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Legal Challenges in Foreign Land Purchases in Tanzania: Navigating the Legal Framework

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Abstract: ***It is understood that a non - Tanzanian cannot be allocated or granted land in Tanzania unless it is for investment. This is a restriction established under Section 20 of the Land Act, 'the LA' Chapter 113 of the Laws of Tanzania. It is also noted that before the said allocation or grant of the land to a foreigner, the said land is to be identified, gazetted, and allocated to Tanzania Investments Centre, 'the TIC'. TIC is a Government agent which creates a derivative right to investors. This is in accordance to Section 20 (2) of the LA. TIC was established under Act No.26 of 1997 currently Repealed and replaced by Act No.10 of 2022 (Chapter 38) of the Laws of Tanzania. The TIC is mandated with coordination, encouraging, promoting, and facilitating and advising the government on investment policy related to investment matters. Of all these functions and restrictions of non - Tanzanian to be granted or allocated land, it comes a time when an investor has come across the land of his or her interests for certain investment and has developed wishes to buy it (to enter in other legal arrangements with individual owner). The Laws are deemed to creating a vacuum in covering this transaction. The conflict of laws discipline is to the effect that the principle of the 'situs' meaning the law of the property where it is situated applies on the property involving cross border transactions, however, the situs are silent. This paper examines the applicable land laws and practices to establish a piece of advice and recommendations for their improvement in order to strengthen the reliability and certainty of the goals and intentions of the Legislators in one hand while finding out how the weak party's efforts would be secured.***

Keywords: Situs, Legislators, Land Allocation, Land Grants, Derivative Rights, Investors, Foreigners

1. The objectives and Significance of the paper:

Every write up has its objectives and or aims. The aim of this article is to analyze the legal framework and challenges surrounding foreign land purchases in Tanzania, providing insights and recommendations for policy improvement hence a cross border handsome property laws convenient to the foreigners with interests in immovable properties and the general society of Tanzania in one hand. In the other hand, the significance of this paper includes understanding the legal complexities of foreign land purchases in Tanzania and how it is crucial for ensuring fair and lawful transactions, which has significant implications for foreign investment and property rights in the region.

2. Introduction

A state generally exercises legal jurisdiction based on nationality or territoriality in accomplishing its state duties (Doernberg 2009). These duties are general and touch regulating private matters including cross border contractual relations, recognition and enforcement of cross border juridical affairs which do not dispute state policies. In cross - border transactions, therefore, matters of private concern include legal disputes, principles of Conflicts of Laws are applied (Black 2019). These principles address issues such as applicable laws, jurisdiction, and recognition and enforcement of foreign judgments as seen above (Collier 2001). Although the above questionable principles are common in this area of conflict of laws, they come stage by stage. For example, one cannot talk of judgment and skip the issue of choice of law and jurisdiction.

It is the choice of law that shall state the appropriate law to apply in certain issues involving cross - border relationships. The source of all these issues in contract matters and in property rights in particular can't be without the law (s) of contract (Symeonides, 2010). Although the contracts may state the applicable laws, still the court may be entangled with duties to determine the applicable law in an un proper laws stated in the agreement or contract whatever; and therefore to get convinced to apply the law of the forum called *'the lex fori'*. This would come in, after looking on other elements of the parties and the subject. Parties by opting for the laws and jurisdiction is essentially said to handcuff the court and has no alternative other than complying with their established terms inter - party as it was decided by the High Court of Tanzania in the judgment involving **East African Breweries Ltd Ltd v GGM. Company Ltd.** [1] However, establishing this jurisdiction by parties, is not a justification that the court of law has no legal rights to oust or confer such other jurisdiction established by the legislations. This Position was stated in the appeal case involving **Scova Engineering S. P. A & Irtec S. P. A versus Mtibwa Sugar Estates Limited & 3 Others,** [2] **(**before Hon. Mkuye, Ndika, and Mwambegele, J. A.). Other drivers of the court to apply a certain law of its choice in conflict of laws are said to be as in the decision of the Court in **Dow Jones and Co. Inc v Gutinic.** [3] In this decision, elements of decision were built on queries such as which are the law of nationality of the part, usual place of abode, the party's capacity in the meaning of ability to bear a burden/liability or rights and status of the party in the issue whether or not determined by the law. A note is to be taken that this is a foreign decision and therefore persuasive in Tanzania.

