

Dispute Resolution in Real Estate Transactions: Examining Factors Determining the Selection of Strategies Used

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Abstract

Disputes are inevitable in human interaction during business transactions. There are growing numbers of reported cases associated with disputes in real estate. Disputants always seek for ways to resolve and manage the varying issues arising from these transactions. This study examined the choice of dispute resolution strategies and the factors influencing its adoption in real estate in the bid to provide information capable of promoting peaceful co-existence amongst disputant parties. Structured questionnaires were administered to 60 disputants and 24 real estate firms in Akure, Nigeria and the information collected were analysed using the Mean Item Score (MIS). Findings showed that arbitration, litigation, *Ijoko Ojogbon* (a weekly TV-series program on land dispute settlement) and palace court are the top three most adopted strategies for real estate dispute resolution in the study location. Litigation, as found out, is being sought when ADR fails to pacify the issue at hand. The traditional strategies of dispute resolution such as *Ijoko-Ojogbon* and palace court were more prominent among the disputant because the time involved, the verdict enforcement and the cost in obtaining a judgement are relatively cheaper and are adduced as the major factors determining the choice of resolution strategy adopted by the disputants. It is therefore recommended that the crippling formalism and the unnecessary delay involved in litigation should be checked to hasten the resolution process. The traditional strategies of dispute resolution should be widely embraced, while the government at all levels should put up laws that will further empower traditional ADR process.

Keywords: Disputant, dispute resolution strategy, real estate transactions

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1.0 INTRODUCTION

Clash of opinion, herein referred to as “disputes or conflicts” is unavoidable in transactions within the real estate industry. This is because in real estate transaction, a relationship is created, and that which was created could result into divergent opinions, and if not properly handled can lead to a conflict of interest in the long run. The presence of this dispute is an attendant characteristic of human relationship (Oyetunji & Ajayi, 2016). The real estate industry is one where human activity can bring about dispute (Okpaleke et al., 2014). During human interactions in real estate matters, disagreement and disputes are bound to occur (Anyebe, 2012; Zack, 1995). Accordingly, Okpaleke et al. (2014) concluded that in real matters, disputes due to human interactions has increased in complexity and reached a disturbing dimension.

Oni et al. (2010) revealed that disputes do arise from differences in values, unclear boundary demarcation, cultures and beliefs, undefined responsibility and authority sharing, improper communication, unwilling to respond to political, cultural, social, economic, technological changes. It was further revealed that they could also arise from misconception and misinterpretation of rights and privileges. These disputes often lead to endless and sometimes irreversible acrimony when the resolution process become tendentious (Olawore, 2013). Real estate disputes can be avoidable/preventable if appropriately handled. Therefore, Oyetunji and Ajayi (2016) submitted that mechanisms such as Alternative Dispute Resolution (ADR) and litigation can be explored to resolving the dispute that may arise in the real estate market.

The disputes in real estate can involve both tangible and valuable properties. Most of these disputes can be time-consuming and may even involve both financial and/or court resources. Levy (2009) stated that the real estate industry dispute relies on negotiation for solutions and if negotiation fails, litigation is often initiated. In some cases, the disputant parties are unwilling to negotiate or compromise. These disputes often have negative effects on economic, social, spatial and ecological development which can result in detrimental effects (Ojielo, 2004). Paaga (2013) believed that most disputes within a community arise from land, its related natural resources and various factors could determine how to resolve the dispute.

There are several strategies for resolving a dispute. According to Oladokun and Aluko (2014), no dispute resolution strategy can be equitable, self-efficient, and administratively practicable if the parties involved are been considered. Real estate disputes can be in several ways; it could be among tenants, between landlord and tenants, property manager and landlord and even with the tenants. This dispute could be due to a failed transaction or breach of contract among the parties involved. Since the dispute is inevitable, there is the need to devise a suitable strategy for its settlement. Although there are diverse ways to settle a dispute, Atilola and Dugeri (2012) believed that the appropriateness of a chosen strategy will reflect how effective and efficient the resolution will be and selection of these strategies are determined by myraids of factors.

It is against this background that there is the need to examine how a dispute is being resolved in real estate and the factors that determine the choice of resolution strategy adopted. The rationale for this study is based on the premise that while there is a perceived need for a viable dispute resolution process, no concerted effort has been made to harness relevant experience in the management of dispute in real estate transactions. There exists a dearth of literature on the determinants of dispute resolution strategies that focus on real estate transactions especially in the developed economy, thus making the study imperative. The complexity of real estate transactions accompanied by acrimony has remained unresolved over the years. Therefore, the study is aimed at investigating the dispute resolution strategies in real estate transaction and the factors that necessitate the choice of strategies adopted. The outcome of this study would not only provide credible reference for helping real estate disputants and practitioners on the appropriate strategies for dispute resolution but also give valuable information on factors that determine the selection of strategies in other to promote peaceful co-existence amongst real estate parties. The other part of this paper is organized into five sections. Section 2 reveals literatures on the subject matter; section 3 detailed the research methodology adopted; the result of the study is presented in section 4, section 4 reveals discussion of the study and section 6 presents the conclusion and recommendation.

