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ISSUE 1: March 2010

Not For Sale

THIS HOUSE
IS NOT FOR SALE
IT IS PRESENTLY UNDER
LITIGATION
SUIT NO
FCT/HC/EM/
254/07

- Anatomy of a Real Estate Cliché -

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Not for Sale - Anatomy of a Real Estate Cliché

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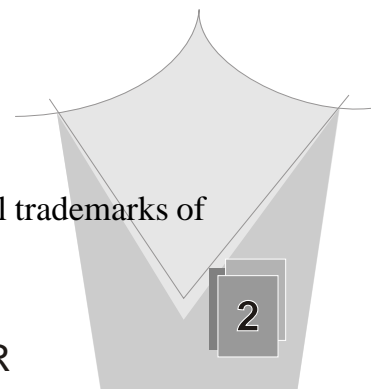
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NOT FOR SALE

Survival of the Smartest?

The Nigerian Real Estate Industry

The Number 419

The Carriers

Section 419 (Nigerian Criminal Code)



Survival of the Smartest?

In Shomolu, a city within the city of Lagos in Nigeria, it is not unusual to find one house on a street of about 20 houses carrying an inscription that could be described as laughable in some climes, unnecessary in others and damn smart by those who use the caption.

Not much has been written on this caption or its essence; it has however become part of the Nigerian social life. It is considered more ingenious than dumb. You will find it on buildings in high brow areas and in slums; city centers and in suburbs; properties on the high ways carry it just as well those in secluded areas.

It can now be comfortably inferred from survey that there is an 80% chance that one in every 25-30 houses/landed property in Lagos carry this tag.

'Not for Sale beware of 419' has become a cliché and one of the most important vocabularies in the Nigerian real estate industry. Its use could date back to as far as the mid-nineties after the confidence trick in the Nigerian oil sector became wide spread.

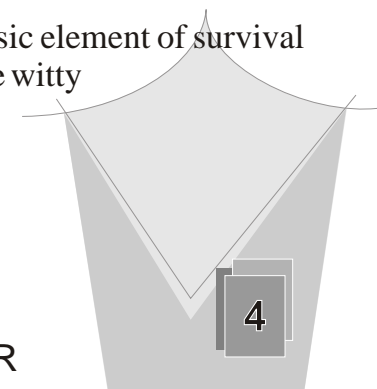
If a house is for sale or lease and a notice to that effect is placed on it, it is understandable but a notice 'not for sale' and in permanent ink does not appear reasonable. It only exposes our criminal tendencies as a people and questions the totality of our social ethos. Even a church

has been sighted carrying this inscription this church is not for sale ...

Why, we may like to ask, have property owners for any reason resulted to this self help mechanism to secure their priced possessions? Without equivocation, the fault should be laid at the threshold of our weak security and judicial institutions. If anyone gets swindled on a land transaction for example, the last place he wants to lodge a complaint is at the police station. The thinking is that the police will only sway in the direction of the moneybag a position that the tricksters will very easily take. The next worst place you'd be advised to seek redress is at the courts. Statements like, "it will probably take 21years for you to get a judgement..." which is close to the reality at the land courts will make anyone rethink this option.

In a chaotic environment like that of Lagos where the mantra 'survival of the smartest' is handy in diverse slangs and local language clichés, policy making is the reserve of the individual. Then it is not about what your social class is, it is how smart you appear to understand your environment and act accordingly.

Now in the property industry, the basic element of survival is based on how much you can device witty Means to keep these swindlers away.



The Real Estate Sector in Nigeria

The real estate sector in Nigeria, like in most other parts of the world, has become the ultimate destination for most investors. With an untamed increase in population, the heightened economic activity in the country and the concomitant demand for space both for residential and official use, the sector has taken a prime position for those with resources and seeking worthwhile avenues to invest.

Shelter, as it has been from time, still remains amongst man's most cogent needs. Its importance has never been in doubt and its demand remains directly proportional to an increasing population.

Real estate has consistently been a target of investment by investors. A football star once said, "My father told me that any country I get into, the first thing I should do is invest in buying lands". The reasons been that, he who owns the land owns the country and real estate like fine wine, gets better with age and the value hardly ever goes down on a permanent basis.

The emergence of private estate developers, building initially especially for the elite, in the early parts of the new millennium expanded the frontiers of the industry and paved the way for huge funding and multinational interest in the real estate development market. This was encouraged by the instant success of primary developments like Lekki phase 1 and the Victoria Garden City (VGC) also in Lekki, Lagos.

Today, this emergence of private estate developers and

their huge resources which they have put into shopping malls, residential apartments and multipurpose office spaces and even multistory car parks underscores its current assessment by analysts as the most profitable investment vehicle and a goldmine of a sort.

The banking sector consolidation exercise that started in June 2004 and the consequent boom in the Nigerian capital market had a special rub off on real estate. The increased amount available for household spending helped the subsequent residential developments in other parts of the country like the Mowe/Ofada axis (Ogun), Isheri/Magodo (Lagos), Owerri (Imo) etc. With staggering amounts raised in public fund, the banks drove their retail expansion on the real estate industry when they opened branches in every nook and cranny of the country.

