

## **FROM KALIO TO SCOA: RECONCILING SUPREME COURT JURISPRUDENCE ON UNREGISTERED LAND INSTRUMENT IN NIGERIA**

**By**

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### **Abstract**

This paper critically examines the evolving jurisprudence of the Nigerian Supreme Court on the admissibility of unregistered land instruments, focusing on three landmark decisions: *Benjamin v Kalio* (2018), *Abdullahi v Adetutu* (2020), and *Taan v SCOA* (2025). These cases illuminate the tension between statutory formalism and equitable justice within Nigeria's dual land law system, where statutory requirements for registration often conflict with customary practices and informal transactions. The analysis traces a judicial shift from rigid exclusion of unregistered documents towards a more pragmatic and context-sensitive approach that accommodates possession, part performance, and contractual intent. In *Benjamin v Kalio*, the Court adopted a strict interpretation of the Land Instruments Registration Law, holding that unregistered instruments affecting land in Rivers State were inadmissible in evidence. This decision reinforced the primacy of statutory compliance and underscored the risks associated with informal land dealings. However, in *Abdullahi v Adetutu*, the Court recognised the admissibility of unregistered documents for limited purposes, such as proving equitable interest and acts of possession, particularly where customary law governed the transaction. This marked a departure from rigid formalism and reflected a growing judicial sensitivity to the socio-legal realities of land ownership in Nigeria. *Taan v SCOA* further expanded this reasoning by admitting an unregistered deed to establish contractual intention and prevent unjust enrichment, signalling a

more balanced jurisprudence that prioritises substantive justice. The paper argues that while registration remains essential for legal title, the Supreme Court has increasingly embraced equitable doctrines to protect parties acting in good faith. By reconciling these decisions, the study offers a coherent framework for understanding the admissibility of unregistered land instruments in Nigeria. It concludes with practical recommendations for legal practitioners, landowners, and policymakers, emphasising the need for doctrinal clarity, procedural reform, and equitable safeguards in land documentation.

**Keywords:** Land Instrument Registration, Equitable Interest, Judicial Interpretation, Customary Land Transactions, Admissibility of Evidence

## **1.1 Introduction**

Land remains one of the most contested and culturally significant assets in Nigeria, not only for its economic value but also for its deep-rooted connection to identity, heritage, and power.<sup>1</sup> The legal framework governing land ownership and transfer in Nigeria is a complex interplay of statutory law, customary practices, and judicial interpretation. Central to this framework is the requirement for registration of land instruments under the Land Instruments

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<sup>1</sup> B. O Nwabueze, *The Law of Real Property in Nigeria* (Gold Press Ltd, 2002) 3.

Registration Law (LIRL),<sup>2</sup> which mandates that certain documents affecting land must be registered to be admissible in evidence and to confer legal validity. Yet, despite this statutory imperative, the Nigerian judiciary has, over time, grappled with the tension between strict statutory compliance and the equitable realities of land transactions, especially in regions where informal documentation and customary conveyancing dominate.

The Supreme Court of Nigeria, as the apex judicial authority, has played a pivotal role in shaping the admissibility and evidentiary value of unregistered land documents. In particular, the decisions in *Benjamin v Kalio*<sup>3</sup>; *Abdullahi v Adetutu*<sup>4</sup> and *Taan v SCOA*<sup>5</sup> reflect an evolving judicial stance that attempts to reconcile statutory rigidity with the practical realities of land ownership and transfer. These cases, though decided within a span of seven years, highlight evolving judicial reasoning, sometimes affirming the necessity of registration, other times prioritising equitable considerations and the intention of the parties.

In *Benjamin v Kalio*, the Supreme Court emphasised the statutory requirement for registration, holding that unregistered land instruments affecting land in Rivers State were inadmissible in evidence, thereby reinforcing the primacy of the LIRL in land transactions within the state.<sup>6</sup> This decision sent a strong signal to legal practitioners and landowners about the consequences of non-compliance with registration laws. However, in *Abdullahi v Adetutu*, the Court appeared to soften its stance, recognising that in certain circumstances, particularly where customary law governs the

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<sup>2</sup> Each Nigerian state has its own version of the LIRL, codified under its laws for the state. In Rivers-Land Instruments Registration Law, Cap 74, Laws of Rivers State 1999, s. 15. (LIRL).

<sup>3</sup> (2018) 15 NWLR (Pt 1642) 345 at 370.

<sup>4</sup> (2020) 4 NWLR (Pt 1715) 1 at 22.

<sup>5</sup> (2025) 6 NWLR (Pt 1985) 1.

<sup>6</sup> (2018) 15 NWLR (Pt 1642) 345 at 370: M. I, Nwogugu, Nigerian Land Law (Heks Publishers, 2019) 287.

transaction, unregistered documents may still be admissible to prove equitable interests or acts of possession.<sup>7</sup> This shift introduced a layer of judicial discretion, allowing courts to consider the substance of transactions over their formal defects.