■ 2.0 LITERATURE REVIEW

2.1 Previous Investigation on Dispute Resolution

Due to the uncertainty surrounding litigation as a dispute resolution strategy, people having transactions within the built environment do seek other means by which their disputes can be resolved. The complexity of real estate investment and the inevitable interactions between customers, clients and organizations that cut across real estate value chain sometimes result in disputes. These disputes according to Okpaleke et al. (2014), if not well managed, real estate investment associated returns and overall multiplier benefits to the economy will be hampered. Lebovits and Hidalgo (2009) reiterate that anyone who has leased or purchased real estate can appreciate the potential for dispute and understand the need for parties to be protected against costly and time-consuming litigation.

Oladokun and Aluko (2014) in a study on dispute resolution in corporate multi-tenanted property management using Lagos State, Nigeria as a case study concluded that while the dispute resolution strategies that are available to explore include arbitration, mediation, conciliation and litigation, the arbitration process is the most widely employed. Wahab and Odetokun (2014) in examining the indigenous strategies to housing-induced domestic conflict among residents found out that the indigenous dispute resolution is very appropriate within the traditional community. Okpaleke et al. (2014) conducted a study on mitigating the risk impact of disputes on real estate business and investment in Lagos. The study focused on how ADR could be adopted to reduce the dispute impact. It was discovered that the dispute resolved through litigation created uncertainty in the decision, losses in investment and destruction of the business relationship. The study, therefore, advocated for the adoption of ADR in all business transaction due to its unique benefits.

Olapade et al. (2018) conducted a study on the recovery of residential premises through the adoption of alternative dispute resolution (ADR) techniques in Lagos State. The study investigated the effectiveness of ADR as a means of evicting disputant tenants in a property. Case study approach was adopted by the researcher. Findings from the study showed that ADR is a very effective means of dealing with disputant tenant in the property although there are challenges in its application. The study further showed the most effective dispute resolution strategies in the study area are mediation and negotiation as they often enable ejection of tenants within three months compared to litigation which is characterised by delay, increased cost and creeping formalism.

2.2 Dispute Resolution Strategies

2.2.1 Traditional Methods

Traditional approaches are usually employed to reconcile disputants before the case exacerbates into a large-scale dispute (Albert et al., 1995). The strategies for resolving these disputes are:

(a) Traditional court system: The traditional court system has been used before the advent of court and other forms of dispute resolution strategies. The approach involves the settlement of real estate dispute using the king's palace as the court. In this method, a dispute relating to landed properties are brought to the king's palace for the king to act as the judge over the case. The king cabinet members critically investigate the issue and use their understanding of the matter having heard from the disputants to take a binding (Wahab & Odetokun, 2014). This gives the king enough evidence to reach a binding conclusion. This system is less formal, requires proper scrutiny of documents and analysis of histories relating to the subject matter. This system of dispute resolution has significant benefits as the king do ensure compromise is reached to promote future and long-term relationship among the disputants (Wahab & Odetokun, 2014). This approach is also cost-effective but does not give the disputants room for appeal (Wahab & Odetokun, 2014).

(b) Communal elders/experts' effort: This approach involves the participation of disputants in the resolution process. It is usually presided over by experienced and trusted community elders and local institutions (Wahab & Odetokun, 2014). The elders usually

investigate the disputant's facts and evidence and use their experiences and knowledge to reach a binding decision. During this process, the elders act as the court system that can interpret and manage a dispute, provide evidence for binding and effective judgements on the disputants (Albert et al., 1995). According to Pkalya et al. (2004), the mechanism employs community elders with knowledge and skill in the judicial system. This process promotes peaceful dialogue and unity among disputants (Pkalya et al., 2004).

(c) **Ijoko Ojogbon:** This is a weekly TV-series aired on Ondo State Radiovision Corporation, Akure, Nigeria. This program uses expert effort to settle land-related disputes especially those related to real estate inheritance issues. The host of the programme are elders with vast experience in dispute resolution on land-related issues. Disputants who seek this approach present their cases while the hosts try to resolve the dispute amicably between the parties involved. This approach is very popular in Akure, Ondo State and in some other states in Nigeria. The strategy is often considered to be very cheap, time-effective, less formal and the decisions of these experts/elders are binding on the disputants. However, the approach does not give room for appeal after a decision has been taken.

