Before You Buy the Land, Trace Its History

Why Root of Title Matters in Ghana

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Introduction

One of the most important questions anyone intending to acquire land in Ghana should ask is not simply whether the seller has an indenture, a site plan or even a Land Title Certificate. It is a more fundamental question: How did the seller, or the person from whom the seller acquired the land, obtain the interest he or she now seeks to transfer?

This question goes to the heart of what lawyers describe as the root of title.

Land transactions in Ghana are often approached with considerable emphasis on the documentation presented by the immediate seller. Prospective purchasers may be satisfied once they receive a copy of an indenture, conduct a search at the Lands Commission and establish that the seller's name appears in the relevant registration records.

While these are important steps, they do not necessarily tell the complete story of ownership.

A person cannot ordinarily transfer a better interest in land than that which he or she lawfully possesses. Consequently, a purchaser who fails to investigate the origin of the seller's interest may acquire property subject to disputes, competing claims or defects in the underlying title.

What exactly is a root of title?

The root of title is the original or legally established source from which a person's ownership or interest in land is derived. It explains how the land was initially acquired and how that interest subsequently passed from one person or entity to another until it reached the present holder.

Depending on the circumstances, the root of title may be traced to an original grant by a stool or skin; acquisition by a family through traditional history; an original settlement or occupation recognised under customary law; a purchase from a person or entity established to be the lawful owner; or a grant or allocation by another recognised customary or statutory landholding authority.

The important consideration is not merely the existence of a document recording a transaction. It is whether the person who made the grant or transfer had the requisite interest and authority to do so.

Why tracing the root of title is so important

Ghanaian courts have consistently emphasised that a person claiming a declaration of title to land must establish the root of title, the mode of acquisition and the various acts of possession exercised over the land.

In *Mondial Veneer (GH) Ltd v. Amuah Gyebu XV* [2011] 1 SCGLR 466, the Supreme Court reaffirmed these requirements, emphasising that a claimant must establish the root of title, mode of acquisition and acts of possession on a balance of probabilities.

In *Yehans International Ltd v. Martey Tsuru Family & 1 Or.* (Supreme Court, Civil Appeal No. J4/34/2018, 24 October 2018), the Supreme Court reiterated that a person claiming title must prove the root of title, mode of acquisition and acts of possession. A party relying on derivative title must also prove the title of the grantor.

These principles have practical implications beyond courtroom disputes. They explain why a proper investigation of title should begin much further back than the immediate transaction between the seller and purchaser.

The chain of title: Following the ownership trail

Tracing the root of title requires examining the history of the land and the successive transactions through which the interest has passed.

For example, where a purchaser intends to acquire land from an individual who obtained it from a family, the investigation should not end with the individual's indenture. It should extend to the family's source of ownership, the identity and capacity of the persons who executed the grant, and whether the necessary customary approvals and authorisations were obtained.

The investigation may involve examining the original source of ownership; the identity of the original landholding authority or owner; the circumstances and legal basis of the original acquisition; the authority of persons who subsequently granted or transferred interests; successive conveyances, leases, assignments or other instruments; and the registration history and any competing interests affecting the property.

The exercise should also establish that the documents relate to the same parcel of land. A seemingly complete chain of documents is of limited value if the survey plans and boundary descriptions do not correspond.

Traditional land ownership requires particular care

Many land transactions in Ghana involve interests derived from stools, skins and families. These transactions require careful investigation because the person presenting the land may not necessarily have the authority to dispose of it.

For family land, it is important to establish the identity of the family, the source of its interest, the person legally entitled to represent it and whether the appropriate persons participated in or consented to the transaction in accordance with applicable customary law.

Similarly, where land is offered by a stool or skin, the purchaser must investigate the source of the customary interest and the authority under which the grant is being made.

It is not enough to rely on the assertion that a person is the head of a family, chief or customary representative. The capacity in which that person acts and the legal requirements governing the particular transaction must be established.