Telecommunication industry success also raised the demand for in road real estate. The need for network improvement and expanded telecoms access fueled this significant demand. This increased demand and low supply shot up the prices of real estate.


Incidences like those described above have played out now and then over the years in the Nigerian real estate economy and have at each time increased the activities of property speculators and impostors. Criminalities regarding land transactions have increased with the bigger challenge been that of the so termed '*omo oniles*' (land owners) - who sell and resell already sold properties to unsuspecting buyers.

Key constraints in the industry, analysts believe, are more


centered on unfavorable government policies. But for the ordinary individuals, nothing could be worse than an encounter with an *'omo onile'*.

From analysis, it can easily be inferred that the well known inscription (Not for Sale - beware of 419) that appears on buildings and landed properties are as a result of the activities of these miscreants.

The real estate sector in Nigeria remains a realm to tread with serious caution with minimal policy protection and weaker than weak institutions in the judiciary and the police.



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The Number 419

The number 419 has become the most notorious number in the world after the number 666 made popular for being 'the number of the beast'. 419 originally represent a section of the Nigerian criminal code that prescribes the punishment for any person obtaining property by false pretense. According to analysts, the number was made popular by the Nigerian police who were saddled with the responsibility of investigating this class of crime. The investigating officers usually recited this section when taking statements from plaintiffs and the accused.

Lagos, Nigeria being a place where people are used to lining their words with slangs, the policemen would probably have used 419 to describe to themselves the offence for which suspects (of obtaining by false pretence) were being held. It is not hard to imagine a police officer asking his colleague, "What is this man here for?" and the other responding, "na 419" (meaning he's here for a section 419 offence).

The number, now tagged the 419 scam, soon became an alternative for advance fee fraud and the tricksters. Every country has a similar section in their criminal codes but the massive proliferation of such confidence tricks from Nigeria since the 1980s has internationalized the section of the Nigerian criminal code.

Who is the 419?

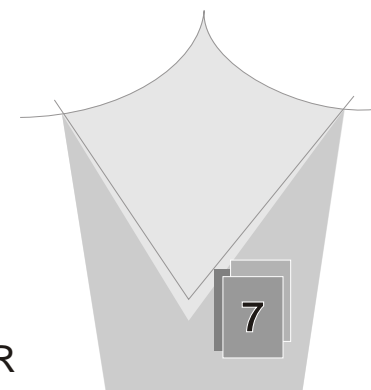
In Nigeria, he's everything that is criminal and false. The retailer who sells beyond tagged price, the student who extorts money from his parents to buy inexistent books, a service station attendant who



requires a tip before dispensing fuel, the agent who sells a piece of land to more than one buyer, the contractor who requests more than required for a bid, or the one who fails to execute a bid after being mobilized, the man who earns money as an impostor, the bus driver who refuses to take commuters to their agreed destination, the passenger who refuses to pay his complete fare...once he does not take your life or extort at arms' point, then he is a 419.

But then, who is the real '419'?

Drawing reference from Chapter 38 Section 419 and 419A of the Nigerian criminal code, the '419er' is any person who by any false pretence, and with intent to defraud, obtains from any other person anything capable of being stolen, or induces any other person to deliver to any person anything capable of being stolen.



The Carriers

Buildings that carry this inscription fall into diverse categories but they all carry it for the same potential reason to wade off unsuspecting or unsuspecting property buyers.

> Family owned properties: property owners can sometimes be funny especially when the owners are a family. One member of the family sells the land to a client and another member of the same family sells the same land to another person. If the plot remains undeveloped for a while, the sale and resale continues. So when the older members of the family begin to get wind of rumor that a member of the family is talking to prospects, they administer the 'sacred oath' on the plot or building.

> Properties in neighborhoods where there is an increased demand for real estate: in such neighborhoods, houses looking old and untidy are targets for property speculators. Undeveloped plots attract more attention. This caption helps wade off any foreseeable interest.

> Properties under litigation: when real estate properties are the subject of litigations, they are usually not inhabited. Tricksters take advantage of the inhabitation to offer the property for sale to unsuspecting buyers. Any buyer will however be benumbed on sighting this caption.

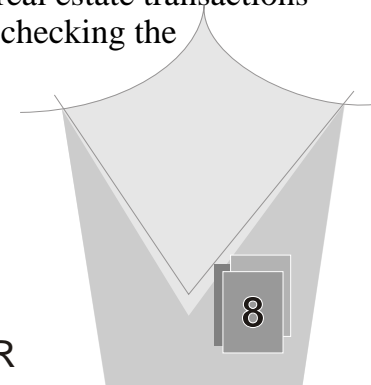
Variants of this cliché

This house is not for sale, beware of 419
 Not for sale, buyers beware
 This house is not for sale or lease
 Not for sale, beware of land speculators
 This house is not for sale, it is the subject of litigation
 This house is not for sale, beware of 419. For enquiries contact 080xx
 This house is not for sale, Family house

Implications of this Inscription

Contrary to the purpose and reason why land lords put this inscription on their property, that seem beneficial, the inscription from deeper analysis does more harm than one:

- A feeling of distrust underlies every real estate transaction in Nigeria.
- The image it presents of the nation is one of a deceitful, treacherous and criminally minded citizenry.
- It increases the attendant cost of real estate transactions as a result of checking and double checking the authenticity of an offering.