2.2.2 Contemporary Methods

i. Litigation: This is a primary dispute resolution strategy and the last resort if negotiation and arbitration are unsuccessful (Adewale 1989; Iriekpen, 2010). This method is a court formal proceeding used in resolving the dispute (Hill & Hill, 2008). The method allows full discovery by the disputants compared to other ADR strategies. The disputants have the right to appeal the decision of the judge (Hill & Hill, 2008). The success of litigation has been impeded by unnecessary delay, crippling formalism, court congestion and high costs. She (2011) concluded that the method is usually expensive, very slow, time-consuming and stressful.

Kabir (2011) posited that the cost implication of delivering judgement, excessive delay and bitterness associated with litigation could be a battlefield where only one winner emerges. As a result, litigation has forced many disputants to take the law into their hands using violence, arms, private resolution techniques and other illegal means of resolving grievances (Nwazi, 2017).

Quoting the Late Chukwudifo Oputa, a retired jurist of the Nigerian Supreme Court, Oke (2013) stated that *“the administration of justice in courts suffers from two major constraints which are delay and expense. If it takes 7-10years to decide a case, a prospective litigant may decide not to go to court at all. One thing that frightens litigants away from the courts is the inordinate expense to be incurred with the result that a very large proportion of countrymen are, as it were, priced out of the legal system”*.

ii. Alternative Dispute Resolution: This is a dispute resolution strategy that can be explored outside usual court settings (She, 2011). It includes mediation, conciliation, negotiation, arbitration, adjudication and others by which legal dispute is resolved without formal adjudication. Spangler (2003) stated that ADR is an informal resolution strategy, it is time and cost-effective and the disputants meet with a third party who helps them reach a consensual agreement less formally. The ADR strategies existed due to the shortcomings of litigations (She, 2011).

ADR encompasses strategies for dispute resolution as a substitute for litigation (Okpaleke et al., 2014). The United States Agency for International Development (USAID) through Center for Democracy and Governance (as cited in Oladokun and Aluko, 2014) claimed that ADR is less formal compare to litigation. The process involves the disputant direct contribution in the resolution process, to give room for equity. ADR promotes dialogue, enhances confidentiality and promotes peaceful relationship among disputants (Oladokun & Aluko, 2014).

About two centuries ago, the common form of dispute resolution strategy was litigation. The strategy requires experts in the determination of its cases. Gaitskell (2005) stated that they are often beclouded with case adjournment and even when the case is determined, appeals usually follow. These are often with various spillover effects such as non-assurance of outcomes, high cost and waste of time and resources. To overcome the challenge pose this strategy, this gave birth to the encouragement of ADR in real estate cases. The addition of ADR led to the new taxonomy of dispute resolution strategy adopted in real estate transaction. According to She (2011), different forms of ADR exist, and they can be employed for resolving a dispute even in those that arise during real estate transactions. These ADR strategies could be in the form of:

- a. Mediation:** In this ADR strategy, disputants willingly involve the assistance of a neutral party (a mediator). The mediator is not in the capacity to take/make the entire decisions for the disputants but employs skills to enhance the resolution between the parties without adjudication (Rahman, 2012). Mediation is an effort to resolve a clash of opinion through the intervention of a mediator who tries to look for resolution, however, settlement may or may not be achieved (Hill & Hill, 2008). Oladokun and Aluko (2014) submitted that mediation is time-effective, cost-effective, disputants have control over the outcome, creates an opportunity for confidentiality. However, this method is often plagued with lack of discovery among parties and lack of finality of the decision.
- b. Arbitration:** This is a form of ADR which takes place in a private, according to the agreement and understanding between the disputants (Li & Zhang, 2008). This strategy ensures parties are bound by the decisions of the arbitrator according to law after a fair hearing. The decision of an arbitrator is usually enforceable at law usually at high court. Li and Zhang (2008) therefore concluded that arbitration is a private form of litigation often managed by an independent party who has the needed skills in dispute resolution. This is usually held to avert trial in court (Bailey, 1998). The decision of the arbitrator during the resolution is usually binding on the disputants (ACDC, 2005). Arbitration is therefore a binding ADR strategy (Li & Zhang, 2008). This strategy, which is an alternative to litigation is informal, allows parties to choose arbitrators, gives binding awards that are enforceable by law usually by the high court. The strategy is also faster compared to litigation, cheaper and flexible. However, the strategy is deficient because it gives no room for appeals because pursuant of arbitration is based on the agreement that it would be final and binding on the consenting disputants and where a party to the arbitration agreement subsequently goes ahead to instigate a court case after the agreement to be bound by the arbitration's decision, his consent can be used against him in the court of law (ACDC, 2005). Nevertheless, any form of the irregularity of element or bias in the decision could prompt disputing the matter in an open court (Li & Zhang, 2008). Also, there is

always a lack of evidence to enhance the right legal decision; the approach has no set standard and lack consistency. The strategy also gives no opportunity for cross-examination by witnesses (Li & Zhang, 2008).

