ARDHISASA – IS THIS THE LIGHT AT THE END OF THE TUNNEL?

For decades, the Kenyan land sector has been plagued by corruption, fraud, and illegal transactions in the acquisition of title documents. The weak link is the Lands registries. With the land registration system being manual, land registration process has been riddled with inefficiencies. There is always the real likelihood of loss of records, destruction of records, theft, misfiling and general manipulation of land records and entries. This has led to frustration among stakeholders and the public when it comes to any dealings with the land registries.

In an exercise to resolve the above, the Government of Kenya, through the Ministry of Lands and Physical Planning developed the Land Information Management System (LIMS). The System was hosted on the e-Citizen Portal. The system has been in place for the last five years. The system failed and after its launch, all one could do was generate a land rent demand, pay rent and obtain a land rent clearance certificate. All other services were nonstarters.

May 2021, the National Land Information Management System (NLIMS), aptly named ArdhiSasa is launched. Ardhisasa is accessible here. The new system is an online platform. It is different from LIMS. It is hoped that NLIMS will allow for all land related transactions including survey and physical planning matters to be undertaken through the system.

The system, which was unveiled on 27th April 2021 by the President, seeks to resolve the historical problems experienced by Kenyans when undertaking transactions with the lands registry by easing access and providing a robust, stable and secure platform where transactions can take place in the click of a button.

Currently, the system only covers the Nairobi Registry- This this means land in Nairobi that is registered under the now repealed Registered Land Act ("RLA") i.e. properties with title numbers Nairobi/Block/…………..

This is the pilot project, and it is hoped that all land in Nairobi will be transacted on the platform by end of May. The intention is that the digitisation exercise will bring all land in Kenya within the platform. In the unveiling speech, the President advised that 20 counties are set to be on-boarded on ArdhiSasa by the end of the year and he projected that all counties will be covered by end of 2022.

The Land Registration (Electronic Transactions) Regulations were published to allow for electronic registration of land transactions please see the link here. Now that ArdhiSasa has been launched, if it shall function as intended, the Kenyan land sector is set for a major transformation with efficiency, stability and security being the main objective.

At the launch, the permanent secretary- ministry for land advised that the following properties are excluded from the NLIMS.

- All Sectional property (flats / apartments/ are not on the system. The cabinet secretary noted that most apartments do not have sectional plans/ they have not been registered. Sectional properties will be onboarded overtime after regularization i.e as the sectional plans are registered.
- All titles where ownership cannot be ascertained with certainty i.e they are double allocation or other disputes.

- All land 'categorised' as public land. This includes private land for properties which are, in the view of the ministry, public land. We anticipate that properties that featured in the Ndungu report and all those properties classified as illegally allocated properties by the National commission will be excluded.

Registering into the system

If you own land in Nairobi, whether it is registered under the repealed RLA, it is important that you register in the system.

Please note that the registration process requires that you input your correct details including the phone numbers and passport size photos. This (especially the phone number) will ensure that you are notified of the dealings relating to your property.

Manual processing

As per the ministry advisory, all transactions relating to properties under the repealed RLA, except apartments, shall, going forward, be processed through the Ardhisasa system. That notwithstanding, for matters where the registration and stamping process had commenced through the manual system, the transaction shall be completed manually.

Transactions relating to all other titles, shall be processed through the manual system, until they are onboarded onto the system.

Immediate challenges.

With the launch of a new system, there are usually adoption challenges. In the immediate the following are the anticipated challenges.

- The system crosscheck's identity information from the registry of persons. If your identity details do not tally with the information at the registry of persons, you shall not be able to transact on the system.

- Where the registered proprietor to a property is a foreigner or a foreign company, it will be impossible to transact with your property until is there is created into the system a mechanism to verify Identity information.

- It is not possible to deal with transaction such searches and sale of distressed properties and probate matters because of the approval process required.

Immediate action

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If you have a property in Nairobi registered under the repealed RLA, that is not an apartment, you need to log onto the system, register yourself and conduct a search on your property to see if it is in the system. If your property does not appear, please reach out to us and we shall assist you to investigate and ascertain if the land is classified as a disputed title or public land thereafter guide you on the way forward.

For financiers and other entities that hold titles as security, it is recommended that you review your security portfolio and require all borrowers, with titles registered under the repealed RLA system to register in in the system and thereafter you conduct searches. This will enable the financier to confirm the ownership but moreso ensure that the properties are not marked as disputed or public land. Please feel free to reach out to us to assist with onboarding of borrowers onto the system and with title verification.

The system is created in such a manner that all parties to a transaction must be registered in the system before a transaction can happen. Accordingly, please note to onboard all parties to a transaction before you transact.

As always, if you have any questions or need assistance, please feel free to reach out to Nyawira Kirubi, Partner- Real estate and Banking and Finance, on nkirubi@mman.co.ke.

Click on the icon to go to Ardhisasa website