Of all such matters above seen, the territorial philosophy in conflicts of law, with emphasis on the law of the place plays a great role in the case of land or property which is in our

[1] [2002]TLR12.
[2] Civil Case No. 133 of 2017
[3] HC 56,210 CLR 575,194 ALR433,77 ALJR255

case (Kay, 1987). No doubt that the position of several writers as it is in the minds of Kay (1987) that the land remains in the exclusive control of the states in which it is. This reality therefore makes the applicable law be the *situs*. The situs means the laws of the state in which the property is situated. It is this affair and position that takes this study back to find out whether or not the land purchased by the foreigner in Tanzania without the involvement of the legislative requirements entitles rights to the purchaser before the laws of Tanzania; or the purchasing foreigner does it at his or her peril. Further that under what legislative security and legal framework in case of dispute would the foreigner claim.

Some experts observe that the substance of the common law and the doctrine of Equity as applied from time to time in the commonwealth countries and or common law appearing to the court to be relevant would apply to feel the vacuum. To the circumstance of Tanzania, contents of section 180 (1) of the Land Act read together with Section 2 (3) of the Judicature and Application of Laws Act, Cap.358; that establish and recognize received laws are noted. With received law simply means the common law, doctrine of equity and statutes of general application of England that were applicable by 22 July 1920 (Makaramba, 1996). With common law, several implications it carries include the law that was common to England as seen before, but not local law and is not as a result of legislation but customs of the people and judges' decisions in England (Makaramba, 1996).

This study advocates also that much as the study is a landed property based at the cross - border eyes of protection, as a property and as an immovable capital, its global market and or value does not fully exist unless and Until states choose to congregate on rules coordinating property rights as observed by Wenar (2015). In other words, as capital, economically the capital would enlarge value if it safeguarded globally making rights and or interests there in protectable in and outside it boundaries in equal sense and circumstances.

3. The Land and Village Land Acts

The LA, Chapter 113, and the VLA Chapter 114 of the laws of Tanzania work simultaneously on Land Administration and Management in Tanzania. While the former deals with the general Land, the latter deals with the Village Lands. Section 2 of the LA defines general land to mean public land which is not reserved and which is not a Village land. It also defines a village land to mean the land declared to be the Village and Falling under provisions of Section 4 VLA. According to section 4 of the VLA this category of land include any transfer land transferred to the Village. The transfer land implies the change or move of a certain group of land from a certain law to the other group under which a certain land is administered. In other words, a piece of land can by the application of the law be removed from a general and reserved land to the village land and vice versa.

Before going in - depth into this particular part, one needs to understand what amounts to land. Land as the legal concept involves the ground, earth, and soil, constructions, fixtures attached thereto, and incorporeal such as easement (Howarth, 1994). In the light of Davys (2013), land includes the rocks beneath and the air above the section, the soil, buildings, other structures, water, and minerals. The LA under Section 2 refers to land as the surface of the earth and the earth below the surface and all substances other than minerals and petroleum forming part of or below the surface, things naturally growing on the land, buildings, and other structures permanently affixed to or under land and land covered by water.

Rights and restrictions of land ownership by foreigners in Tanzania are established under Section 20 of the LA. It is this provision of the law that requires a foreigner to get not allocated or granted land unless it is for an investment base. The law does not state anything more about alternatives to land grants or allocation to a foreigner (s).

Based on the custom and usage, there are circumstances under which a foreigner is said to purchase land for investments and thereafter submit him or herself to the TIC for other compliances. If the land has the title, as a matter of practice, two processes are said to take place simultaneously. These are transfer processes and surrender. While the destination of surrender is to make the title and interests therein revert to the President, the transfer shifts ownership and interests in land from the vendor to the purchaser. According to the LA, under Section 2, transfer simply means transitory rights of occupancy, mortgage, and lease between parties. The transfer need not be confused with 'transfer land' which under Section 2 of the VLA, that implies changing a portion of land from a certain group, say a general land or reserved land to the Village Land as initially seen above.