- c. **Adjudication:** This is a resolution strategy used primarily in housing and construction dispute. It is a peaceful strategy which allows disputants to present their case and evidence to a third party (known as *adjudicator*) to allow the adjudicator, reach a binding decision based on the procedures established by rule of law (She, 2011). The decision of adjudication is binding unless the case is referred to litigation. This strategy is usually a fast process with which disputants present a referral a notice within 28 days. Compare to litigation, adjudication is very fast, cost-effective and ensures privacy. Despite the advantages of this strategy, various drawback exists among which are lack of oral evidence and the tight time scale which may result in injustice (She, 2011)
- d. **Facilitation:** This involves an objective party who come into the negotiation process to aid disputants in reaching an early consensual agreement. The is done to facilitate negotiation among the parties (Sprague, 2006). This approach is fast but might escalate if not properly handled thereby leading to litigation.
- e. **Conciliation:** This is a dispute resolution strategy which addresses the issue of misperceptions, creates communication, deal with and build the needed trust for cordial resolution. The choice of conciliation arises in settlement of preliminary matters and a little clash of opinion (Moore, 1985). Conciliation system allows the use of personnel who advise the disputants on certain issues such as the parties relationship, the controversial amount in question, and the type of relief sought (Nwazi, 2017). Conciliation is preferred in resolving a dispute as it allows parties to have power over the decision of the dispute, it allows privacy and no reputation is damaged, it is cheaper, the process is informal, and parties can go to court if not satisfied with decisions. Nevertheless, the process is not binding, there is no possibility of appeal and decisions is not usually assured at the end.
- g. **Negotiation:** This is a form of non-binding and informal ADR strategy where disputants reach a consensual agreement on a matter without involving a third party (Lebovits & Hidalgo, 2009). Disputants often reach an agreement using their negotiation attributes and skills. Lebovits and Hidalgo (2009) averred that the negotiation of a dispute is of great advantage as it is completely private, enhances relationship promotion among disputants, it is very cheap and informal. The major setback of the method is that agreement is not always reached by the parties until litigation is sought.

2.3 Factors Influencing the Selection of Dispute Resolution Strategy

Cheung (1999) investigated the critical success factors affecting the use of the ADR process in the Hong Kong construction industry. The study examined the issues related to methods of dispute resolution and concluded that speed, enforceability, flexibility, privacy, economy, fairness, control and creativity are the advantages of ADR techniques. However, the study showed that the users of ADR strategies are often practical and concerned about obtaining satisfaction on the method they select.

She (2011) examined the factor which impacts the selection of dispute resolution methods for construction in Melbourne by comparing various ADR strategies. The study established that the cost involved, speed and outcome of the strategies , the enforceability of the strategies ,privacy, confidentiality, openness, fairness and flexibility of the method, the possibility of appeal, choice of resolution venue, nature of the dispute, the process involved in the resolution, the strength and weaknesses of the mechanism are factors that determine the adoption of dispute resolution strategies in the Australian construction industry. The study also revealed that negotiation is the preferred strategy for construction dispute.

From the forgoing, there exist dearth of the empirical literatures on factors influencing the choice of real estate dispute resolution strategies among disputants, particularly in the developed economies. None of the literatures focused on the choice of dispute resolution strategies in a medium-sizes urban location. This study is therefore imperative as it will bridge the knowledge gaps. The study would contribute to the existing body of knowledge as it would reveal the most sought dispute resolution strategy for real estate transaction dispute and the factors responsible for the choice of such strategies.

3.0 METHODOLOGY

3.1 Study Area

Akure is a traditional city that existed long before the advent of the British colonial rule in Nigeria. The city is in Ondo State, South-western part of Nigeria and approximately 700km South-west of Abuja, the Federal Capital Territory of Nigeria and 350km to Lagos, the former Federal Capital Territory of Nigeria. It lies approximately on latitude 7°15' North of the equator and longitude 5°15' East of the Greenwich Meridian. It is bounded in the North by Ekiti and Kogi State, East by Edo State, West by Oyo and Ogun State and South by the Atlantic Ocean.