Section 419 of the Nigerian Criminal Code

Courtesy Nigeria-law.org

Chapter 38

Obtaining Property by false pretences; Cheating

418. Any representation made by words, writing, or conduct, of a matter of fact, either past or present, which representation is false in fact, and which the person making it knows to be false or does not believe to be true, is a false pretence.

419. Any person who by any false pretence, and with intent to defraud, obtains from any other person anything capable of being stolen, or induces any other person to deliver to any person anything capable of being stolen, is guilty of a felony, and is liable to imprisonment for three years.

If the thing is of the value of one thousand naira or upwards, he is liable to imprisonment for seven years.

It is immaterial that the thing is obtained or its delivery is induced through the medium of a contract induced by the false pretence.

The offender cannot be arrested without warrant unless found committing the offence.

419A. (1) Any person who by any false

pretence or by means of any other fraud obtains credit for himself or any other person-

- (a) in incurring any debt or liability; or
- (b) by means of an entry in a debtor and creditor account between the person giving and the person receiving credit,

is guilty of a felony and is liable to imprisonment for three years.

- (2) The offender cannot be arrested without warrant unless found committing the offence.

419B. Where in any proceedings for an -offence under section 419 or 419A it is proved that the accused-

- (a) obtained or induced the delivery of anything capable of being stolen; or
- (b) obtained credit for himself or any other person, by means of a cheque that, when presented for payment within a reasonable time, was dishonoured on the ground that no funds or insufficient funds were

Section 419 of the Nigerian Criminal Code ...cont

Courtesy Nigeria-law.org

standing to the credit of the drawer of the cheque in the bank on which the cheque was drawn, the thing or its delivery shall be deemed to have been obtained or induced, or the credit shall be deemed to have been obtained, by a false pretence unless the court is satisfied by evidence that when the accused issued the cheque he had reasonable grounds for believing, and did in fact believe, that it would be honoured if presented for payment within a reasonable time after its issue by him.

- 420.** Any person who by any false pretence, and with intent to defraud, induces any person to execute, make, accept, endorse, alter, or destroy, the whole or any part of any valuable security, or to write, impress, or affix, any name or seal upon or to any paper or parchment in order that it may be afterwards made or converted into or used or dealt with as a valuable security, is

The offender cannot be arrested without warrant unless found committing the offence.

- 421.** Any person who by means of any fraudulent trick or device obtains from any

other person anything capable of being stolen, or induces any other person to deliver to any person anything capable of being stolen or to pay or deliver to any person any money or goods, or any greater sum of money or greater quantity of goods than he would have paid or delivered but for such trick or device, is guilty of a misdemeanour, and is liable to imprisonment for two years.

A person found committing the offence may be arrested without warrant.

- 422.** Any person who conspires with another by deceit or any fraudulent means to affect the market price of anything publicly sold, or to defraud the public, or any person, whether a particular person or not, or to extort any property from any person, is guilty of a felony, and is liable to imprisonment for seven years.

The offender cannot be arrested without warrant.

- 423.** Any person who, being a seller or mortgagor of any property, or being the solicitor or agent of any such seller or mortgagor, with intent to induce the purchaser or mortgagee to accept the title offered or produced to him, and with intent to defraud-

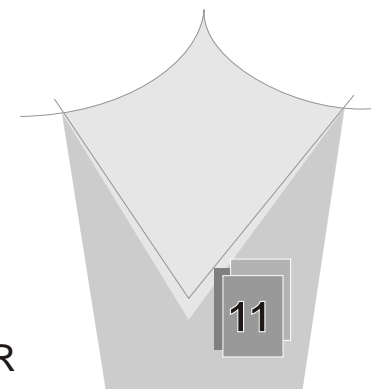
Section 419 of the Nigerian Criminal Code ...cont

Courtesy Nigeria-law.org

- (1) Conceals from the purchaser or mortgagee any instrument material to the title, or any incumbrance; or
- (2) Falsifies any pedigree on which the title depends or may depend; or
- (3) Makes any false statement as to the title offered or conceals any fact material thereto, is guilty of a misdemeanour, and is liable to imprisonment for two years.

424. Any person who for gain or reward pretends to exercise or use any kind of witchcraft, juju, sorcery, enchantment, or conjuration, or under- takes to tell fortunes, or pretends from his skill or knowledge in any occult science to discover where or in what manner anything supposed to have been stolen or lost may be found, is guilty of a misdemeanour, and is liable to imprisonment for one year.

425. Any person who willfully procures or attempts to procure for himself or any other person any registration, licence or certificate under any Act or Law or under any regulation made under the Nigeria (Constitution) Order in Council, 1951, or the Nigeria (Constitution) Order in Council, 1954, or the Constitution of the Federal Republic of Nigeria, by any false pretence is guilty of a misdemeanour, and is liable to imprisonment for one year.





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