

American Journal of Humanities and Social Sciences Research (AJHSSR)

e-ISSN :2378-703X

Volume-5, Issue-3, pp-351-356

www.ajhssr.com

Research Paper

Open Access

CHALLENGES ASSOCIATED WITH THE VALUATION OF DAMAGED FARMLAND FOR COMPENSATION

Zorte Jerry Deebom, Iyenemi Ibimina Kakulu

Rivers State University Nigeria

ABSTRACT: Valuation is the estimation and determination of the worth or value of an interest in real property and therefore requires some level of technical and professional expertise and skills to execute. One of the key concepts of valuation is that it is based on physical observation of such property whether land, farmland, or buildings. There are however challenges associated with valuing an interest in real properties where the object to be valued (economic crops, trees, plant and other farm structures etc.) are damaged or no longer in existence particularly if it might have been damaged or destroyed. The study investigated the challenges associated with the valuation of damaged farmland for compensation. It adopted the pragmatic philosophical research stance and used the qualitative research methods in data collection and analysis. Simple random sampling method was used to select participants to answer the research questions of the study. The findings reveal that the challenges of valuation of damaged farmland are largely the absence of reliable data on which to value in retrospect. It recommends that this challenge can be overcome with adequate farmland baseline data which includes access to information on spacing requirements of the cultivated economic crops and trees, proper record of farm yields. It also recognizes other contributory issues such as land ownership tussles, corruption and illegal practices, outdated compensation rates, and youth restiveness. It concludes that valuers should be conversant with farm size, economic crops and trees spacing requirement, maturity/harvesting period of economic crops and trees. The study recommends the use of modern technological tools in assessment of damaged farmland for compensation.

Keywords: valuation, farmland, damage and compensation

INTRODUCTION

Valuation for Compensation is complex in nature with its attendant problems and issues and for which several scholars in this field have raised questions and debated on ways of addressing the issues of fair, just and adequate compensation in cases of compulsory land purchase, compulsory land acquisition, expropriation, (Kakulu, 2009). Valuation for compensation is generally classified as statutory valuation because the bases for valuation are determined by a statutory process through various enactments, laws, policies and regulations, rather than through independent professional processes. The case of damaged lands and property can be challenging for a professional valuer who needs to have a physical object to value, and in the absence of which, alternative approaches need to be considered. The absence of a uniform and consistent approach towards such a valuation is the subject of this study. This study builds on previous scholarly research which attributes compensation valuation challenges to ambiguity in provisions of the various statutes, compensation rates, methods of assessment, and technical expertise. There is however a vacuum left to be filled in developing standards for the valuation of damaged farmland for compensation coupled with the rising cases of farmland damage occasioned by oil spills, bush burning, uncontrolled effluent discharge and surge in industrial waste.

Furthermore, Syms and Weber (2003) in Kakulu and Nuhu (2012), noted that the presence of contamination in land affects not only the value of the land but can also render the land unsalable in normal market and un-mortgageable. They agreed that the more the information available to Valuers, the greater the accuracy of the valuation report with description of the information on which it is based. Kakulu and Nuhu (2012) further reveal that the assessment and payment of fair, adequate, equitable and full compensation to agricultural land owners or occupiers, could serve as a deterrent to continued indiscriminate pollution by Industry and individuals globally, which is achievable where there is full and comprehensive assessment of the magnitude of actual losses are computed and interpreted within the context of value. Kakulu and Viitanen (2009), in their study revealed that valuation for compensation in most countries is controlled by government through multiple enactments. In others, it is prescribed for eminent domain valuation and sometimes for market

valuations. They identified key issues to be common in valuation process irrespective of country of origin to include; purpose of acquisition, basis of valuation, and methods of valuation, Heads of claim, definition and interpretation of terms used in the valuation report.

Therefore, this study is focused on addressing the challenges encountered in assessment of damaged farmland for compensation thereby exploring the various options aimed at eliminating over and under-valuation of damaged farmland, which in most cases leaves farm owners dissatisfied with the compensation paid for loss of sources of income and livelihood, thus leading to litigation and unrest. The objective of this study was to investigate the challenges in valuation of damaged farmland for compensation. It is imperative to carry out this study, as other authors have looked at the issues and problems of compensation valuation in different spheres but there is need to further investigate those specific challenges valuers faced when carrying out valuation of damaged farmland where the objects (e.g. economic crops and trees) to be valued have been destroyed (burnt by fire) which forms the basis for computation of claims. The study proposition is that the challenges associated with valuing contaminated land can be reduced if information on farm yield standards are made available to valuers.