The city is a medium-sized urban centre which became the state headquarters of the Ondo State in 1976 and this consequently results in the heterogeneous mass influx of people and activities into the city. The rapid development in the city has accounted for the movement of people into the city for employment and other related activities. The city's morphology has changed over time to assume its present status with its attendant land-use problems, as experienced in similar medium-sized urban centres in Nigeria.

The choice of Akure as a case study for this research stems from the fact that it is an urban city that thrives on the property market forefront as real estate investment keeps cropping-up daily, contributes to the development of the economy of the nation as a whole and as well various cases of real estate dispute are reported leading to chaos and violence in the study area. This is because most family properties are been put up for sale by unsuspecting individuals within the families.

3.2 Sampling Procedure

The non-probability sampling method is used in this study to select the samples from the targeted population. Convenience sampling is a non-random sampling where people who meet certain criteria from the targeted population, are included for the study. Such criteria include willingness to participate, easy accessibility and availability at a given time (Etikan et al., 2016). The convenience sampling method was implemented in this research as the respondents targeted in this research are limited to those who had been involved in real estate dispute and as well those recognized by law to handle property transaction.

The questionnaires were distributed to 60 residents involved in real estate dispute as selected from the case register at Ijoko-Ojogbon and the palace of Deji of Akure (paramount ruler of Akure Kingdom) and as well 24 Estate Surveyors and Valuers in Akure who are those handling real estate transactions as sourced from the directory of Nigerian Institution of Estate Surveyors and Valuers (NIESV).

The questionnaires are distributed among the respondents through the face-to-face survey as suggested by DeFranzo (2014). This is because the survey will enable the researcher to explain the questions more comprehensively should the respondents are uncertain about some of the questions asked in the questionnaire. Besides, as the respondents targeted are specific, thus, a face-to-face survey is a more suitable method to be used in this research. Each respondent was asked to fill a questionnaire with questions associated with the adoption of a dispute resolution strategies and the factors influencing the choice of the strategies. These variables were obtained from the review of past research. The questionnaires were collected back from the respondents to proceed with data analysis.

4.0 RESULTS

Table 1 Adoption of dispute resolution strategies

Methods	Estate Surveyors & Valuers		Disputants		Overall		Mann-Whitney U	Wilcoxon W	Z	Asymp. Sig. (2-tailed)
	Mean	Rank	Mean	Rank	Mean	Rank				
	Arbitration	4.45	2 nd	4.48	1 st	4.47				
Litigation	4.55	1 st	4.04	7 th	4.30	2 nd	403.500	728.500	-.300	.046**
<i>Ijoko Ojogbon</i>	4.40	3 rd	4.13	4 th	4.27	3 rd	514.000	1999.000	-.357	.054**
Palace courts	4.10	4 th	4.44	2 nd	4.27	3 rd	522.000	2007.000	-.298	.765
Negotiation	4.00	5 th	4.31	3 rd	4.16	5 th	488.000	698.000	-.844	.399
Adjudication	3.97	6 th	4.10	5 th	4.04	6 th	554.500	725.500	-.570	.789
Communal elders' effort	3.95	7 th	4.07	6 th	4.01	7 th	417.500	627.500	-1.763	.078
Mediation	3.85	8 th	3.91	7 th	3.88	8 th	539.000	749.000	-.015	.988
Conciliation	3.35	9 th	3.43	8 th	3.39	9 th	519.500	729.500	-.267	.789
Facilitation/Moderation	3.30	10 th	3.17	9 th	3.24	10 th	487.000	1972.000	-.682	.495

Table 1 shows the available dispute resolution methods that are open for adoption while resolving real estate dispute. The Estate Surveyors and Valuers believed that litigation (mean = 4.55; rank = 1st), and arbitration (mean = 4.45; rank = 2nd) are the most adopted strategies for resolving real estate transaction dispute while the disputants submitted that arbitration (mean = 4.48; rank = 1st) and palace court (mean = 4.44; rank = 2nd) are the most adopted strategies for dispute resolution practice. However, the overall average mean of both respondents suggested that arbitration, litigation, *Ijoko Ojogbon* and palace courts are the top three most widely adopted strategies for real estate dispute resolution in the study area.

The implication of this is that within the locality of the study area, being a traditional enclave, the alternative dispute resolution strategies popularly harnessed for real estate dispute are arbitration, *Ijoko Ojogbon* and Palace courts. The *Ijoko Ojogbon* is a weekly programme aired on Ondo State Radiovision Corporation seeks to settle land-related disputes particularly those associated with issues on real estate inheritance. The study also revealed that mediation, conciliation and facilitation are the least embraced strategies for dispute resolution as evidence in the overall average mean results of both respondents with mean values of 3.88, 3.39 and 3.24 thereby ranking 8th, 9th and 10th respectively as the least bottom three strategies.