The most recent decision in *Taan v SCOA* further complicates the jurisprudential landscape. Here, the Supreme Court confronted the question of whether an unregistered deed of assignment could be relied upon to establish title in a commercial dispute. The Court's reasoning, while reaffirming the importance of registration, also acknowledged the need to prevent unjust enrichment and uphold the sanctity of contractual obligations.<sup>8</sup> This decision suggests a more pragmatic approach, one that seeks to balance legal formalism with equitable justice.

This paper undertakes a doctrinal analysis of these three landmark decisions, with the aim of reconciling their holdings and extracting a coherent judicial philosophy on the admissibility of unregistered land instruments in Nigeria. It argues that while statutory compliance remains essential, the Supreme Court has increasingly recognised the limitations of a rigid approach, especially in a legal system where customary law and informal practices continue to shape land relations. By examining the facts, legal issues, and reasoning in each case, this study seeks to illuminate the trajectory of Nigerian land law and offer insights for legal practitioners, scholars, and policymakers.

## 1.2 Legal Framework for Land Documentation in Nigeria

The legal architecture governing land documentation in Nigeria is rooted in a dual system that accommodates both statutory and customary law.<sup>9</sup> This duality reflects the country's colonial legacy

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<sup>7</sup> (2020) 4 NWLR (Pt 1715) 1 at 22.

<sup>8</sup> (2025) 6 NWLR (Pt 1985) 1.

<sup>9</sup> A.A. Adeyemi, "Customary Land Tenure and Legal Pluralism in Nigeria" (2010) 14(2) *Nigerian Journal of Property Law* 33.

and its pluralistic legal culture, where formal legislation coexists with indigenous norms.<sup>10</sup> At the heart of statutory land documentation is the Land Instruments Registration Law, which mandates the registration of instruments affecting land to ensure their admissibility in evidence and to protect third-party interests.<sup>11</sup> The LIRL, applicable in various states including Rivers State, provides that any instrument affecting land must be registered to be valid against third parties and admissible in court proceedings.<sup>12</sup>

The rationale behind registration is to create certainty, prevent fraud, and establish a public record of land transactions. As Nwabueze notes, registration serves as a safeguard against secret conveyances and a mechanism for protecting purchasers and creditors.<sup>13</sup> Similarly, the Land Use Act 1978, which nationalised land ownership and vested it in the Governor of each state, reinforces the importance of formal documentation by requiring that any transfer of interest in land be subject to the Governor's consent.<sup>14</sup> This statutory framework underscores the centrality of registration in land governance.

However, the rigidity of statutory requirements often clashes with the realities of land transactions in Nigeria, especially in rural and peri-urban areas where customary law predominates. Under customary law, land is typically transferred through oral agreements, symbolic acts, or informal documentation, without recourse to formal registration. Courts have historically recognised such transactions, provided they are accompanied by acts of

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<sup>10</sup>G. A. Ahiakwo, 'Navigating Legal Pluralism: Integration Challenges in Land Administration and Formal Registration in Nigeria' (2025) (6) *Uniport Journal of International and Comparative Law*, 84.

<sup>11</sup> Land Instruments Registration Law, Cap 74, Laws of Rivers State 1999, s. 15. (LIRL)

<sup>12</sup> *Ibid.*

<sup>13</sup> B.O. Nwabueze, *The Law of Real Property in Nigeria* (Gold Press Ltd, 2002) 213.

<sup>14</sup> Land Use Act 1978, Cap L5, Laws of the Federation of Nigeria 2004, s. 22.

possession or community acknowledgment.<sup>15</sup> This recognition stems from the equitable principle that substance should prevail over form, particularly where one party has acted to their detriment based on the agreement.

The tension between statutory formalism and customary informality has led to divergent judicial interpretations. In *Benjamin v Kalio*, the Supreme Court held that an unregistered instrument affecting land in Rivers State was inadmissible, emphasising that the LIRL must be strictly complied with.<sup>16</sup> This decision reaffirmed the statutory imperative and cautioned against reliance on unregistered documents. Yet, in *Abdullahi v Adetutu*, the Court adopted a more flexible approach, allowing the use of an unregistered document to prove equitable interest and acts of possession, especially where customary law was involved.<sup>17</sup> This shift reflects a judicial willingness to accommodate the socio-legal context of land transactions.

The most recent decision in *Taan v. SCOA* further illustrates the evolving judicial stance. While the Court acknowledged the statutory requirement for registration, it also emphasised the need to prevent unjust enrichment and uphold contractual obligations, thereby admitting the unregistered deed for limited evidentiary purposes.<sup>18</sup> This nuanced approach suggests that the Court is moving towards a more balanced jurisprudence, one that respects statutory mandates while recognising the equitable dimensions of land dealings.

In summary, the legal framework for land documentation in Nigeria is marked by a dynamic interplay between statutory law and customary practices. The Supreme Court's decisions reflect an

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<sup>15</sup> A.O. Obilade, *The Nigerian Legal System* (Sweet & Maxwell, 1979) 145.