Surrender of the purchased land by the foreigner is not compulsory as there is no law as to that effect and therefore, some of those who surrender the title in their hands may be due to the presence of Section 20 of the LA. One would wish to chip in to come up with the reality and extent to which procedures are done or to what extent foreigners are holding land in the vacuum, on papers but out of legal Protection. Lehavi (2013) is of the position that, sometimes some matters are difficult to know statistically as they might be betraying the accountability of land management, subject to corrupt deals, poor records management and follow - ups, and so on. Likewise, in our contemporary society, this would remain a statistical challenge that may make a future study. Equally the application of land Laws on Tanzania is young than land titles. Perhaps there might be such ownership inflicting the provisions of section 20 of the Land Act. A note is to be taken that the position of surrender as applied above is limited to land wit certicate of right of occupancy.

At the stage of purchase and surrender of formal or informally held land, locking in and out by vendors and purchasers right will have gone to a certain part. For example, the purchasing business delivers rights to the purchaser. The acceptance of surrender delivers rights to the President. Available laws of the state at these two different stages are procedural. No Substantive law that stands for rights involving the foreigner and likely to protect him and his rights be it corporeal and incorporeal in this immovable. The questions remains, in case of breach, under what law

would the rights or interests in the purchased or surrendered are enforced? is there any conscionable agreement and or contract? Is there any right of the purchaser is such surrendered land considering that the purchase was not in accordance with laws? Land Rights under sale contract would be the title and or interests in land that would be enjoyed by foreigner through a special legal channel under the land laws of the State. The process takes the study to other laws starting with establishing property rights and whether property rights are personal or property in nature. It is useful therefore to see what is the property right.

With property rights on the other hand, are those rights capable of binding a third party while giving the owner of the property a degree of control of the said property (Davys, 2013). Personal property rights are regulated in favor of a certain group of people because they enter a relationship voluntarily and one has breached his legal responsibility in contradiction of another (Davys, 2013). Who has a degree of the foreigner's purchased land between him and the government? This question is to be answered later in this work. However, the public participation in the formation and pledge for property rights to land is due to the eradication of individual efforts in distorting resources in the cause of establishing property rights, overheads and justness recompenses usually connected with a methodical approach, and system effects consequential to dependable convenience of information across administrative units (Deininger, 2003). Deininger remains of the position that Rights to land need to be clear with the reality on the ground.

No provisions of the Land Act and other legislations baring foreigners from buying Land in Tanzania; be it for investments or whatever. The terms 'allocated' and 'granted' land as used in the land laws excludes the purchase of land or gift. Land allocation simply means issuance of the land with which a state claims to have control as its land or its control on behalf of the nation (Österberg, 2002). To Webster (2003) Land grant is an endowment of land made by the government especially for roads, railroads, or agricultural colleges. With this state of affairs, the enforcement of land rights or interests therein affected by the foreigner prematurely, the security of which is challenging under the eyes of the law, takes this study to the doctrine of Equity and Comity.

4. Principles of Equity and Comity

Jurisprudentially, the doctrine of equity is said to have been developed in the English Court of Chancery (Catherine, 2021). Equity is a product of English common law tradition. It is a body of legal principles that emerged to supplement the common law when the strict rules of its application would limit or prevent a just and fair outcome (Berkely, 2017). The doctrine of Equity was developed in England as a supplementary system to fill in gaps of the common law inspiring the ideas of the natural justice hence part of the court of England (Makaramba, 1996).

In support of this position by Catherine, it is crucial to learn from this quotation:

"The King ought of his royal dignity and prerogative to mitigate the rigor of the law, where conscience hath the most force; therefore, in his royal place of equal justice, he hath constituted a chancellor, an officer to execute justice with clemency, where conscience is opposed by the rigor of the law. And therefore the Court of Chancery hath been heretofore commonly called the Court of Conscience; because it hath jurisdiction to command the high ministers of the common law to spare execution and judgment when conscience hath most effect' (Holdsworth, 1945).

As seen before, the reason behind equity is said to be covering gaps for fair resolution of legal matters in disputes (Campbell, 2021). Catherine (2021) propounds that purpose of equity is justice. Although equity is received by positive approaches, on one hand, is also criticized for the possibility of injustice as it is likely to be employed out of existing principles (John, 1998). Even though equity would be subjected to the negative perception of overriding the principles, a note should be taken that most of the choice of law rules are usually established by the courts of law in the common law as opposed to equitable jurisdictions hence arguments that categorical choice of laws established by different optimal of law methods ought to apply when the equitable principles or when law of the certain forum is invoked.