Table 1 also shows the significant value of the test using the Mann Whitney U test. Specifically, the table provides the test statistic, U statistic, as well as the asymptotic significance (2-tailed) p-value. Strategies such as arbitration, litigation and *ijoko ojogbon* exhibit results that revealed no significant differences in the opinion of both groups of respondents with a significant level of $p \leq 0.05$. Also, the U-value of the three dispute resolution strategies was small relative to the other. This further confirms disparity in the opinion of the two respondents on these three strategies.

Table 2 Factors influencing the choice of dispute resolution strategies

Factors	Estate Surveyors & Valuers		Disputants		Overall		Mann-Whitney U	Wilcoxon W	Z	Asymp. Sig. (2-tailed)
	Mean	Rank	Mean	Rank	Mean	Rank				
Time factor	4.95	1 st	4.44	2 nd	4.70	1 st	1752.000	-3.888	.000	.000
Cost of implication	4.75	2 nd	4.43	3 rd	4.59	2 nd	401.500	1886.500	-1.958	.050
Verdict enforcement	4.60	3 rd	4.52	1 st	4.56	3 rd	528.000	2013.000	-.170	.865
Effectiveness of the method	4.55	5 th	4.43	3 rd	4.49	4 th	494.500	1979.500	-.625	.532
Availability of the resolution method	4.60	3 rd	4.06	7 th	4.33	5 th	304.500	1789.500	-3.149	.002
Nature of dispute	4.30	6 th	4.17	5 th	4.24	6 th	503.000	1988.000	-.532	.595
Strength & limitations of the method	3.80	8 th	4.13	6 th	3.97	7 th	403.500	613.500	-1.776	.076
The resolution process	3.95	7 th	3.96	9 th	3.96	8 th	537.000	747.000	-.041	.967
Formality and flexibility	3.60	11 th	4.02	8 th	3.81	9 th	374.000	584.000	-2.380	.017
Panel of adjudicators	3.80	8 th	3.63	11 th	3.72	10 th	479.000	1964.000	-.780	.436
Face saving	3.50	13 th	3.91	10 th	3.71	11 th	352.500	562.500	-2.444	.015
Possibility of appeal	3.65	10 th	3.56	13 th	3.61	12 th	508.500	1993.500	-.408	.684
Conciliatory overtures	3.55	12 th	3.59	12 th	3.57	13 th	519.500	729.500	-.270	.787
Selection & qualification of adjudicators	3.30	14 th	3.26	15 th	3.28	14 th	533.500	2018.500	-.083	.934
Choice of resolution venue	3.15	15 th	3.39	14 th	3.27	15 th	454.500	664.500	-1.093	.275

Table 2 shows the factors that determine the choice of dispute resolution strategies adopted by the disputants. It was evident that time factor, cost implication and enforcement of verdict ranked the most three common factors influencing the choice of the adopted dispute resolution strategy from the view of both respondents. On the aggregate ranking, these factors retain their position on the log. This means that these factors were of utmost importance in choosing the best alternative among the arrays of strategies. This will aid in yielding great results as expected by those involved.

The Table also shows the actual significance value of the test when the Mann Whitney *U* test was adopted. Specifically, the table provides the test statistic, *U* statistic, as well as the asymptotic significance (2-tailed) p-value. Factors including time factor, cost implication, availability of the method, the formality and flexibility of the resolution mechanism and face-saving that there are no significant differences in the opinion of both group of respondents with a significant level of $p \leq 0.05$.

The table revealed that there is a statistically significant difference in the median value of four factors influencing the choice of dispute resolution strategies whereas the other factors influencing the choice of dispute resolution are not significant with $p > 0.05$. Furthermore, the *U*-value of the four factors influencing the choice of dispute resolution strategies was small compare to other factors. This further proof difference in the opinion of the two respondents on the influencing factors.

5.0 DISCUSSION

Arbitration, litigation, *Ijoko Ojogbon* and palace courts are the topmost three widely explored strategies for resolving any dispute arising from real estate transactions. The choice of these strategies could be attributed to their binding decision on the parties involved as pointed out by Hill and Hill (2008). Mediation, conciliation and facilitation were ranked as the bottom three least adopted strategies. This implied that these approaches are not popular among the dispute resolution strategies available in the study area.

The popularity of arbitration within the study area could also be attributed to the fact that it is private litigation that is cost and time effective and with a binding decision on the parties (Li & Zhang, 2008). *Ijoko Ojogbon* and palace court, are traditional forms of ADR in force in the study location with the popularity of their adoption because they are flexible, decisions are binding and they are win-win resolution strategies (Oladokun & Aluko, 2014).