I. CONCEPTS IN VALUATION FOR COMPENSATION

Valuation primarily involves the estimation and determination of the worth or value of an interest in real properties. This requires a high level of technical and professional expertise and skills especially when it involves valuing an interest in real property where the physical object to be valued (economic crops, trees, plant and other farm structures etc.), are no longer in existence having been damaged or destroyed. Determining or valuing a stream of income of an asset or real properties at a future date can be challenging. Valuation is a process of establishing an opinion of value for an interest in landed property/real estate. (Ogunba, 2004). Valuation is defined as the process of estimating the value of an identified interest or interests in a specific parcel of real estate as of a given date, (Appraisal Institute, 2000), This implies that valuation is time bound in nature. Real Estate includes land and all things that are a natural part of the land (e.g. trees, minerals) and things that have been attached to the land (e.g. buildings and site improvements) and all permanent building attachments (e.g. mechanical and electrical plant providing services to a building), that are both below and above the ground. Valuation is an opinion of the value of an asset or liability on a stated basis, at a specified date. Unless limitations are agreed in the terms of engagement this will be provided after an inspection, and any further investigations and enquiries that are appropriate, having regard to the nature of the asset and the purpose of the valuation, (RICS, 2017). It is a professional individual's opinion of the capital or rental price or value of a property on a defined basis, (RICS, 2006)

Farmlands are lands suitable or used for the production of a wide range of commodities intended directly or indirectly for human consumption. Assets of agricultural land and property for valuation include the land, the structural improvements, plant and machinery attached to the land, plant and machinery not attached to the land, biological assets (living animals or plants) attached to the land and biological assets not attached to the land (IVSC, 2007). Agricultural land values are primarily determined by the income earnings potentials of the land as measured by expected returns from crops and livestock (USDA, 2000). Hence, land value is the observed prices for traded parcels and explanatory variables including parcel characteristics such as size, and soil erosion rates and seller and buyer characteristics. Agricultural land value is determined by consideration of the earning or productive capacity of the land over a reasonable time period. These earnings are capitalized into actual value, that is; (a) the earning or productive capacity would be determined by measuring the landlord's net income. (b) a reasonable time period would be a ten years average. For the purpose of this study, farmlands/agricultural lands shall mean all land (arable, permanent and pasture) used for the cultivation/production of crops/trees for human consumption and for economic purposes.

Damage refers to the total or partial destruction of physical assets and infrastructure in disaster-affected areas, expressed as replacement or repair costs. In the agricultural sector, damage is considered in relation to standing crops, irrigation systems, livestock shelters and veterinary services, aquaculture equipment or hatcheries, farm equipment and machinery, and post-production infrastructure such as storage, processing, marketing and transport facilities, among others (FAO, 2015). The number of climate-induced disasters has increased significantly over the last decade, of all-natural hazards, floods, droughts and tropical storms affect the agriculture sector most showing the severe impact of climate-related disasters more than 80 percent of the damage and losses caused by drought is to agriculture, especially livestock and crop production (FAO, 2015). Apart the natural hazards, there are a number of man-made disasters that also affect the agricultural sector such as oil spill, (equipment failure, leakage/faulty facility sabotage, natural, etc.), road construction, and other industrial related activities which directly or indirectly damage farmlands thus, causing loss of income and livelihood of the farmer. FAO (2015) findings reveal that disasters can cause considerable damage to physical agricultural assets such as standing crops, irrigation systems, livestock shelters and veterinary services, aquaculture equipment or hatcheries; post-production infrastructure such as facilities for storage, processing,

marketing and transport, buildings and equipment of farm schools and cooperatives; as well as sector ministries and their departments. Their study revealed that in developing countries, the agriculture sector absorbs an average of 22 percent of the total damage and losses caused by disasters triggered by natural hazards. The remaining damage and losses are to other sectors, i.e. housing, health, education, transport and communication, electricity, water and sanitation, commerce, industry, tourism and the environment, among others. This rises to 25 percent when considering just climate-related disasters, such as droughts, floods, hurricanes, typhoons and cyclones (FAO, 2015).