Although it is not the right time to discuss the doctrine of Comity under the conflict of laws, the circumstances force us to know about it flimsily. In a nutshell, comity is a sovereign voluntary consent to enforce foreign decisions but inadmissible consent if found contrary to the sovereign policy (Edelman and Salinger, 2021). In other words, the doctrine of comity is built on the principles of sovereignty and equality as it is observed by Jonathan, (2022). With Sovereignty, means supreme power or authority (Singh, 2006). Daniel (1995) takes the same trend as Singh. However, so as to be sovereign as a sovereign state, it is reflected by the internal hierarchy and external autonomy (Hendrik, 1994).

It is the legal principle to suggest and or command that a certain jurisdiction recognize and give effect to judicial verdicts and judgments entered in other states if doing so would not go against a public policy (Bleimaier, 1979) unless doing so would offend its public policy. This takes us back to the traditional theory of the *situs* on the place of where the land is. It does not command but it emphasizes (Kay, 1987). The reason behind the immovable to be treated under the laws of the state where they are is said to be the fact that it is the state only that can deal with them physically, that the immovable is treated under the laws of the and willing of the state and therefore, whenever it happens, the foreign court must apply the law of the *situs* (American Law Institute, 1971). Further, that immovable is the greatest concern of the state and lastly that is on the concern of certainty and conveniences (Am. Law. Inst, 1971). As seen before, whether or not the rights of the foreigner on the landed property would be enforced under equity or comity still brings no reliable response. This takes the study to find out the possibility under the Law of Contract of Tanzania.

5. The Law of Contract Act Chapter 345 'the LCA'

This law is looked at in its completeness and the International domestic and possible cross - border Transactions. This is because, with international transactions, remains common for parties coming from different jurisdictions, to negotiate a deal in the other country, conclude it in the other jurisdiction, and perform it elsewhere as observed by Burton, (1995). Being this case, it is stated that the law may provide any jurisdiction to establish the applicable law but the parties themselves can avoid the uncertainty by making their choice in the agreement (Burton, 1995).

Going to the LCA, being a general substantive law governing private relations of individuals as agreements or contracts, it provides for under Section 10 that agreements/contracts if made by free consents of the parties competent to contracts, involves a lawful consideration, a lawful object are not void. Section 11 (1) covers the issue of competence. According to the provision, under Section 11 (1) the age of the majority as per the laws to which one is the subject, sound mind and he is not disqualified from entering any contract by any law.

What amounts to a sound mind involves one who understands and forming rational judgment during entering a contract. The position is provided under section 12 (1) of the LCA. Are purchases under the Mistakes in the terms of Section 20 of the LCA? A mistake is an error in belief. This belief may be known so to parties or not but remains the belief. Melvin (2003) classifies a mistake into four classes which are misunderstanding, unilateral mistakes, mis transcription, and mutual mistakes. A law governing a Contract is an appropriate law to determine a mistake and how to go about it. With unilateral mistake, simply means one part of the contract may establish errors or mistake and the other part is aware of the mistake yet he takes advantage of it. In the case of **Chwee Kin Keong v Digilandmall. Com Pte Ltd,** [4] the court of law among other things was of the position that the contract was void of mistake as the defendant had constructive knowledge of the presence of the mistake. The part benefitting from the mistake could not claim ignorance as the mistake had a positive outcome for the part and hence could not be disclosed. The law can also differ from one country to another and this makes the laws determine relevant mistakes and contracts at the relevant mistakes not to be voidable as it was so observed by Lord Philips in **Great Peace Shipping v Tsavliris International Ltd.** [5] Are Parties to Contract under Mistakes at the Matter of Fact? Is the Agreement Void or voidable? The Justification of coercion, undue influences, sobriety problems, misrepresentation, fraud, and so on constructs the voidable contracts and capacity (Cross, 2018).

On its face, the legal contractual terms 'void' and 'voidable' are said to meet no clear distinction driving the courts to take the two in addition to invalid as one and using the legal term interchangeably (Schaefer, 2010). A void contract cannot be enforced under the Law (Emanuel, 2006). It is a lack of existence or a nullity if done against the law it is void thus no person is bound by an act (Chuwa, 2005). It is void when the law declares the absence of the contract at all and cannot change the situation and thus no legal effect (Anebo, 2008). A void contract is declared by a court of law (Cross and Miller, 2011). The contract can also be void due to its impossibility to perform it (Emmanuel, 2006).