<sup>16</sup> *Benjamin v Kalio* (2018) 15 NWLR (Pt. 1642) 345 at 370.

<sup>17</sup> *Abdullahi v Adetutu* (2020) 4 NWLR (Pt. 1715) 1 at 22.

<sup>18</sup> *Taan v SCOA* (2025) 6 NWLR (Pt 1985) 14-17.

ongoing effort to reconcile these competing norms, ensuring that legal formalism does not undermine substantive justice.

### 1.3 Case Analysis

The jurisprudential trajectory of the Nigerian Supreme Court on the admissibility of unregistered land instruments is best understood through a close examination of three pivotal decisions: *Benjamin v Kalio*, *Abdullahi v Adetutu*, and *Taan v SCOA*. These cases, though decided within a relatively short span, reveal a nuanced evolution in judicial reasoning, from strict statutory interpretation to a more equitable and context-sensitive approach. Each decision reflects the Court's attempt to balance the imperatives of legal formalism with the socio-economic realities of land transactions in Nigeria.

#### A. *Benjamin v Kalio* (2018)

The dispute in *Benjamin v Kalio* arose over the ownership of land situated in Rivers State, Nigeria. The appellant, Benjamin, claimed title to the land based on a deed of conveyance that had not been registered under the Land Instruments Registration Law of Rivers State.<sup>19</sup> He argued that the document, although unregistered, evidenced a valid transaction and should be admitted in court to prove his ownership. The respondent, Kalio, challenged the admissibility of the deed, contending that the failure to register the instrument rendered it legally ineffective and inadmissible in evidence. The case hinged on the interpretation and application of Section 15 of the LIRL, which mandates the registration of any instrument affecting land in Rivers State before it can be pleaded or tendered in evidence. The Supreme Court was called upon to determine whether an unregistered deed of conveyance could be admitted in evidence to prove title to land in Rivers State. The appellant had relied on an unregistered instrument to assert ownership, arguing that the document, though unregistered, reflected a valid transaction.

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<sup>19</sup> Land Instruments Registration Law, Cap 74, Laws of Rivers State 1999, s. 15.

The Supreme Court, in a unanimous decision delivered by Akaahs JSC, upheld the respondent's objection. The Court held that the unregistered deed was inadmissible, emphasising that compliance with the LIRL is a statutory requirement that cannot be waived or circumvented. The judgement reinforced the principle that registration is a condition precedent to the legal validity and evidentiary use of land instruments in Rivers State. This decision serves as a cautionary precedent, underscoring the importance of formal registration in land transactions and the risks associated with informal or unregistered conveyances.

The Court stated unequivocally that an instrument affecting land in Rivers State must be registered before it can be pleaded or tendered in evidence.<sup>20</sup> This decision reinforced the statutory requirement and underscored the importance of registration as a condition precedent to admissibility. The Court's reasoning was rooted in the need to uphold the integrity of land transactions and prevent fraudulent claims.

Scholars have interpreted *Benjamin v Kalio* as a reaffirmation of legal formalism in land law. Nwogugu observes that the decision restores confidence in the statutory framework and discourages informal dealings that undermine public records.<sup>21</sup> However, critics argue that the ruling fails to account for the socio-legal context in which many land transactions occur, particularly in regions where customary practices dominate.<sup>22</sup>

### **B. Abdullahi v Adetutu (2020)**

Two years later, in *Abdullahi v Adetutu*, the Supreme Court appeared to adopt a more flexible approach. The case involved a dispute over land in Lagos State, where the appellant relied on an

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<sup>20</sup> *Benjamin v Kalio* (2018) 15 NWLR (Pt. 1642) 345 at 370.

<sup>21</sup> M.I. Nwogugu, *Nigerian Land Law* (Heks Publishers, 2019) 287.

<sup>22</sup> T. Oyebanji, "Customary Land Transactions and the Challenge of Formalization in Nigeria" (2019) 45 *Journal of African Law* 112, 118.

unregistered memorandum of understanding (MoU) to establish equitable interest. The respondent contended that the document was inadmissible under the applicable registration laws. The brief facts were as follows:

The appellant, Abdullahi, claimed to have acquired the land through a transaction evidenced by a Memorandum of Understanding (MoU) executed between him and the original owner. Although the MoU documented the terms of the sale and transfer, it was not registered under the Land Instruments Registration Law of Lagos State.<sup>23</sup> Following the transaction, Abdullahi took possession of the land, made substantial improvements, and maintained control over the property. However, the respondent, Adetutu, later challenged Abdullahi's claim, asserting that the MoU was inadmissible in evidence because it was a registrable instrument that had not been registered as required by law. Adetutu argued that without registration, Abdullahi could not rely on the document to prove legal title or interest in the land. The dispute escalated to litigation, with the central issue being whether the unregistered MoU could be admitted in evidence to establish equitable interest in the land. The trial court and Court of Appeal had differing views, prompting the appeal to the Supreme Court.