Registration is important, but it is not a substitute for proper investigation

The *Land Act, 2020* (Act 1036), provides the statutory framework governing land administration, interests in land and registration in Ghana. Registration is an important part of protecting and recording proprietary interests. However, the mere existence of a registered instrument should not cause a prospective purchaser to abandon investigation of the underlying title.

An appropriate search at the Lands Commission is essential, but it should form part of a wider due diligence exercise.

The investigation should establish whether the grantor has a valid interest in the land; whether the instrument presented is consistent with the underlying acquisition; whether the land is affected by competing registered interests or other relevant claims; whether the property is subject to encumbrances, restrictions or litigation; whether the survey plan and physical boundaries correspond with the property being offered; and whether the person in occupation is the seller or someone asserting an independent interest.

The objective is to establish not only what has been registered but also whether the interest being offered for sale is capable of being lawfully transferred.

Possession and physical inspection matter too

An investigation of title should not be confined to documents and searches. A physical inspection of the property is equally important.

The purchaser should establish who is in occupation, whether there are existing structures, whether the boundaries are identifiable and whether any third party is exercising rights over the land.

A property may appear satisfactory on paper but be occupied by persons claiming family interests, tenancy rights, prior allocations or ownership through an entirely different chain of transactions.

The history of occupation may therefore reveal matters that a documentary search alone may not disclose. In appropriate circumstances, enquiries from neighbouring landowners and persons familiar with the history of the property may also provide useful information, although such information must be independently verified.

A useful illustration from land litigation

The importance of tracing root of title is illustrated by the recent High Court judgment in *The Registered Trustees of the Presbyterian Church of Ghana (Pentecost Congregation), Salem, Teshie, Accra v. The Trespasser alias Send-The-Money*, Suit No. LD/0518/2025, delivered on 19 November 2026.

In that case, the Presbyterian Church traced its interest in approximately 37.99 acres of land at Salem-Teshie to an acquisition by the Basel Missionary Society from the Chief and Elders of Teshie in 1883. The interest was subsequently transferred to the Presbyterian Church by an indenture dated 18 September 1986. The Church also demonstrated its longstanding occupation and development of the property and relied on its registered title.

The Court found in favour of the Church, granting a declaration of title, recovery of possession, damages for trespass and a perpetual injunction, among other reliefs.

The case provides a useful illustration of the value of being able to demonstrate the history of an interest in land, the subsequent transfer of that interest and the acts of ownership exercised over the property.

What should a prospective purchaser do?

Before committing substantial funds to a land transaction, a prospective purchaser should ensure that a proper legal due diligence exercise has been undertaken.

1. **Investigate the root of title:** establish how the original owner acquired the land and the legal basis of that acquisition.
2. **Examine the chain of ownership:** review the relevant transfers and establish continuity between the original owner and the present seller.
3. **Conduct official searches:** obtain the relevant records from the Lands Commission and other appropriate public institutions.
4. **Verify the survey plan:** establish the identity, location, dimensions and boundaries of the property.
5. **Undertake physical inspection:** confirm the state of occupation and identify any encroachments or competing claims.

6. **Verify the grantor's capacity:** establish that the seller has the legal authority to transfer the interest being offered.

7. **Investigate potential disputes:** make appropriate enquiries concerning litigation, adverse claims and other matters affecting the property.

Conclusion: Good land acquisition begins with good investigation

Land remains one of the most significant investments individuals, families, businesses and institutions make in Ghana. Yet, the excitement of acquiring property can sometimes overshadow the importance of understanding the history behind the ownership being offered.

A well-prepared indenture, an official search and a registered interest are important components of a sound land transaction. However, the investigation should go further to establish the origin of the interest, the authority of the grantor and the continuity of ownership.

The question should never be limited to whether the seller has documents. It should extend to whether those documents establish a legally defensible interest in the land.

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