A voidable contract has a legal force when it is affected but may lose such legal force in some situations. A voidable contract is binding unless and until it is avoided at the option of either party to it (Anebo, 2008). Anebo refers to a voidable contract as a patient who can be cured or left to die. In other words, once the contract is found voidable, parties may redeem its situation to assign it legal legs upon which to stand or opt - out to let it die. According to section 21 of the LCA, a contract is not voidable on the causes of the mistake to any law in force in Tanzania but a mistake to law not in force in Tanzania has the same effect as a mistake of fact. Section 22 of the LCA is to the effect that a contract is not void merely because it was caused by one of the parties to it being under a mistake as to matter of fact. The question that would need an answer under the LCA is whether or not Sect 21 has a legal effect on the contract/agreements by a foreigner versus a person of the land in agreements purchased or gifted whatever, out of the scope of the provisions of the LA.

The LCA is to the effect that a contract is not voidable because it was caused by a mistake as to any law in force in Tanzania; but a mistake as to a law not in force in Tanzania has the same effect as a mistake of fact. A mistake of fact may be grounds for overturning or transforming an indenture. Under this particular point, one who understands a particular term in a certain way and the same is understood by the other in another way has a reason to bring the issue the light before the closure of the contract. This is not a mistake of law but a material factual element or belief (LII, 2023). If yes, the riddle goes as to who is to move the court of law under what law and what remedies to the purchaser would remain the matters to leave clear.

6. The Tanzania Investments Centre

The Tanzania Investment Center 'the TIC' is currently discharging its duties under the Tanzania Investment Act No.10 of 2022 the legislation which repeals the Tanzania Investment Act No.26 of 1997. Although the law engulfs several matters pertaining to investments, this study shall deal with some, considered important and relevant. Land for investment remains a point of a challenge to TIC due to the lack of the Land Bank that would smash the investor into processes to make it available, ready, and a their costs and time to establish a journey towards accessing a derivative right as also observed by (Clyde&Co, 2023). The TIC under Section 6 of the TICA, has duties that include sensitizing and coordinating investments while strengthening the national reflection over investments. It is TIC that has to ensure establishing and strengthening investment environments for domestic and foreign investors. The TIC shall carry a duty to plan/arrange, collect, analyses and make

[4] [2005]1SLR(R)502C
[5] [2002]EWCA.Civ1407,[2003]QB679.

the investments information available to the public/users/get advertises in cooperation with other government institutions. Further, the TIC does or ought to categorize lands, farms, etc. and services friendly for investments. Land being the interests on this particular part, still, the law does not provide for real assistance on its availability or establish efforts to enable purchasing foreigners to come across possible protection in the processes of accessing land with the intention for investments. No lacuna under which a land purchase has an excuse as acknowledged by the TIC that the occupation of land by non - citizen investors is restricted for investment purposes and the law does not allow individual Tanzanians to sell Land to foreigners. The challenge remains, what is the available land feet for and what are the interests of the investor remains a riddle. The law ought to explicitly provide for and give way to foreign investors undertake free market survey of the area they would be attracted to invest in and trace land of their choice and thereafter submit themselves to TIC at Zero costs for obtaining licenses and other compliances. This is because, it is an investor who need to dictate an area of his choice in support of his businesses to large extent.

7. The Court with Jurisdiction

The issue of Jurisdiction of the Court in both Civil and Criminal matters is the Issue of the Law (Lamwai, 2006). The jurisdiction of the court is observed by a number of things. They include geographical location of which the court was established for, the value of the matter (suit) in terms of monetary and property value, original, appellate, exclusive, concurrent and revisionary Jurisdiction. In short, the limits of the court to exercise certain powers are what are referred to as Jurisdiction of the court (Chipeta, 2002). The High of the United Republic of Tanzania is a re known court for having inherent powers under Article 108 (2) of the Constitution of the United Republic of Tanzania, 1977, as amended. This provision of the Constitution enables the High Court powers to entertain any matter which characteristically is to be dealt by a High Court (Lamwai, 2006).

