

IMPACT OF LAND RIGHTS ON COST OF GOVERNMENT PROJECTS: THE CASE
OF KARPOWERSHIP PROJECT IN SEKONDI – WESTERN REGION.

By

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DECLARATION

I hereby declare that this submission is my own work and that, to the best of my knowledge and belief, it contains no material previously published or written by another person nor material which to a substantial extent has been accepted for the award of any other degree or diploma at Kwame Nkrumah University of Science and Technology, Kumasi or any other educational institution, except where due acknowledgment is made in the thesis.

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ABSTRACT

The study aimed at assessing the impact of land rights on project cost overruns in the delivery of governmental projects in Sekondi - Takoradi focusing on the Karpowership project. With this aim, two (2) objectives were set which were to identify the contribution of property rights to construction cost overruns and delays of the Karpowership project located at Sekondi and to identify the factors that leads to poor property rights management in construction at Karpowership project located at Sekondi. The study adopted the mixed research approach in collecting data. The data was collected with the aid of a structured interview and structured questionnaire. In all, thirty-nine (39) respondents were targeted however, thirty-three (33) respondents were available to respond to the questionnaire. The data collected were analysed using content analysis and mean score ranking. From the analysis, it was realized that, the delays in projects are caused by court injunctions on the Land. These injunctions are normally secured by the owners of the land against the contractor and its assigns from carrying out their work. Also, it was realized that, the payment of compensation is a major cause of increase in cost of a project. In accordance with the 1962 State Lands Act (Act 125), Compensation is due and payable if there is no controversy in the claim lodged and the amount claimed is considered reasonable or if the claimant has negotiated successfully with the government on entitlements based on equivalence of loss sustained. Also, it was realized that, inadequate time allowed for re-engagement, resistance from documented right owners and opportunity offered to undocumented rights are the major factors affecting property rights management. Based on the findings, it was recommended that, Institutions responsible for community engagements must endeavour to cover all rights. Property Rights Computations for compensation purposes must have the long-term view by setting aside a percentage of the compensable sum aside to address undocumented property rights that have the potential of igniting a court suit.

Keywords: Land rights, cost overruns.

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DEFINITION OF TERMS

Claims: A formal request for time or money, with legal and contractual implications (Bramble et al., 1995). A claim also means an interest in, as in possessory claim, or right to possession, or a claim of title to land.

Claimant: A person making the claim is referred to as the claimant.

Land Right: An exclusive right an individual or community have over a parcel of land against the whole world.

LIST OF ABBREVIATIONS

E.I	Executive Instrument
GRIDCo	Ghana Grid Company Limited
L.I	Legislative Instrument
LC	Lands Commission
LVD	Land Valuation Division
PVLMD	Public and Vested Land Management Division
ROW	Right of Way
VRA	Volta River Authority

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DEDICATION

To my family for their consistent encouragement

CHAPTER ONE

INTRODUCTION

1.1 BACKGROUND TO THE STUDY

Every human endeavour finds its expression on land. Property rights are a central concept in economics, it is well established that private property rights are important for productivity (Besley, 1995; Goldstein and Udry, 2008), income, and wealth creation (Besley et al., 2012). Little is known about the effects of poorly defined property rights on communal projects. With Governments been tasked with the responsibility of providing sustainable development by way of infrastructure, the impacts of such rights become hindering factors throughout the efforts at meeting developmental objectives. Excludability of entrants and enforcement of rules to Property rights condemns many projects to years of preparation to meet the requirements expected for smooth take off of projects. As such the 1992 constitution of the Republic of Ghana protects its citizens from deprivation of property as captured in Article 20 (1) reads “No property of any description or interest in or right over any property shall be compulsorily taken possession of or acquired by the State....”, also makes provision for expropriation of property for purposes of public interest projects.

Harvey (2010) observed that, With the advent of the so-called private property rights movement, the long-standing tension between private property rights and government planning increased in the 1990s. A topic of intense concern and discussion among the

founders was the role of private property rights. There was a clear feeling of the right for a multitude of reasons—philosophical, historical and modern. and control property rights was an important element of a democratic governmental structure.

In a debate over the ratification of the Pennsylvania state constitution, Franklin (1907 [1789], 59) said: Private property is a creature of society and is vulnerable to the demands of society whenever it is needed, even to the last farthing." In other words, Franklin did not see property rights as sacrosanct. Instead, he seemed to regard the right of the public to produce, re-create, remove, and control property as it best served government purposes as lawful.

