

EMERGING TRENDS ON CONDOMINIUM HOUSING SECTOR OF UGANDA

1.0 Introduction.

Housing is a fundamental human right which is essential to every individual, family and community's wellbeing as envisaged in **Article 25 of the United Nations Universal Declarations of Human rights**.¹ The **1995 Constitution** grants land ownership rights solely to citizens of Uganda. Foreigners cannot own land freehold. They may, however, obtain leases for 49 or 99 years. Foreigners can either rent/lease from citizens or from the Government.² Condominiums (condos) are the fast emerging concept that Ugandans are embracing despite the fact that the Condominium laws were passed enacted almost twenty years ago. Condos in Uganda are regulated by **Condominium Property Act No. 4 of 2001** enacted on **23rd February 2001** and Condominium Property Regulations the regulations enacted on **26th April 2002**.

Condominium refers to a system of separate ownership of individual units in a multiple unit building, the individual units of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those units.³

The purpose of the act and regulations were to provide for the division of buildings into units and common property: to provide for individual ownership of those units by issuance of certificates of title in relation to the units as tenants in common; and to provide for the use and management of the units and common property and for the connected matters. Examples of condominiums include Bugolobi flats, Bukoto flats to mention but a few. Experts warn that Uganda has the fastest growing and young population in the world at a growth of 3.5 percent per annum, which might in the near future create a housing crisis in

¹ The United Nations Universal declaration of Human Rights

² Article 26(1) & (2) 237 of the Constitution of the Republic of Uganda

³ See section 1 of the Condominium Act of No. 4 of 2001

the country. The current construction rate is 60,000 units per annum and experts warn that the deficit will have grown to eight million in the next ten years.⁴

The Government of Uganda still has a huge burden of housing the growing population and through national housing and construction corporation has built over twenty thousand houses over a period of fifty year. Some of the private developers in Uganda who are trying to provide low income housing include: Comfort homes, Pyramid homes, Hazel homes, Serene Heights, Fukraddin homes amongst many others. Condominium business has lately become a growing trend in the housing sector of Uganda, popular amongst middle income Ugandans and Ugandans living in the diaspora.

2.0 Salient Features of the Condominium law.

a) Division of building into units

Section 2, requires that a proprietor or developer of condominium property to divide the property into units and must have a condominium plan which shall be presented for registration in quadruplicate and shall indicate the number of units into which the building is divided and if the plan is to be developed in phases, the developer shall indicate a time table for the development of the various phases.⁵

b) Creation of title for each unit

Section 4 of the Condominium Act provides that every purchaser of condominium property be issued with a certificate of title for the unit purchased accompanied with the respective condominium plan and sale agreement because it is upon this that the transfer is effected in the purchasers names.⁶

c) Common property

⁴ Sunday Monitor of 24th November 2019

⁵ Condominium Act of No. 4 of 2001

⁶ Supra

Section 6 provides for common property which does not belong to any specific unit and which is used in common by the owners of the units and includes land on which the property is situated, support structures, infrastructure and services. In other words this is property/ common area that is shared by the unit holders and tenants share this property in equal proportion.⁷ And therefore the parties shall use this common property equally and also contribute equally for the maintenance of common property.

d) Boundaries of the unit

Section 11 provides for boundaries of the unit are described by reference to the floor or ceiling or where a wall located within a unit is load bearing wall, the only portion of that floor, wall or ceiling as that case maybe that forms part of the unit, the boundary shall be the finishing material that is in the interior of that unit including any lath and plaster, paneling, gypsum board panels, flooring material or coverings or any other material that is attached, laid, glued, or applied to the floor, wall or ceiling as the case may be.⁸

e) Rights of owners of common property

Section 14 provides for the rights of owners of common property to include support, shelter and protection: passage or provision of water, drainage, gas, electricity, garbage and air; passage or provision of telephone, radio & television services and any other service of whatever nature. Each unit holder shall has a right to full, free and uninterrupted access and use of light through or from any windows, doors or other apertures existing at the date of registration of condominium plan.⁹

f) Liability of the unit owner

Section 18 provides that owner of a unit shall only be liable in respect of any interest entered on the condominium plan in proportion to the unit factor for his or her unit.¹⁰

⁷ Supra

⁸Supra

⁹ Supra

¹⁰ Supra

g) Management and Use of Condominium Property

Section 19 provides for the establishment of a corporation which is responsible for the enforcement of its bye laws and the control, management and administration of its movable and immovable property and the common property. This corporation shall have perpetual succession and a common seal and shall sue or be sued in its corporate name. Suffice to note is that Companies Act shall not apply to this kind of corporation.¹¹ It seems that such corporation is yet to be established formally.

