



# M&O LAW CONSULT

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### About M&O Law Consult

M&O Law Consult is a full-service law firm located in Accra, Ghana. We have significant experience in providing legal advice and support services to clients in various sectors of the economy, including;

- Real Estate
- Construction, Infrastructure and Transport
- Litigation and Dispute Resolution
- Energy and Natural Resources

We empower our clients through expert legal advice and strive to meet their needs through superior customer service and detailed due diligence.

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## this issue

What You Need To Know About Land  
Ownership In Ghana

## What You Need To Know About Land Ownership In Ghana

Land ownership is the creation of statute. Simply put, you own land because the law says so. The legislation that confers ownership on land owners are the Land Title Registration Act, 1986 (PNDCL 152) and the Land Registry Act, 1962 (Act 122).

PNDCL 152 provides that any contract granting an interest in land must be registered within 3 months of its execution. Any contract that is presented after three months of its execution would attract an additional fee. Act 122 also provides that a contract granting an interest in land must be registered within a specified time in order to gain priority against any other documents affecting the same land.

Registration under PNDCL 152 gives the holder of the land an indefeasible title guaranteed by the State. However, Act 122 does not confer an indefeasible title on the holder of the land.

Rather, it confers priority based on the place the contract was executed and the time it was submitted for registration. The essence of registration under Act 122 may be defeated by section 26 of the Act depending on the place the contract was executed and the time it was submitted for registration.

In our experience, some land owners in an attempt to obtain an indefeasible title hurriedly register their interest under PNDCL 152 in order to acquire an indefeasible title or to perfect their interest in land.

In this article, we show you that your land title certificate will not confer an indefeasible title, if you fail to comply with the constitutional, statutory and customary rules on conveyancing. Your failure to adhere to these strict rules could render your certificate void.

Here are 6 things that you need to do to make your land certificate impregnable and indefeasible.

## 1) Conduct a search at the Land Use and Spatial Planning Authority

This requires that before you buy the land you must conduct a search at the Land Use and Spatial Planning Authority to confirm whether the land use is consistent with the planning scheme of the affected area. If it turns out that the land use is inconsistent with the planning scheme, you could apply for the area to be rezoned for your purpose. If you do not do this investigation and it turns out that the land use is inconsistent with the planning scheme, the law is that the grant of the interest in the land will be void. Thus, if you succeed in obtaining a land certificate, the grant upon which the certificate is based can be attacked and declared void, rendering the certificate also void.

## 2) Conduct a search at the Lands Commission

This search is used to establish ownership, whether there are any encumbrances on the land, and the nature of the transactions that have occurred on the land. This would require the interested purchaser to conduct searches at the following divisions of the Lands Commission. Namely; the Public and Vested Lands Management division,

the Survey and Mapping division and the Land Registration division. If you manage to register land without doing this sort of due diligence, you could buy land from an unauthorised person and your land certificate can be attacked.

## 3) Conduct a litigation check

Conduct litigation checks in the courts in the area in which the land is located. This is important because there is no way of finding out that the land is the subject of a dispute unless you do this check or the seller informs you of it. Also, if it is stool land, it is imperative that you enquire from the paramountcy if there is any arbitration in respect of the ownership or boundaries of the land.

## 4) Confirm whether the seller has a good title or an indefeasible title

Ask the seller to present you with documents of title, approved site plans, leases, land certificate, court judgment for your independent verification and to establish whether the seller has a good title or indefeasible title.

A “good title” under PNDCL 152 is a title which commences with an enactment, a grant from the State, a grant, conveyance, assignment or mortgage which is more than 30 years old and establishes that a person is

# Follow these 6 things to truly secure your land.

entitled to deal with the land, a final judgment of a court of competent jurisdiction. An indefeasible title on the other hand, is conferred on a land owner by a land title certificate.

Although both titles are registrable under PNDCL 152, it is better to buy land from a person with an indefeasible title than a good title because if both titles are competing for the same piece of land, an indefeasible title will oust a good title. Thus, you should simply avoid buying land which is already registered in someone else’s name if that person is not the seller. You do so at your own risk.

## 5) Buy land from authorised persons and obtain the requisite consents

Persons authorised to sell land in Ghana are:

**The Stool** – occupant of stool, regent or caretaker must sell the land with the consent and concurrence of the following entities:

- a) elders of the stool;
- b) the Lands Commission; and
- c) the Traditional Council.

**Family-** the family head must sell the land with the consent of the principal members of the family;

**Lands Commission** sells land on behalf of the state;

**Corporate entities** must land in accordance with their rules and regulations; and

**Individuals** must sell land with the consent of the headlessor.

## 6) Register the land

Two sets of laws are relevant for land registration:

**Land Title Registration Act, 1986 (PNDCL 152) and Land Registration Regulations, 1986 (L.I.1341).** These laws apply to the registration districts. The registration districts are the whole of the Greater Accra Region, parts of Kumasi in the Ashanti Region and parts of Awutu-Senya District in the Central Region. Registration under PNDCL 152 is conclusive evidence of ownership against any rival claimants.

**Land Registry Act, 1962 (Act 122) and Land Registry Regulations, 1965 (LI 439).** These laws apply to areas that fall outside the registration districts. Registration under Act 122 does not give title to the registered owner of the land, it gives priority to the owner against any other rival claimants.



After these checks, you must ensure that you buy the land from authorised persons and obtain the consent of the elders of the stool, the Lands Commission and the Traditional Council if it is stool land. The consent of the principal members of the family if it is family land. The consent of the headlessor if it is an individual or a company's land.

### Conclusion

The key takeaways from this paper are that, in order to secure your interest in land and to make your land certificate impregnable and infeasible, you must do the following checks in the course of the land acquisition process and before you register the land: (1) a search at the Land Use and Spatial Planning Authority; (2) a search at Lands Commission; (3) litigation checks; and (4) review the seller's documents.



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