Construction works are time-bound, require significant capital outlay, resource acquisition and expenses, and consequently its control is significant burden for management. Project management experts extensively acknowledge the importance of project cost management. Cost deviation concerns are still widespread in works amid the extensive usage of cost management and control techniques.

Chris Hendrickson (2008), observed that, Construction project cost management combines an array of project targets and objectives that can only be achieved by implementing a sequence of resource constraints activities. It is a hurdle in practice and there may be conflicting interests between the specified targets in terms of time, cost, scope and quality as well as the constraints on all the available resources considered necessary.

Construction costs involve identifying, quantifying and appraisal of the various direct and indirect cost components of land rights and claims that add to the implementation of projects in Ghana.

PMBOOK guide (2018), Identifies planning, estimating, budgeting, financing, managing and controlling costs and the interplay of one to the another to be completed within the permitted spending plan as integral-processes involved in the cost management mechanism of the project. Pereira and Imriyas (2010) also stated that construction cost management deals with a vast array of processes, such as estimating, scheduling, cost control, resource management, etc.

Tensions due to property right are always rife in state undertakings usually on large projects that requires large tract of land. These tensions often result in project delays. Abbas and Painting (2017) argued that, one criterion for judging the success of a construction project is whether it is completed within budget. They reckon that, in developing countries, budget problems are just one factor in poor project performance. This research is to make contribution to literature by examining how land rights contributes to State Project delays and eventual contribution to cost overruns.

1.2 STATEMENT OF PROBLEM

Scholars in project management have identified various sources of Cost management of development with a wide spectrum of characters. Government over the years have engaged in rigorous infrastructural development. Many of these infrastructure projects require

government to force owners to sell their land using the power of eminent domain (also known as the taking power, compulsory sales, or expropriation). States struggle to acquire land when strong institutions defend individual, and increasingly informal and collective property rights. In the short run, difficulties acquiring land stalls Infrastructural projects which affects budgets. Over time, delays translate into budget overruns which affects infrastructural project deliveries for public good.

Heller (1998, 2010), observed that, strong property rights lead to economic “gridlock” in which socially beneficial projects cannot be built due to holdouts from those who refuse to sell. Stronger property systems provide greater protections to individual owners when confronted with state takings, and thereby can complicate the acquisition of land needed for public works. In cases where governments lack strong measures to force property owners to sell, governments struggle to acquire the land needed to complete public projects.

While holdout problems occur when property owners refuse to sell their property, a related holdup problem can occur when property owners act in ways that raise the prices that governments must pay. Sargeson (2013: 1064) adduced that evidence from China suggests that people try to maximize their compensation by enclosing rooms, fixing broken exteriors, and building additional floors that officials will count in their compensation. Instances abound where projects have been halted due to court injunctions and disputes of rights over land and landed properties over which key infrastructural project is to be constructed. Implications of delays in the resolution of the matters results in contractual claim issues. Whilst it is desired by most contractors to ensure client satisfaction in terms

of deliverables, these desires are often marred by disputes arising from ownerships rights over the parcels on which the project is being implemented. The focus is therefore to establish the extent to which rights impacted on state projects in Ghana with emphasis on the Power Generation project being undertaken by the Karpowership in Sekondi.

1.3 AIM AND OBJECTIVES OF THE STUDY

Property rights are a central concept in economics, but how to best implement them is a contentious policy issue in many countries around the world. While it is well established that secure private property rights are important for productivity (Besley, 1995; Goldstein and Udry, 2008), income (Field, 2005, 2007), and wealth (Besley et al., 2012), little is known about the effects of property rights on delivery of social project undertaken by government in terms of its contribution to cost overruns and delays in project schedule.

Whilst literature abounds on causes of project cost overruns, the contribution of property rights to such incidences are imprecise.

The study is therefore aimed at assessing the impact of land rights on project cost overruns in the delivery of governmental projects in Sekondi - Takoradi focusing on the Karpowership project.