3.0 Emerging trends in condominium property

- Many Ugandans are slowly tapping into condominium property because of access to knowledge on mortgages concept. Banks have tapped into the Ugandan market which has helped Ugandans access this knowledge.
- Some banks have specialized in ensuring that Ugandans have access to reasonable credit to purchase homes. An example of such bank is Housing Finance Bank Uganda which has specialized in Mortgage financing.
- Most of the people who are purchasing condominiums are Ugandans who live diaspora having realized that Condominiums are less labor intensive.

Challenges in the condominium sector

- Many Ugandans on the other hand have not fully embraced the concept of condominiums as they feel cheated owning units because the houses are in space. They have not yet fully grasped the concept housing in space. Ugandans still believe in the concept of having large compounds.
- Interest rates on Mortgage to secure condos remain very high, the current Bank of Uganda Central Bank Rate (CBR), interest rates gravitate between 10% and 9%.

¹¹ Supra

However this has not translated to a reduction in commercial bank lending rates still high ranging from 21% to 24% per annum.

Although the low CBR would mean that commercial banks to follow suit and cut lending rates; The weighted average lending rate for local currency mortgage loans was 22.6% in 2018, up from 20% a year earlier, according to the Bank of Uganda. The average lending rate for foreign currency-denominated residential mortgage loans was 11.3% in 2018, up from just 7.2% a year ago. The average lending rate for foreign-currency denominated loans for land purchases was 9.3% in 2018, up from 9% a year earlier. Because of these very high interest rates, it is not surprising that Uganda's mortgage market remains very small. Properties are usually sold in cash. The mortgage market is tiny - only 1.2% of the country's GDP, unchanged in the past three years, but up from 0.3% of GDP in 2002. Housing Finance Bank dominates Uganda's mortgage market, with 55% of the total mortgage portfolio, followed by Stanbic Bank, Standard Chartered Bank, DFCU Bank, KCB Bank and Centenary Bank.¹²

- For the developers, the tax on the materials is quite high and the developers end up pushing it to the final consumer and in the long run pushes the cost of the condominiums high which makes it very expensive to purchase.
- One of the biggest challenges in the housing sector is a lack of a regulating authority. This creates a vacuum, negotiation of lending rates, leads to incoherence in managing the various properties etc.
- Real estate players decried the widespread corruption in the system, which delays approval processes, thus affecting their effort to deal with the housing deficit in the country.

4.0 Conclusion

¹²https://www.ubos.org/wp-content/uploads/publications/10_2019RESIDENTIAL_PROPERTY_PRICE_INDEX_-_Press_Release.pdf

Goal number eleven of the Sustainable Development Goals (SDGs) seeks to Make cities and human settlements inclusive, safe, resilient and sustainable through, among others, ensuring access for all to adequate, safe and affordable housing and basic services and upgrade slums and enhance inclusive and sustainable urbanization and capacity for participatory, integrated and sustainable human settlement planning and management in all countries. It is projected that the urban population is likely to double from 20% to 40% of the total Uganda population by 2040¹³. There is increase in urban population in the urban areas especially Kampala which is currently estimated to have a population 3.2 million¹⁴ people and a minimal area of land owning condominium property would be the most viable option to save on space in the city.

Growing the condominium property sector should therefore be a government priority, through outreach to urban population on the need to take up condos; setting up a central governing structure of condominium property and access to affordable financing of the condos.

¹³ See Uganda National Physical Development Plan 2019-2040. Final draft.

¹⁴ www.macrotrends/Cities/Kampala/population.