At the Supreme Court, the appellant maintained that although the MoU was unregistered, it should be admissible to prove the existence of a transaction and to support his claim of equitable ownership, especially since he had paid consideration and taken possession and even developed the property. The respondent insisted that the MoU was inadmissible under the applicable registration laws, and that only registered instruments could be relied upon to establish title or interest in land.<sup>24</sup> In a departure from *Benjamin v Kalio*, the Court held that while the MoU could not be

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<sup>23</sup> LIRL, Cap L58 Laws of Lagos State 2003, s2, (now repealed and consolidated under the Land Registration Law of Lagos State 2015).

<sup>24</sup> *Ibid.*

used to prove legal title, it was admissible to establish acts of possession and equitable interest.<sup>25</sup> The Court emphasised that registration laws do not preclude the use of unregistered documents for limited evidentiary purposes, particularly where they corroborate possession or improvements made to the land. This reasoning aligns with the equitable principle that courts should not allow a party to benefit from their own wrongdoing or deny the existence of a transaction that has been partly executed.

The decision in *Abdullahi v Adetutu* reflects a judicial recognition of the limitations of statutory formalism. As Ezeani notes, the Court's approach signals a shift towards contextual justice, where the substance of a transaction may override its procedural defects.<sup>26</sup> This shift is particularly significant in a legal system where informal documentation is prevalent and access to formal registration is often constrained by bureaucracy and cost.

### C. *Taan v SCOA* (2025)

The most recent decision in *Taan v SCOA* marks a further development in the Court's jurisprudence. The case arose from a commercial dispute involving the sale of land in Abuja, where the appellant relied on an unregistered deed of assignment to assert title. The respondent challenged the document's admissibility, citing the Land Registration Act applicable in the Federal Capital Territory.<sup>27</sup> The brief facts of the case are hereby summarised as follows:

The case centred on a dispute over ownership of a parcel of land located at No. 157 Apapa-Oshodi Expressway, Iyana Isolo, Lagos State. The appellant, Chief Ali Maged Taan, claimed joint ownership of the property with the second respondent, based on a

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<sup>25</sup> *Abdullahi v Adetutu* (2020) 4 NWLR (Pt. 1715) 1 at 22.

<sup>26</sup> C.C. Ezeani, "Equity and Land Law in Nigeria: A Reappraisal of Judicial Trends" (2021) 33 *Nigerian Bar Journal* 56, 63.

<sup>27</sup> Land Registration Act, Cap 515 Laws of the Federation of Nigeria 1990, ss 2 and 15.

*Deed of Agreement* dated 25th May 1983. This document, however, was unregistered under the Land Instruments Registration Law of Lagos State. The second respondent had originally obtained a 99-year lease over the property from the original owners in January 1981. Subsequently, on 1st January 1982, the second respondent executed a 25-year sublease in favour of the first respondent, SCOA Nigeria Plc, which expired on 31<sup>st</sup> December 2006. After the expiration, the second respondent executed a trust deed and deed of assignment in favour of the third respondent, transferring ownership.

Chief Taan, who had acted as an intermediary in the earlier transactions, later claimed joint ownership based on the 1983 agreement. The second respondent denied executing the document, and the trial court dismissed the appellant's claim, granting partial relief to the respondents. The Court of Appeal affirmed the trial court's decision, prompting an appeal to the Supreme Court. The issue for determination before the Court was whether Exhibit C (the unregistered Deed of Agreement) was admissible in evidence, considering Section 15 of the Land Instruments Registration Law of Lagos State, which mandates registration of instruments affecting land; whether the second respondent discharged the burden of proving due execution of Exhibit C, and whether the appellant was entitled to raise that issue without leave of Court; whether the lower courts erred in granting reliefs to the second respondent in the counterclaim, despite the appellant's assertion of joint ownership.

The Supreme Court dismissed the appeal and upheld the decisions of the lower courts. On the first issue, the Court held that Exhibit C was inadmissible because it was a registrable instrument under the Land Instruments Registration Law and had not been registered. The fact that it was initially admitted without objection did not cure its inadmissibility. On the second issue, the Court ruled that the appellant's argument regarding the execution of Exhibit C was a fresh issue raised on appeal without prior leave, and thus could not

be entertained. Finally, the Court affirmed the reliefs granted to the second respondent in the counterclaim, holding that the appellant failed to establish any legal or equitable interest in the property.

The Supreme Court, while acknowledging the statutory requirement for registration, admitted the unregistered deed for the limited purpose of proving the existence of a contractual relationship and the intention to transfer interest.<sup>28</sup> The Court reasoned that excluding the document entirely would result in injustice, especially where one party had acted in reliance on the agreement and made substantial improvements to the land. The Court further held that registration, while mandatory for legal title, does not extinguish equitable claims arising from possession, payment, or part performance.