The objective of this research are as follows;

1. Identify the contribution of property rights to construction cost overruns and delays of the Karpowership project located at Sekondi.
2. Identify the factors that leads to poor property rights management in construction at Karpoweship project located at Sekondi

1.4 JUSTIFICATION

This study is a contribution to the subject of project delays factors in Project Management and will add to the pointers of project success factors and front burning issues in the Project Management Profession. Developmental Projects through Infrastructural provision which relies on expropriation, private treaty, and property equity arrangements contributing to project delays and consequential cost overruns to the dissatisfaction of client, offer valuable knowledge and application will ease tensions on construction project sites. Little is known about the effects of property rights on delivery of social project undertaken by government in terms of its contribution to cost overruns and delays in project schedule. This study will therefore contribute to existing knowledge on land rights and its effect on project cost and schedule.

1.5 STUDY METHODOLOGY

The study adopted an exploratory research strategy and it was considered the appropriate research strategy for the collection of data on land rights through reviewing project documentation on payment of compensation, land right issues, Courts redresses, and impacts on the power projects.

The research approach adopted was the deductive from the data gathered from the project manager and Project Team Leaders, Property Holding Groups and Individuals located within the Project Affected Enclave. Data gathered was analysed and discussed in relation to the objectives of the study. Research conclusions drawn was contextual and

recommendations made to improve knowledge in Property Right handling in Construction Projects.

1.6 ORGANISATION OF THE RESEARCH

The study is organised into five chapters. Chapter one provides background information into the study and explain the problem at hand; the aims and objectives with the justification of the study. Chapter two deals with comprehensive literature review on the subject. The intent is to ascertain relevant theoretical perspectives on the subject.

Research methodology is dealt with in chapter three which emphasize on the research method used to gather data towards the attainment of the study objectives. The fourth chapter focuses on discussion of key issues from the study with reference to the aims and objectives and chapter five constitute conclusion and recommendations.

CHAPTER TWO

LITERATURE REVIEW

2.1 INTRODUCTION

Land rights in Ghana are covered by both customary practices and enacted legislation. In both cases, the interest of individuals, community, or an institution with respect to its protection and defence is the main object. Construction works and in particular within the Power Sector, heavily relies on land as a means to realise their target objective right from the installation, and mediums for evacuation of power generated to target population. Every land in the World has an owner who exercise rights over the parcel area reduced to his possession. These Individual, Communal, and Institutional Rights becomes a major hurdle to battle with in Project Implementation particularly for Projects running through very developed areas and traversing longer distances with potential of affecting several million land right (people) as the Karpowership Project being undertaken by Ghana Grid Company (GRIDCo) from the Sekondi Naval Base in the Sekondi Metropolitan Assembly to VRA Power Enclave at Aboadze in the Shama District of the Western Region.

Creedy et al (2010), identified risk and uncertainty as existing in situations where the actual outcome of a particular event or activity is likely to deviate from the estimate or forecast value. Love et al (2012) indicates that cost overruns result from a sequence of pathogenic forces that remained dormant in the structure of the project. The issue of dormant land rights challenges always rises in the execution stage of a project as result of the cosmopolitan nature of developed communities. Many rightful land owners but undocumented leaves communities for economic, social and political reasons. These

categories of persons tend to react and make cases of trespass at the execution stage of projects. The consequential trespass remedies result in project delays as remedies at the courts always results in injunctions against continuation of work.

This Chapter examines Literature on the central terms in the research topic specifically:

- Land Rights and its origins,
- how land rights affect projects in Ghana, and
- Cost Overruns of Projects

2.2 ORIGINS OF LAND RIGHTS IN GHANA

2.2.1 Origin of Customary Land Rights in Ghana

The origin of rights in customary land has been examined by various writers in Ghana land law. Sarbah in his Fanti Customary Laws gave four methods of acquisition of rights in land namely:

- Appropriation of vacant land, that is, land without an owner and unoccupied;
- Conquest through war;
- Accession, that is, land gained or reclaimed from sea or river; and
- Alienation, for instance by sale, gift, testamentary disposition and succession.

Casely Hayford in his Gold Coast Native Institutions (1903) states, "In the early States of the Native State System, upon the acquisition of lands by conquest or settlement by members of a given community, the lands so acquired or settled upon would be apportioned among those worthy of them in the order of merit. Upon that basis, the Chief Military Commander, who subsequently becomes the King, would have his requisite share, and so

would every member of the community down to the lowest rank of the fighting men. Thus, each man's land would be his own special property and that of his family, though the King, as overlord of all, would undoubtedly exercise sovereignty over the whole land, every inch of which, however, would have an individual family owning it."