In Blundell (1905) Ridley J as cited in Denyer-Green (2003), was concerned with the meaning of 'compensation' in the Defense Act 1842. He held that where land had been acquired under that Act, that expression included not only the price for the land, but also any injurious affection to retained land. He considered submissions that compensation must mean an indemnity – full satisfaction for the land taken and any injurious affection to other land must be included in the term. In *Nelungaloo Proprietary Ltd v The Commonwealth* [1948] 75 CLR 495 at p 571, Dixon J in the High Court of Australia said: Now 'compensation' is a very well understood expression. It is true that its meaning has been developed in relation to land. But the purpose of compensation is the same, whether the property taken is real or personal. It is to place in the hands of the owner expropriated the full money equivalent of the thing of which he has been deprived. A historical development of the assessment of compensation in Nigeria dates back to the Public Lands Acquisition Act of 1917 (Cap 167 of 1958 Laws of the Federation of Nigeria and Lagos [repealed]). Paragraph (b) of Section 15 of this act states: "The value of the land, estate, interest or profits shall, subject as hereinafter provided be taken to be the amount which such lands, estates, interest or profit if sold in the open market by a willing seller might be expected to realize" Kakulu (2008). Compensation prima facie means recompense for loss and when an owner is to receive compensation for being deprived of real or personal property his pecuniary loss must be ascertained by determining the value to him of the property taken from him. As the object is to find the money equivalent for the loss or, in other words, the pecuniary value to the owner contained in the asset, it cannot be less than the money value into which he might have converted his property had the law not deprived him of it. Akujuru & Ruddock (2015) opined that many valuers are not conversant with the spacing requirement of most economic cash crops and trees. Thus, cannot determine accurately what could be planted on 1 ha of land. They argued that farmers can only be satisfied with his compensation, if such payment reflect his cropping or approximate his cost of planting/cultivating the farm.

The main objective of the study was to identify the specific challenges associated with valuing damaged farmland for compensation as against non-damaged lands.

II. METHOD EMPLOYED

This study employed case study research design with emphasis and detailed contextual analysis of a limited number of interviews conducted in connection with the topic. Being exploratory in nature, a simple random sampling technique was employed in data collection. The method allowed inference with a representative sample of a large population with same characteristics and feature thus, arriving at a valid conclusion fairly representative of the whole population. Professionals in the field of study operating in a given locality in Rivers State were selected and interviewed based on their considerable experience and knowledge of the subject. The study employed the qualitative research method in which an interview guide was prepared and used to conduct interviews. Field observations were also carried out on three (3) farm sites. The collected data was analyzed using content and interpretative analysis.

III. RESULTS

Content analysis of the responses from professionals in the field of study documents the challenges which they experience in undertaking valuation of damaged farmlands, as follows:

3.1 Lack of Agricultural Land Baseline Data

All of the respondents' interviewed are of the view that lack of agricultural (farmland) data which includes; lack of farm yield/produce/output and productive capacity of the farm, cultivated economic crops and trees, spacing requirement of the cultivated economic crops and trees, title and tenurial system, size of the farm, mode of harvesting, crops and trees disease controlled/condition and use of fertilizer, compensation rates, unexhausted improvement, farm / site value and planting season etc. are the major challenges that impede valuation of damaged farmland for compensation.

3.2 Land Ownership and Tenure System

Respondents also identified Land ownership tussles as one of the challenges associated with the valuation of damaged farmland for compensation. This arises where different individuals claim ownership of one farm, thereby making it difficult for valuers to assess and compute claims for the real owners of the farm. In most cases, valuers are compelled to include names of those who have no farms within the damaged site in the valuation report as a means to averting further agitation.

3.3 Standard Compensation Rates

All the respondents agreed that the various compensation rates currently used in practice constitute a major challenge in valuation of damaged farmland for compensation. They expressed concern that the provisions of these rates do not actually compensate the farm owners for loss of their source of income and livelihood nor the deprivation of using their farm for a certain period of time. Some expressed concern that these rates do not reflect the present economic realities of the country at the moment. The rates allocated for the various economic crops and trees do not represent the true market value should they be sold in the open market such as the Oil Producers Trade Sector (OPTS) of the Nigerian Chamber of Commerce rates, the South-South harmonized valuation rates, and the Shell Petroleum Development Corporation (SPDC) Corporate and Land rate.