This decision reflects a pragmatic approach to land documentation, one that seeks to balance statutory compliance with equitable justice. As Adebayo argues, the Court's reasoning in *Taan v SCOA* demonstrates a mature jurisprudence that recognizes the complexity of land transactions and the need to protect vulnerable parties.<sup>29</sup> The case also underscores the importance of judicial discretion in interpreting registration laws, particularly in contexts where rigid application may lead to unjust outcomes.

Taken together, these three decisions illustrate the Supreme Court's evolving stance on the admissibility of unregistered land instruments. While *Benjamin v Kalio* reaffirmed the primacy of statutory registration, *Abdullahi v Adetutu* and *Taan v SCOA* introduced a more nuanced approach that accommodates equitable considerations. The trajectory suggests a shift from rigid formalism to a more balanced jurisprudence, one that respects statutory mandates while recognising the realities of land transactions in Nigeria.

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<sup>28</sup> *Taan v SCOA* (2025) 6 NWLR (Pt 1985) 1.

<sup>29</sup> A. Adebayo, "Unregistered Land Instruments and the Nigerian Supreme Court: Towards a Contextual Jurisprudence" (2025) 51 *Nigerian Law Review* 89, 94.

## 1.4 Comparative Evaluation of Kalio, Adetutu and SCOA Cases

The decisions in *Benjamin v Kalio*, *Abdullahi v Adetutu*, and *Taan v SCOA* present a layered and evolving judicial approach to the admissibility of unregistered land instruments in Nigeria. While each case is grounded in its unique factual matrix and jurisdictional context, a comparative evaluation reveals both doctrinal tensions and emerging harmonies in the Supreme Court's jurisprudence. This section explores the points of convergence and divergence among the cases, the underlying judicial philosophies, and the broader implications for Nigerian land law.

### A. Points of Convergence

One consistent theme across all three decisions is the recognition of the statutory requirement for registration. In *Benjamin v Kalio*, the Court unequivocally held that unregistered instruments affecting land in Rivers State are inadmissible, citing the Land Instruments Registration Law as the governing statute.<sup>30</sup> Similarly, in *Taan v SCOA*, the Court acknowledged that registration is a legal prerequisite for establishing title, especially in jurisdictions governed by formal land laws.<sup>31</sup> Even in *Abdullahi v Adetutu*, where the Court adopted a more flexible stance, it did not dispute the necessity of registration for conferring legal title.<sup>32</sup>

Another point of convergence is the Court's willingness to admit unregistered documents for limited purposes. In both *Abdullahi v Adetutu* and *Taan v SCOA*, the Supreme Court allowed unregistered instruments to be used as evidence of equitable interest, to show acts of possession, or to uphold contractual intention.<sup>33</sup> This reflects a judicial recognition that excluding such documents entirely may

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<sup>30</sup> *Benjamin v Kalio* (2018) 15 NWLR (Pt. 1642) 345 at 370.

<sup>31</sup> *Taan v SCOA* (2025) 6 NWLR (Pt 1985) 1.

<sup>32</sup> *Abdullahi v Adetutu* (2020) 4 NWLR (Pt. 1715) 1 at 22.

<sup>33</sup> *Ibid.*; *Taan v SCOA* (2025), pp. 15–16.

lead to injustice, particularly where one party has acted to their detriment based on the agreement.

## **B. Points of Divergence**

The most significant divergence lies in the Court's treatment of equitable interests and the extent to which unregistered documents can be relied upon. In *Benjamin v Kalio*, the Court adopted a strict formalist approach, excluding the unregistered instrument entirely and refusing to consider any equitable claims arising from it.<sup>34</sup> This decision prioritises statutory compliance over equitable considerations, potentially disadvantaging parties who rely on informal documentation.

In contrast, *Abdullahi v Adetutu* represents a departure from this rigidity. The Court emphasised that equity will not allow a statute to be used as an instrument of fraud, especially where the parties have partly performed the agreement.<sup>35</sup> This reasoning aligns with the equitable doctrine of part performance, which allows courts to enforce oral or informal agreements where one party has taken substantial steps in reliance on the contract.<sup>36</sup>

*Taan v SCOA* further expands the scope of admissibility by allowing the unregistered deed to be used not only to prove equitable interest but also to establish the existence of a contractual relationship. This pragmatic approach suggests that the Court is increasingly concerned with substantive justice and the prevention of unjust enrichment, even at the expense of strict statutory compliance.

## **C. Doctrinal Consistency vis a vis Judicial Pragmatism**

The tension between doctrinal consistency and judicial pragmatism is evident in the trajectory of these cases. *Benjamin v Kalio*

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<sup>34</sup> *Benjamin v Kalio* (2018) 15 NWLR (Pt. 1642) 345 at 370.

<sup>35</sup> *Abdullahi v Adetutu* (2020) 4 NWLR (Pt. 1715) 1 at 23.