In that statement Casely Hayford also brings out two methods of acquisition of proprietary rights in land, namely

- Conquest; and
- Settlement and he goes further to show the relationship of the proprietary rights of the overlord and his sub-chiefs.

Danquah, in his *Akan Laws and Customs* (1928), confirms the observations of Casely Hayford and introduces a third method which was included in Sarbah's classification, i.e. purchase and gift. He enumerates the following methods:

- Conquest by a tribe, followed by the supreme commander assuming over-all control and the sharing out of the land among the sectional heads;
- Confiscation to the stool of vacant land;
- Long and undisturbed acknowledgement of a superior stool's ultimate ownership of a stool land; and
- Purchase and gift (which are recent and apply to very small areas of land).

To summarise the above, apart from recent and almost insignificant cases of purchase and gift, right to stool land originates from a conquest or settlement on land by a community owing allegiance to a stool. There is an element of force and physical sacrifice in both methods and people distinguish themselves in the process. Therefore, the over-all head of the community (whom shall, for the sake of simplicity, refer to as the king in this work)

after the successful acquisition of the land, shares out definite portions among the heads of the various groups of the community. Often, the king retains a portion for himself personally and for his immediate relations.

2.2.2 Origin of Legal land Rights in Ghana

Legal rights in land consist of enacted legislations, decrees, rules and regulations that govern ownership rights in land in Ghana. The constitution is the supreme law of this country. To this end, land ownership in Ghana is given pre-eminence in the constitution under the directive principle of state policy. The Directive Principles of State Policy contains the philosophical and ideological underpinnings of the Constitution as a whole and it complement the provisions on fundamental human rights and freedoms.

The Constitution of Ghana has made right to own property fundamental right to its citizens. Article 18(1) and (2) of the 1992 constitution of Ghana together reads, “Every person has the right to own property either alone or in association with others. No person shall be subjected to interference with the privacy of his home, property, correspondence or communication except in accordance with law and as may be necessary in a free and democratic society for public safety or the economic well-being of the country, for the protection of health or morals, for the prevention of disorder or crime or for the protection of the rights or freedoms of others”. Section two sets the tone for compulsory acquisition with the introduction of the caveat “....Except as required by law and as may be necessary for the public safety or economic well-being of the country in a free and democratic society,

for the protection of health or morals, for the prevention of disorder or crime or for the protection of rights and liberties of others”.

The Directive Principles of state policy further affirms this; and in Article 36 of the 1992 constitution of the Republic of Ghana, it is stated that the state shall guarantee the ownership of property and the rights of inheritance. Therefore, ownership of property in Ghana can conveniently be understood to mean basic and fundamental human right of its citizens.

2.3 PROJECT COST MANAGEMENT

2.3.1 Introduction

The construction industry world over and particularly in Africa has reputation for dispensing projects over budget, and behind schedule. However, a project is considered successful when completed within budget and on schedule. Failure to achieve these mostly leads to cost overruns. Therefore, detecting and remedying plan-related risks is at the forefront of a project manager's commitments (Wysocki, 2009). High Voltage Line construction involves huge capital outlay which could be invested in other sectors of the economy. Prudent management of Tax Payers funds on energy generation projects is imperative for purposes of getting value for money.

Project Management professionals world over recognises the need for cost management of projects. Cost deviation issues are still prevalent in projects despite the diverse implementation of cost management and control tools.

Abeselom (2008) explained that project cost management is the approach that enhances the respective analysis and tendering, scheduling, cost control and work tasks. Contractors therefore need a cost management scheme that stretches from the tendering phase to the completion phase integrating estimation, tendering, budgeting and monitoring. Karim Eldash (2012) summarised this by stating that, construction cost management is the entire process, which ensures that the contract amount is within the cost limit of client's approved budget,

Project Cost Management encompasses a sequence of project targets that can be achieved through a string of resource-restricted activities. In practice, it is a challenging task and potential conflicts between the definite targets in terms of time, cost, scope and quality, and the limits imposed on all the required physical resources. Construction cost management deals with a broad range of functions such as estimating, scheduling, cost control, resource costing and financial control as observed by Pereira and Imriyas (2010).

2.3.2 Cost Constituents of Construction Projects

Project cost is simply concerned with the cost of the resources required to complete planned project tasks during the implementation phase, including tendering, building, maintaining and supporting project results.