3.4 Corruption and illegal practices

Respondents indicated also that corruption and illegal practices dominate the valuation assessment of damaged farmland for compensation. They provided instances where professional valuers are made to believe that certain crops and trees were planted before the damage which in real sense was not planted or cultivated, with the aim of securing an increased compensation sum. In some cases, the respondents expressed concern that polluters may also engage in sharp practices and influence the compensation sum by compelling the valuers to reduce the value of the farm, thus leaving the farmers worse off. Respondents indicated also that the time frame allotted to undertake the assessment and produce the valuation report valuation is insufficient thereby making valuers to cut corners so as to meet up with the demand of the acquiring authorities and or polluters.

3.5 Harassment and pressure from the community and Polluter

Harassment and pressure from communities was identified as another major challenge that impacts valuation of damaged farmland for compensation. Respondents indicate instances where professional valuers are injured in the cross-fire between disagreeing communities or family members. They also indicated instances where they are made to pay site access levies popularly referred to as 'matching ground', before they are allowed access to undertake the assessment of the damaged farmland. This they attribute to high expectations of the community in terms of compensation values and pressure from the polluters to keep the compensation figures reasonable.

IV. DISCUSSION

The implications of the results obtained from respondents are hereby discussed.

4.1 Agricultural Land Baseline Data

Market data is necessary for a complete valuation and baseline data particularly important for valuation that is undertaken at a future date with reference to a previous incident and without, in some cases the physical object to value. The implication of this is the need to develop modalities for such a database that can capture and make available to valuers, farm yields and income patterns as this will lead to standards and increased uniformity in practice. Lack of accurate farm records and data is a major challenge that valuation assessment of damaged farmland for compensation. It is true that most local farmers do not keep record of farm input; sales and yield from their farm monthly or annually. Supposing such record of farm inputs, sales and yield from their farm exists, this would guide the valuer in determination of fair and accurate compensation in the event of damage.

4.2 Land Ownership and Tenure System and compensation

Tenure challenges may be attributable to lack of a cadaster map for Rivers State which could serve as a repository of land parcels and their respective owners thereby reducing land tussles and conflicts. It can further reduce the pressure to include in valuation reports, names of persons who do not have any genuine claims to make. The role of land tenure system has often been downplayed but the study has shown that it is essential. Multiple ownership of a single farmland is another major challenge faced by valuer in damage assessment for compensation. This is where more than one person claims ownership of a particular farm thus making it difficult for valuers to compute and identifies the real owner of the farm.

4.3 Standards in Compensation Rates

The issue of the use of compensation rates continues to be debated upon in professional valuation circles. The findings tend to confirm the position of earlier authors. It however extends the knowledge to include the fact that the farmer is deprived of farmlands which the rates do not provide for. The supply of our arbitrary compensation rates (predetermined rates) by the polluters (Oil companies and government for valuation of damage is another challenge that hinders the valuer in arriving at a fair and adequate compensation. This is worrisome as the polluters may impose such arbitrary rates on the valuers for use in computation of compensation payable for the damage caused. As such the valuer is left with no option than to apply these compensation rates in computation of compensation sum.

4.4 Corruption and illegal practices in compensation

Illegal practices associated with the process as the findings reveal, further identifies issues which need to be addressed in the valuation of contaminated land. Although speculative farming does not generally apply to contaminated lands as it does to compulsory acquisition, it gives an indication that land owners will do whatever it takes to improve their chances of getting a higher compensation value. Although the incentivization of valuers by polluters was not substantiated in this study, the practice, where it exists, can lead to lower compensation figures. Realistic timing for assessment and valuation is essential for a thorough assessment and a more realistic value estimate. An important factor the limits valuers in assessment of damaged farmland for compensation and computation of fair and adequate compensation is total dependence on information given by farmers claimant which in most cases may not be a true representation of what was cultivated on the farm all for the purpose of increasing the value of compensation they should be paid.