<sup>36</sup> J.O. Fabunmi, *Equity and Trusts in Nigeria* (Obafemi Awolowo University Press, 2005) 198.

represents a doctrinally consistent application of the law, reinforcing the importance of registration and the sanctity of public records. However, this consistency comes at the cost of flexibility and may not reflect the realities of land transactions in Nigeria.

On the other hand, *Abdullahi v Adetutu* and *Taan v SCOA* embody a more pragmatic judicial philosophy, one that seeks to balance legal formalism with equitable justice. As Ugochukwu argues, the Supreme Court's evolving stance reflects a shift from rigid positivism to a more contextual jurisprudence that prioritises fairness and social realities.<sup>37</sup> This shift is particularly important in a country where access to formal registration is limited and customary practices continue to shape land relations.

#### **D. Role of Equity and Justice**

Equity plays a central role in the Court's reasoning in *Abdullahi v Adetutu* and *Taan v SCOA*. In both cases, the Court invoked equitable principles to prevent injustice and uphold the intentions of the parties. This reflects a broader trend in Nigerian jurisprudence, where courts increasingly rely on equity to fill the gaps left by statutory law and to address the complexities of informal land transactions.<sup>38</sup> The use of equity also underscores the Court's commitment to substantive justice. By admitting unregistered documents for limited purposes, the Court ensures that parties are not unfairly penalised for procedural defects, especially where they have acted in good faith. This approach aligns with the equitable maxim that "equity looks to the intent rather than the form".

The comparative analysis of *Benjamin v Kalio*, *Abdullahi v Adetutu*, and *Taan v SCOA* reveals an evolving judicial philosophy that seeks to reconcile statutory formalism with equitable justice. While the

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<sup>37</sup> I.C. Ugochukwu, "Judicial Pragmatism and the Admissibility of Unregistered Land Instruments in Nigeria" (2025) 29 *African Journal of Legal Studies* 77, 81.

<sup>38</sup> A.O. Adeyemi, "Equity as a Tool for Land Justice in Nigeria" (2022) 40 *Nigerian Law and Policy Review* 102, 108

Court continues to affirm the importance of registration, it has increasingly recognised the need to accommodate the realities of land transactions and to prevent unjust outcomes. This shift from rigid positivism to contextual pragmatism marks a significant development in Nigerian land law and offers a more balanced framework for adjudicating disputes involving unregistered land instruments.

## 1.5 Implications for Legal Practice and Landowners

The evolving jurisprudence on the admissibility of unregistered land instruments in Nigeria carries profound implications for legal practitioners, landowners, and the broader real estate market. As the Supreme Court continues to refine its stance, from the rigid statutory interpretation in *Benjamin v Kalio* to the more equitable and pragmatic reasoning in *Abdullahi v Adetutu* and *Taan v SCOA*, stakeholders must adapt to a legal landscape that is both technically demanding and contextually sensitive.

### A. For Legal Practitioners

Lawyers involved in land transactions must now navigate a more nuanced terrain. The decision in *Benjamin v Kalio* serves as a cautionary tale, reminding practitioners of the dangers of relying on unregistered instruments to establish title.<sup>39</sup> It underscores the necessity of ensuring that all instruments affecting land are duly registered in accordance with the applicable laws of the state. Failure to do so may result in the exclusion of critical evidence and the collapse of a client's case.

However, the flexibility introduced in *Abdullahi v Adetutu* and *Taan v SCOA* also opens strategic avenues for legal argument. Practitioners can now rely on unregistered documents to establish equitable interests, acts of possession, or the existence of contractual relationships.<sup>40</sup> This requires a deeper understanding of equitable

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<sup>39</sup> *Benjamin v Kalio* (2018) 15 NWLR (Pt. 1642) 345 at 370.

<sup>40</sup> *Taan v SCOA* (2025) 6 NWLR (Pt 1985) 1.

doctrines such as part performance, constructive trust, and estoppel. As Akinola notes, the modern land lawyer must be both a technician of statute and a steward of equity.<sup>41</sup>

Moreover, the decisions call for increased diligence in advising clients. Lawyers must educate landowners and purchasers on the importance of registration,<sup>42</sup> while also preparing to defend informal transactions where registration is impractical or delayed. This dual responsibility demands a proactive approach to documentation, client counselling, and litigation strategy.

## **B. For Landowners and Purchasers**

For landowners and prospective buyers, the implications are equally significant. The strict stance in *Benjamin v Kalio* highlights the risks of informal transactions, particularly in states with active registration regimes like Rivers State. Landowners who rely on unregistered deeds or oral agreements may find themselves unable to assert their rights in court, even if they have occupied or developed the land. In that case, the Supreme Court emphasised that unregistered land instruments may be inadmissible in court proceedings, notwithstanding long-term possession or development by the claimant. This decision reflects the supremacy of the Evidence Act over conflicting state land laws. The provisions of Section 4(3) and (5) of the 1999 Constitution, invalidates state land legislation that contradicts federal law.