Although litigation is still being sought as the last resort when disputants are not satisfied with the decision of ADR strategies or when ADR fails, the disputants consider time, cost and enforcement of verdict when selecting strategies for dispute resolution. The choice of arbitration for dispute resolution confirmed in this study concur with that of Oladokun and Aluko (2014) where it was submitted that arbitration is widely used in a commercial real estate dispute. This supports the view of Spangler (2003), that time cost is a major push for disputants to adopt ADR strategies in dispute resolution. The findings of this study corroborate that of Wahab and Odetokun (2014) as it was established that the traditional system of dispute resolution is very effective, timely and decisions binding.

The findings in this present research are also in agreement with that of Cheung (1999) and She (2011) where it was submitted that cost implication influences the choice of construction dispute resolution strategy. The finding is also in tandem with that of Spangler (2003), that choice of ADR adopted could be credited to its relatively cheap and time effective attributes. This is because the cost involved in getting judgement through *Ijoko-Ojogbon* parliament and the palace court are usually relatively cheap compared to other forms.

However, the findings of this current study disagree with the view of She (2011) where it was stated that negotiation is the most appropriate strategies for resolving construction dispute. This is because sometimes most parties will not want to succumb or negotiate

with each other and instead want a third party to help resolve their dispute amicably. The findings of Olapade et al. (2018) did not correlate with the view of this present study where it was reiterated that mediation and negotiation are the most viable strategies in resolving a tenant-related dispute.

6.0 CONCLUSION

Attempts have been made in this study to examine the real estate dispute resolution strategies and factors influencing their choice of selection for resolving real estate cases using Akure as the case study. The study location is a traditional setting that is usually engulfed in a dispute revolving around real estate transaction which most at times lead to loss of life and properties. In a bid to mitigate this reoccurring issue, this present study has established the purpose of the research, has also contributed to the existing body of knowledge. This current study has also demonstrated that cost implications of the strategies to be adopted, the time to resolve the dispute and enforcement of verdict are crucial factors that can influence the selection of dispute resolution strategies.

This research is delimited to real estate dispute in Akure, Ondo State Nigeria using a small sample size. It is suggested that further research of this kind should be conducted in other places using a large sample size. It has however provided new knowledge in this area using a medium-sized but densely populated environment. The study concludes however that litigation is still being reckoned with by the disputants to resolve their real estate dispute. However, the findings in this study, have shown that the traditional ways of dispute resolution are effective strategies that cannot go into extinction. Based on this, it is advised that effort should be made by the government to curb the inordinate delay and crippling formalism inherent in litigation. There should also be an improvement in the time involved in getting judgement done through the litigation process so that its adoption will not be eroded.

Lastly, the traditional strategies of dispute resolution should be widely embraced, while the government at all levels should put up laws that will further empower traditional ADR process. This will promote timely and binding real verdict which is cost-effective.

