score of 4.25. These can be reasonably summarized as the significant effects of real estate disputes in the study area. This is in line with Wehrmann (2008) which opined that land and real property-related conflicts often have extensive adverse effects on economic, social, spatial, and ecological development. This is especially true in developing countries and countries in transition, where land market institutions are weak, opportunities for economic gain by illegal action are widespread, and many poor people lack access to land.

In order to examine the significance of these implications on real estate transactions based on a 5-point Likert scale, the test value of 3.0 is considered as the benchmark for the study. This was adopted and deemed appropriate to have a great deal of more acceptable importance. Table 2, however, revealed that hindrance to real property development has a p-value of 0.00 while a delay in property letting/disposal, destruction of real properties, and termination of the business transaction all have a p-value of 0.00. The least ranked implication has a p-value of 0.012. Based on the t-test statistics and the p-value criteria, it was evident that all the consequences are significant at $p < 0.05$. In light of the foregoing, it can be concluded that the variables measured have significant impacts on the real estate transaction if not adequately looked into.

5.0 CONCLUSION

This study has examined the implications of disputes on real estate transactions in Akure. The study found that significant causes of real estate disputes and conflicts as expressed by the respondents in the study area include multiple land allocations, boundary problems, conflicting and competing uses/rights on common and collective land, and multiple sales/letting of properties. The study also discovered that hindrance to real property development is regarded as the significant negative effect of real estate dispute. Also, there is a delay in disposal/letting of properties, termination of business relations, and accumulation of animosity, hatred, loss of lives and properties. These can be reasonably summarized as the major effects of real estate disputes in the study area.

The study recommends that the land records bureau should ensure that proper records of allocated lands are kept to avoid multiple allocations of land. Also, the appropriate mapping should be done regularly to mark boundaries for easy identification, especially in the developing areas of the state. Government should set up appropriate agencies to establish a standard that will checkmate fraudulent agents' cases and multiple sales/letting of properties. More of alternative dispute resolution bodies should be formed; particularly that deals with land and real estate matters. Disputes among parties should be well managed as the adverse effects on peaceful co-existence of human cannot be overemphasized.

This research is limited to investigations within the traditional settings of dispute in a named urban centre in Nigeria. The research does not consider the asymmetric information of market participants. Further research can be done to investigate the asymmetric information of market participants in dispute issues on property market transactions.

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