4.5 Harassment and pressure in compensation assessment

The study finds that professional valuers feel a sense of harassment and in some cases inducement to manipulate valuation figures. The danger here is that it might lead to over valuation to the detriment of the polluter, or, under-valuation where the community becomes short-changed. Whatever the situation, the integrity of the valuer and the credibility of the report are both at stake if this practice is left unchecked.

V. CONCLUSION

There is need for valuers to be more pragmatic and proactive when carrying out assessment of damaged farmland for compensation. This can only be possible where valuers are conversant with farm size, economic crops and trees spacing requirement, maturity/harvesting period of economic crops and trees. The Valuer should be in the position to formulate compensation rates for economic crops and trees which should reflect the economic situations/realities of the State, Region and Nation. As much as possible valuer should be able to deploy the use of modern information technology tools and work remotely while carrying out assessment of damaged farmland for compensation as to avoid harassment and pressure from community chiefs, youth leaders and farm owners (family).

VI. ACKNOWLEDGEMENTS

The authors acknowledge the support of the Tertiary Education Trust Fund (TETFund) through the TETFund National Research Fund Grant for the Contaminated Land Valuation Research the Rivers State University, Nigeria.

REFERENCES

- [1] Akujuru, V. A., & Ruddock, L. (2015). Dichotomizing compulsory land acquisition and land contamination in valuation. *International Journal of Disaster Resilience in The Built Environment*, 6 (3), 268-288
- [2] Appraisal Institute, 2000. 'The Appraisal of Rural Property'. *Appraisal Institute, Chicago, Illinois, U.S.A.*
- [3] Barry Denyer-Green (2003), Compulsory Purchase and compensation, Seventh Edition Estate Gazette 151 Wardour street, London W1F 8BN, ISBN 0-72820397-9, pg. 155,158 and 159.
- [4] FAO (2015), the impact of disasters on agriculture and food security, FAO website: www.fao.org/publications, ISBN 978-92-5-108962-0, Published on 26 Nov 2015
- [5] Intergovernmental Panel on Climate Change (IPCC, 2015) Summary for Policymakers website www.ipcc.ch retrieved 20 May, 2019.
- [6] International Valuation Standards Council (2007) Exposure Draft Proposed New International Valuation Standards.
- [7] Kakulu I. I and M. B. Nuhu (2012) Aphenomenological approach to valuing contaminated farmlands in Nigeria. *Journal of Nigerian Institution of Estate Surveyors and Valuers*, Vol 37, No. 1, 2012 page
- [8] Kakulu, I. I. (2008) The Assessment of compensation in compulsory acquisition of oil and gas bearing lands: The Niger Delta experience. *Land Reform, land Settlement and Cooperatives Journal*, 2008(1), 56-65
- [9] Kakulu, I. I., (2014) Post Impact Environmental Assessment Surveys and Contaminated Land Valuation for compensation in Nigeria. *Journal of the Nigerian Environmental Society*, 2014(2),
- [10] Kenneth F. McCallion (2011) A Survey of Approaches to Assessing Damages to Contaminated Private Property, *Fordham Environmental Law Review*, Berkeley Electronic Press (bepress). <http://ir.lawnet.fordham.edu/elr>, Volume 3, Number 2 2011 Article 4
- [11] Ogunba, O.A. (2004). The demand for accuracy in valuations: the case of Nigeria. Paper presented at the International Symposium on Globalization and Construction, Thailand. Assessed April 2, 2019 from <http://www.irbnet.de/daten/iconda/CIB6046.pdf>
- [12] RICS (2010) Contamination, the environment and sustainability: Implications for chartered surveyors and their clients.

- [13] RICS Valuation – Global Standards 2017, Incorporating the IVSC International Valuation Standards
- [14] United State Department of Agriculture USDA (2000) Agriculture Risk Protection Act.
- [15] Okorji, U.A (2017) alternative rates approach to valuation of economic crops and trees in Nigeria, Research Scholar, *International Journal of Research in Applied, Natural and Social Sciences (Impact: Ijranss) Issn(P): 2347-4580; Issn(E): 2321-8851 Vol. 5, Issue 6, Jun 2017, 39-46*
- [16] Viitanen, K., and Kakulu, I.I. (2009) Global Concerns in Compulsory Purchase and Compensation Processes. Integrating Generations, FIG Working Week Stockholm, Sweden June 14-19 2008