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References

- ACDC. (2005). *How can I use ADR?* Australian Commercial Dispute Centre. Retrieved from <http://www.acdcltd.com.au>.
- Adewale, O. (1989). Oil spill compensation claims in Nigeria: Principles, guidelines and criteria. *Journal of African Law*, 33(1), 91-104.
- Albert, I. O., Awe, T., Herault, G., & Omitoogun, W. (1995). *Informal channels for conflict resolution in Ibadan, Nigeria*. Ibadan: IFRA.
- Anyebe, P. A. (2012). Towards fast-tracking justice delivery in civil proceedings in Nigeria. In E. Azinge (Ed.), *Nigerian Institute of Advanced Legal Studies. Judicial Reform and Transformation in Nigeria: A Tribute to Hon. Justice Dahiru Musdapher, Chief Justice of Nigeria* (pp. 136-169). Retrieved from <http://www.nials-nigeria.org/journals/Peter%20Anyebe-%20Towards%20Fast%20Tracking.pdf>.
- Atilola, B., & Dugeri, M. (2012). National Industrial Court of Nigeria and the proposed alternative dispute resolution centre: A road map. *Labour Law Review*, 3(2), 23-44.
- Bailey, I. H. (1998). *Construction Law in Australia*. New South Wales: LBC Information Services.
- Cheung, S.-O. (1999). Critical factors affecting the use of alternative dispute resolution processes in construction. *International Journal of Project Management*, 17(3), 189-194.
- DeFranzo, S. E. (2014). *Advantages and disadvantages of face-to-face data collection*. London: Snap Surveys Ltd.
- Etikan, I., Musa, S. A., & Alkassim, R. S. (2016). Comparison of convenience sampling and purposive sampling. *American Journal of Theoretical and Applied Statistics*, 5(1), 1-4.
- Gaitskell, R. (2005). *Using dispute boards under the ICC's rules: What is a dispute board and why use one*. London: Society of Construction Law.
- Hill, G., & Hill, K. (2008). *The people's law dictionary*. New York, NY: Fine Communications.
- Iriekpen, D. (2010, September 28). Disputes: When ADR becomes succour. *THISDAY*. Retrieved from <http://www.thisdaylive.com/articles/disputes-when-adr-becomes-succour/77832/>.
- Nwazi, J. (2017). Assessing the efficacy of alternative dispute resolution in the settlement of environmental disputes in the Niger Delta Region of Nigeria. *Journal of Law and Conflict Resolution*, 9(3), 26-41.
- Kabir, D (2011). Towards the institutionalization of ADR processes in Nigeria. *Ahmadu Bello University Journal of Private Comparative Law*, 4(5), 248.
- Lebovits, G., & Hidalgo, L. R. (2009). Alternative dispute resolution in real estate matters: The New York experience. *Cardozo Journal of Conflict Resolution*, 11(2), 437-461.
- Levy, G. M. (2009). Structuring real estate arbitration clauses: A neutral's perspective [Monograph]. Retrieved from <http://www.gmlevy.com/pdf/monograph.pdf>.
- Moore, E. P. (1985). *Conflict and compromise: Justice in an Indian village*. Lanham, MD: University Press of America.
- Ojielo, O. M. (2001). *Alternative dispute resolution (ADR)*. Lagos: CPA Books.
- Oke, O. (2013). *Alternative dispute resolution in Nigeria legal system: Past, present and future. A compendium of articles on ADR* (Vol. 1). Lagos: Association of Multi-Door Courthouses of Nigeria.
- Okpaleke, F. C., Otegbulu, A. C., & Emele, C. R. (2014). Mitigating risk impact of disputes on real estate business and investment in Lagos: The alternative dispute resolution (ADR) approach. *Covenant Journal of Business and Social Sciences*, 6(1), 1-23.
- Oladokun, T. T., & Aluko, B. T. (2014). Dispute resolution in corporate multi-tenanted property management: A case study. *Journal of Corporate Real Estate*, 16(1), 22-32.
- Olapade, D. T., Olapade, B., & Aluko, B. T. (2018, September). Recovery of residential premises through adoption of alternative dispute resolution (ADR) techniques: Experiences from Lagos, Nigeria. Paper presented at the 18th African Real Estate Society (AFRES) Annual Conference, Abeokuta.
- Olawore, A. (2013). *Nigerian real estate hub*. Retrieved from <http://www.nigerianrealestatehub.com>.
- Oni, A. O., Durodola, O. D., & Oni, A. S. (2014). Disputes resolution among residents of tenement properties in Lagos, Nigeria. *International Journal of Humanities and Social Science*, 4(6), 1-10.
- Oyetunji, A. K., & Ajayi, M. A. (2016). Conflict resolution in multi-tenanted commercial properties in Nigeria. In *Proceedings of the 2nd University of Benin Annual Research Day (UBARD) Conference* (pp. 879-882). Benin City: University of Benin.
- Paaga, D. T. (2013). Customary land tenure and its implications for land disputes in Ghana: Cases from Wa, Wechau and Lambussie. *International Journal of Humanities and Social Science*, 3(18), 263-270.

- Pkalya, R., Adan, M., & Masinde, I. (2004). *Indigeneous democracy: Traditional conflict resolution mechanisms: Pokot, Turkana, Samburu and Marakwet*. Nairobi: ITDG.
- Rahman, K. A. (2012). Mediation and mediator skills: A critical appraisal. *Bangladesh Research Foundation Journal*, 1(1), 223-232.
- She, L.-Y. (2011). Factors which impact upon the selection of dispute resolution methods for commercial construction in the Melbourne industry: Comparison of the dispute review board with other alternative dispute resolution methods. In L. Ruddock, & P. Chynoweth (Eds.), *COBRA 2011. Proceedings of RICS Construction and Property Conference* (73-90). Manchester: School of the Built Environment, University of Salford.
- Spangler, B. (2003). *Alternative dispute resolution (ADR). Beyond Intractability*. Retrieved from <https://www.beyondintractability.org/essay/adr>.
- Sprague, J. (2006). *The Melbourne construction industry: Alternative dispute resolution*. Melbourne: The University of Melbourne.
- Wahab, B., & Odetokun, O. (2014). Indigenous approach to housing-induced domestic conflict management in Ondo City, Nigeria. *Journal of Sustainable Development*, 7(4), 28-46.
- Zack, J. G., Jr. (1995). Practical dispute management. *Cost Engineering*, 37(12), 55.