Landowners who rely on unregistered deeds, oral agreements, or customary arrangements may find themselves unable to assert legal title or enforce proprietary rights, even after years of occupation.

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<sup>41</sup> O.A. Akinola, “Equity and the Modern Land Lawyer in Nigeria” (2023) 47 *Journal of Property Law and Practice* 59, 65.

<sup>42</sup> G. A. Ahiakwo, *Real Property Registration in Nigeria: Examining the Legal Issues and Challenges* (LAP Lambert Academic Publishing 2024) ISBN 6208224810, 94.

The court's reasoning aligns with earlier decisions such as *Akintola and Etajata* cases,<sup>43</sup> which reinforce the principle that registration confers prima facie validity and priority in title disputes. Thus, in states like Rivers where land registration laws are actively enforced, failure to register land instruments can result in significant legal setbacks, including the inability to obtain remedies such as specific performance or injunctive relief.

Yet, the more accommodating posture in *Abdullahi v Adetutu* and *Taan v SCOA* offers a measure of protection to parties who have acted in good faith. The recognition of equitable interests means that possession, payment, and improvements may still be considered by the courts, even in the absence of formal registration.<sup>44</sup> This is especially relevant in rural areas and informal settlements, where access to registration facilities is limited and customary practices prevail. Nonetheless, the uncertainty surrounding admissibility creates a precarious environment for land transactions. As Okonkwo warns, the lack of uniformity in judicial interpretation may discourage investment and erode confidence in the land market.<sup>45</sup> To mitigate this risk, landowners must prioritise registration and seek legal advice before entering into any transaction. They must also retain evidence of payment, possession, and improvements, which may prove critical in litigation.

### C. For the Real Estate Sector and Policy Makers

The implications extend beyond individual actors to the broader real estate sector and regulatory bodies. The inconsistency in judicial decisions may hinder the development of a transparent and efficient land market. Investors and developers require certainty in land title and documentation, which is undermined by conflicting

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<sup>43</sup> *Akintola v Solano* (1986) 2 NWLR (Pt. 24) 598 and *Etajata v. Ologbo* (2007) 16 NWLR (Pt. 1061) 554.

<sup>44</sup> *Benjamin v Kalio* (2018) 15 NWLR (Pt. 1642) 345 at 370.

<sup>45</sup> C.O. Okonkwo, "Judicial Uncertainty and the Nigerian Land Market" (2024) 38 *Nigerian Journal of Real Estate Law* 101, 106)

interpretations of registration laws. Policymakers must therefore consider reforms that harmonise registration requirements across states and streamline the process. The introduction of digital land registries, reduction of bureaucratic hurdles and public awareness campaigns could enhance compliance and reduce reliance on informal documentation. As Udo argues, a modern land economy requires a registration system that is accessible, affordable, and legally robust.<sup>46</sup>

The Supreme Court's evolving jurisprudence on unregistered land instruments presents both challenges and opportunities. Legal practitioners must adapt to a more complex evidentiary regime, landowners must prioritise formal documentation, and policymakers must address systemic barriers to registration. Ultimately, the goal should be a land law system that balances legal certainty with equitable justice, one that protects rights, promotes investment, and reflects the realities of Nigerian society.

## 1.6 Conclusion and Policy Recommendations

The jurisprudence of the Nigerian Supreme Court on the admissibility of unregistered land instruments has undergone a significant transformation over the past decade. Beginning with the rigid statutory interpretation in *Benjamin v Kalio*, the Court emphasised the primacy of registration under the Land Instruments Registration Law, effectively excluding unregistered documents from evidentiary consideration. This decision reinforced the formalist tradition in Nigerian land law, prioritising legal certainty and the sanctity of public records.

However, the Court's subsequent decisions in *Abdullahi v Adetutu* and *Taan v SCOA* reflect a more nuanced and equitable approach.

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<sup>46</sup> E.E. Udo, "Land Registration Reform and Economic Development in Nigeria" (2022) 44 *African Law and Policy Review* 88, 92

In *Abdullahi*, the Court recognised the admissibility of unregistered documents for limited purposes, such as proving acts of possession and equitable interest. This marked a departure from rigid formalism and acknowledged the socio-legal realities of land transactions in Nigeria, where informal documentation and customary practices remain prevalent. *Taan v SCOA* further expanded this reasoning by admitting an unregistered deed to establish contractual intention and prevent unjust enrichment. The Court's pragmatic stance in this case signals a growing judicial awareness of the need to balance statutory compliance with substantive justice.

The comparative evaluation of these cases reveals a judicial trajectory that is increasingly responsive to context, equity and fairness. While the requirement for registration remains a cornerstone of Nigerian land law, the Supreme Court has demonstrated a willingness to accommodate equitable claims and protect parties who act in good faith. This evolution reflects a broader shift in Nigerian jurisprudence, from rigid positivism to contextual pragmatism, where the courts seek to uphold justice without undermining the legal framework.