Unlimited jurisdiction of the High Court as it stands is re articulated under the provision of section 2 (1) of the Judicature and Application of Laws Act, Cap.358 R. E.2002. These inherent powers cannot be taken away unless the written law states otherwise (Taisamo, 2017). This position is provided for by the Court of Appeal of Tanzania in the appeal Case of **Tanzania China Friend Ship Textile Co. Ltd V Our Lady of the Usambara Sisters.** [6] This is to say, the presence of the law that takes away powers of the High Court, such powers are removed in the domain of the High Court. Crucial as the issue of jurisdiction remain, no law that establishes an appropriate court to entertain matters subject to this discussion save for that Article 108 (2) of the Constitution read together with Section 2 (1) of the JALA would be put in to play due to the complex nature of the matter. This does not take away the requirements of Section 8 of the Ward Tribunal Act, Cap.206 of laws of Tanzania read together with Land Disputes Courts Act, Cap.216 both amended by Written Laws Miscellaneous Amendments No.5 of 2021, as the case may be if the matter is to be treated as the Land Case in lieu of the Conflict of Law.

The High court of Tanzania Land Division is to be associated with this study for land matters as it is one of other divisions established for special purposes. For example, in 2001, via Government Notice No.63 of 2001, the Land division of the High Court was established to deal with land disputes only. Elaborating this, it was in the struggle against the backlog of land case in the court. This reason is confirmed by Hemed J. in the Case by **Mohamed Enterprises (T) Limited versus Adili Auction Mart and 3 others, Glenrich Transportation Limited versus Adil Auction Mart Limited and 2 others, High Court of Tanzania, Land Division at Dar es Salaam.** [7] Taking the hot debate of jurisdiction issues, the court was of the position that The Written Law Miscellaneous amendments No, 2 of 2010 is inconsistence with GN No.63 of 2001 establishing the High Court, Land Division misplace, is still the intention of the jurisdiction to the divisions of the High Court are still alive (Emphasis mine). The other divisions of the High Court are, Commercial division, Labour Division Economic Crimes Division each one with its own establishments. Therefore it is what suit and what value of the suit that determines what court and or division of the High Court.

A legislative Fiasco

The Land purchase agreement or contract between a domestic vendor of immovable property and foreigner is not subject to any legislative provision as to its protection on title or interests therein. It is an agreement/contract under nonexistent legislation. The interpretation of many is that it is restricted under Section 20 of the LA that provides for that grant and or allocation of land to a foreigner shall only be for investment and via TIC. This is as per exploration done to the legal framework governing Land in Tanzania. Depending on the Land Tenure typology, experienced in Tanzania a foreigner can purchase and hold land and interests there for an unspecified period and without any complete transfer or surrender or submitting it to the authority dealing with foreign investment services or agents there.

Entomologically this will be owning and or occupying land save for a presumption of the of the registered occupier. Further, the environments reveal that a foreigner can purchase land and process it to the acceptable stage of securing a derivative right from TIC, on the way towards obtaining a derivative the foreigner will own land in acceptable rights until when such rights shall undergo conversion in hands of the TIC or get held otherwise by competent authorities.

As to whether the doctrine of equity or comity surfaces to protect the purchasing foreigner, it is a matter of time. The LCA also is silent on such matters. One would witness parties to be of the capacity, sound minds, the property to be legal and the consideration to be effectively done yet the processes remain unsatisfactory under the Tanzania Investments Act and the LA. Where the law can go for

[6] (2006)TLR. 70.

[7] Land Cases No. 54 and 75 of 2023

Section 21 of the LCA, providing for that contract is not voidable because it was caused by a mistake as to any law in force in Tanzania; but a mistake as to a law not in force in Tanzania has the same effect as a mistake of fact, still there arises the issue of unconscionable agreement or contract. When elements of the un conscionability of the contract are crosschecked as observed in some pieces of literature, some other doubts arise as to who is likely to be a weaker part much as the parties to the contract might have no disagreement leaving the ball to be dribbled by the third part, and that is the state actor, or the rise of misunderstanding taking the matter before the court. To put it easy and clear, it would be important to light on the meaning of unconscionable contracts in a nutshell.