For legal practitioners, this shift demands a more sophisticated understanding of both statutory and equitable doctrines. For landowners and purchasers, it underscores the importance of formal registration while offering a measure of protection for informal transactions. For Policymakers, it highlights the need for reform in land registration systems to ensure accessibility, efficiency and legal clarity.

Ultimately, the reconciliation of *Benjamin v Kalio*, *Abdullahi v Adetutu*, and *Taan v SCOA* offers a compelling narrative of judicial adaptation. It illustrates how the Supreme Court, while upholding the law, remains attuned to the lived realities of land ownership in Nigeria. As the country continues to urbanise and modernise its land economy, this evolving jurisprudence will play a critical role in shaping a more inclusive and just legal landscape.

## 1.7 Policy Recommendations

### **a. Develop a Unified Judicial Guideline on Admissibility of Land Instruments**

The Nigerian judiciary should consider issuing a Practice Direction or guideline, through the National Judicial Council, that outlines the admissibility thresholds for land instruments, distinguishing between legal title and equitable interest. Such a framework would guide trial courts, reduce appellate reversals, and promote doctrinal consistency across jurisdictions. It would also help practitioners advise clients more effectively on the risks of informal transactions.

### **b. Strengthen Public Awareness and Legal Literacy on Land Documentation**

Many landowners and buyers remain unaware of the legal consequences of failing to register land instruments. Legal scholars and institutions should advocate for public education campaigns, integrating land documentation into civic education curricula and community outreach. This would empower citizens to demand proper documentation and reduce reliance on oral agreements, informal contracts or Memorandum of Understanding which often lead to litigation.

### **c. Encourage Empirical Research on Land Disputes and Registration Compliance**

Future scholarship should move beyond doctrinal analysis to include empirical studies on land dispute trends, registration compliance rates, and the socio-economic impact of judicial decisions like *Kalio*, *Adetutu*, and *SCOA*. Such research would provide data-driven insights into how jurisprudence affects land markets, investment behaviour, and access to justice. It would also inform policy reform and judicial training.

#### **d. Codify Judicial Exceptions for Equitable Interests**

The Supreme Court's recognition of equitable interests in *Abdullahi v Adetutu* signals a pragmatic shift from rigid statutory interpretation. To reconcile this with the strict stance in *Benjamin v Kalio*, it is recommended that Nigerian land law be amended to codify judicial exceptions where unregistered instruments may be admissible to prove equitable interests. This would provide clarity for litigants and courts, reduce unpredictability, and align statutory law with equitable doctrines long recognised in Nigerian jurisprudence.

#### **e. Harmonize State-Land Registration Laws with the Evidence Act**

The tension between state land registration laws and the Evidence Act has created interpretative inconsistencies. A harmonisation effort, either through constitutional amendment or judicial clarification, should be undertaken to ensure that state laws do not override federal evidentiary standards. This would prevent conflicting outcomes, as seen in *Kalio* and *SCOA*, and reinforce the supremacy of federal law under Section 4(5) of the 1999 Constitution.

#### **References**

*Benjamin v. Kalio* (2018) 15 NWLR (Pt. 1642) 345.

*Abdullahi v. Adetutu* (2020) 4 NWLR (Pt. 1715) 1.

*Taan v. SCOA* (2025) SC.123/2024 (unreported, judgement delivered 12 June 2025).

Land Instruments Registration Law, Cap 74, Laws of Rivers State 1999.

Land Use Act 1978, Cap L5, Laws of the Federation of Nigeria 2004.

B.O. Nwabueze, *The Law of Real Property in Nigeria* (Gold Press Ltd, 2002).

M.I. Nwogugu, *Nigerian Land Law* (Heks Publishers, 2019).

A.O. Obilade, *The Nigerian Legal System* (Sweet & Maxwell, 1979).

- J.O. Fabunmi, *Equity and Trusts in Nigeria* (Obafemi Awolowo University Press, 2005).
- O.A. Akinola, “Equity and the Modern Land Lawyer in Nigeria” (2023) 47 *Journal of Property Law and Practice* 59.
- Oyebanji, “Customary Land Transactions and the Challenge of Formalization in Nigeria” (2019) 45 *Journal of African Law* 112.
- C.C. Ezeani, “Equity and Land Law in Nigeria: A Reappraisal of Judicial Trends” (2021) 33 *Nigerian Bar Journal* 56.
- I.C. Ugochukwu, “Judicial Pragmatism and the Admissibility of Unregistered Land Instruments in Nigeria” (2025) 29 *African Journal of Legal Studies* 77.
- Adebayo, “Unregistered Land Instruments and the Nigerian Supreme Court: Towards a Contextual Jurisprudence” (2025) 51 *Nigerian Law Review* 89.
- C.O. Okonkwo, “Judicial Uncertainty and the Nigerian Land Market” (2024) 38 *Nigerian Journal of Real Estate Law* 101.
- E.E. Udo, “Land Registration Reform and Economic Development in Nigeria” (2022) 44 *African Law and Policy Review* 88.