Rodrigues (2011), lays against the weaker part while holding that consumer protective laws do not surface unconscionable causes. This doctrine is said to rise from bargaining to come up with a decisive equity between parties hence a doctrine of Unconscionability (Gareth, 2013). The doctrine bears elements of the absence of legal advice against the complainant, unconscionable conduct by defendants, functional iniquitousness, and weakness in the complaint (Gareth, 2013). The Doctrine deals with bargains to protect the weaker part in certain situations whereby the courts of law may have the entrance here to set aside the contract (Enonchong, 2023). Before this observation, Beech (2019) had the same position that the unconscionable doctrine would be applied in appropriate cases to ensure justice. If it remains as stated that an unconscionable contract involves unfair bargaining and substantive terms as further seen by Allan (1992) then it keeps protection to the vendor of land against the purchaser who ought to know. Along with the intention of the doctrine, it is said to be blameworthy for being paternalist but curing the social economic efficiency while standing as a democratic (egalitarian) tool (Shiffrin, 2000). In the light of the above discussion under this particular part, without prejudice to possible elements touched and the position of the laws noted, still the laws appear to favor the vendor. While taking this position, a note has keenly been put on the law of the state where the immovable is found, treatment of the law based on favor of history, and frequent petitions and superficial arguments making a favor of the law of the *situs* to remain decisive as well observed by Janeen (2005).

8. Conclusion and Recommendations:

It is incontrovertible that the international legal systems are founded on consensus through state practice and agreements, as Wallace (1997) asserts. It is also not controversial that conflict of laws is a necessary part of every country's law because of the different legal systems of different countries as asserted by Moris (1980). The unsuccessful efforts to enforce international human property rights of individuals, and entities, and an inevitable integration as bringing up reliable reforms as reiterated by Sprankling (2012) are noted. With all efforts, the legal framework, and Section 20 of the LA in particular does not deal with land transfer or purchase by the foreigners and rights there too. The LCA remains general over matters of importance and crucial in contract. The TIC Act on its part about immovable plays its roles. Neither is there a substantive law nor a procedural recognizes and deals with the foreigners' purchase of land and the way to handle and or protect his interests there once it is done out of the scope of section 20 of the LA.

In addition to the above, it is noted that the issue of enforcement of contract rights by a non - citizen of Tanzania over the land secured for investments out of the requirements or before the required destination required by the laws of Tanzania is staggering because there is no direct provision of the law concerning the processes. This may lead foreigners to own land via contracts only or in the shield of citizens under black agreements or forgery, for example, several foreigners are being said to own land against the requirements of the law despite the presence of the government organs to give services to them. In 2016, the Ministry of Land, Housing and Human Development Settlements, was reported to have terminated at least five titles issued on properties of foreigners in Mwanza, Shinyanga, and Tabora Regions of Tanzania. (Mwananchi, 2016). This is an indicator of the incompliance challenges.

There is no doubt that Tanzania and the general society need not live in the past. Taking this study as an alarm/alert, there is the need to revisit the laws and make them state categorically how a land - purchasing foreigner ought to do, and how to protect his rights if any in the cause of transaction in a land before the same reaching TIC for the derivative rights. It is because, this is the desire by the foreigner to investigate, plan, and secure land for investment whereby he secures land of his interests as it would reduce challenges of the responsible entities to meet and work of the desire of investors completely and on time. The contracts/land sale agreements entered by the foreigners against individuals out of legal framework governing foreigners owning land save for that it is for investments and from the hands of TIC held under derivative rights is a conscionable agreement as principles of laws reveal. The government as an interested part to this agreement to cover its interests, if any, does not intrude the principles, however there or possible legal elements that makes the contract voidable.

To encourage investors, a piece of advice is put forward that as a developing country just like others, Tanzania needs to be at liberty to characterize herself with good land policies creating categorical and accessible environments to secure lands via good institutional setting and strong policies and laws unlike the observation by Fischer (2005) whose position is that a good number of emerging countries are branded by poor policies and institutional settings creating chances for venality and misappropriation by fortunate interest groups.

Tanzania by revisiting its laws, policy, and institutional framework needs to work nearer to the immovable property to assess its goals against investing foreigners or with such intention by injecting, unlike today where it is said to have not always used its resulting powers judiciously or in the public interest (Mramba, 2023).

By so doing, the laws applicable to the above - stated environments will be certain and reasonable enough to protect investors whose efforts would be embedded in

securing the land of their interests at their costs working nearer with regulators. The Conflict of law lawyers is encouraged to research more and more on this particular part for the betterment of the global at large.

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