Estimating Construction costs involves identifying, quantifying and valuing the multiple parts of direct and indirect costs. Based on these cost parts, the budget that is prepared will

be the basis for the cost controlling method. Accordingly, these duties should be considered and integrated by the cost management scheme of contractors.

The complete price of a project consists of; Direct costs that may be correlated with specific activity, indirect costs that cannot be directly correlated with physical activity, risk allowances integrated to cover potential hazards and compensation to contractors.

Olawale, Y., Sun M. (2010) stated that, Accurate Project time / duration estimation; design changes, risks and uncertainties; work intricacy and underperformance of contracting companies are the main contributors that adversely affect the overall cost control in construction.

2.4 LAND RIGHT ACQUISITION PROCEDURES FOR STATE PROJECTS

2.4.1 Land Right Acquisition through the Power of Eminent Domain

According to Ollenu (1962), there is no land without an owner. The State Lands Act 1962 (Act 125), gives expression to the state's right of eminent domain. It confers on the Republic the power to compulsorily acquire any land when it considers it in the public interest so to do especially where the private right in the land needs to give way for state project for the benefit of the society. A plantation, woodlots or farm with economic trees may therefore be acquired in order to build a school, hospital, Power Plants, Gas Pipelines or road. In such a situation, the planter of the trees is entitled to prompt, fair and adequate compensation. Kotey (2002), however noted, the exercise of such power is not without controversy. Lands in Ghana are mainly owned by customary authorities and the nation can gain property control rights primarily by invoking civil forfeiture powers.

The Administration of Lands Act gives power to government to take over the management and control of any stool or family land; while the Town and Country Planning regulations confer zoning rights on government. All these legislations have been implemented by various governments for the development of infrastructures across the country till date.

Kotey (2002) claims that public-interest acquisitions could imply government takeover of individuals property and rights for public bodies and statutory corporations for the execution of projects in the public interest, but also for private companies and individuals for purposes which although they may contribute to public welfare, confer a direct benefit, including profit, on the user. Hotels, private houses, real estate development, banks, filling stations for example fall into this category.

The colonial administration set the stage for the compulsory purchase of land. The Administration (Ashanti) Ordinance of 1902, Cap. 110 (1951 Rev.), for instance, became the umbrella under which lands were expropriated by the then Government for the construction of roads in the Ashanti Region. The Housing Schemes (Acquisition of Land) Ordinance, Cap. 85, the Public Lands (Leasehold) Ordinance, Cap. 138 and the Public Lands Ordinance, Cap. 134 were employed for the compulsory purchase of land in the Colonial era.

The year 1962 may be regarded as the defining moment of our statutory land law; for it was then that many of the Acts now in force affecting land were passed. The executive and

legislative instruments which prescribed the rules and procedure to carry into effect the legislative intent under those Acts were also enacted.

Public Purpose and Public Interest; Prompt, Fair and Adequate compensations are the underlying factors under the constitution of Ghana under which statutory acquisition can be made.

2.4.2 Procedures for Compulsory acquisition of Land in Ghana

When it becomes necessary for a Minister or Government department to appropriate any land in the public interest, it must first liaise with the LC to confirm the land is not already encumbered by other public bodies for civil purposes. The particular government institution then applies to the Regional Minister of the region where the land is situated supported with sixteen copies of the plan covering the land space required. The application is then forwarded to the Minister Responsible for Lands. In Section 1 of the State Lands Regulations 1962, (LI 230), the Regional Minister is then mandated to constitute a Site Advisory Committee. The site advisory committee is made up of the District Chief Executive of the district in which the land is situate, who shall be chairman; a person representing the Minister responsible for lands; a person representing the Minister responsible for health; a person representing the Minister responsible for works; a person representing the Minister responsible for town and country planning; a person representing the body by whom or on whose behalf the request was made; and where he considers it appropriate, a person representing the Minister responsible for water supplies or a person representing the Minister responsible for energy, or both such persons.

The Regional Minister then relates the request to the Site Advisory Committee to consider the availability of adequate funds to deliver the suggested land use and also ascertains if there are no other appropriate lands existing to warrant the expropriation. The Site Advisory Committee inspects and survey (including the taking of samples of soil) and makes recommendation together with the certificate of valuation of the subject land to the Regional Minister. After the Minister's approval, the application is then referred to the Lands Commission. The LC's PVLMD prepares for the creation of the Executive Instrument (E.I.) and forward it to the Minister of Lands and Forestry.

The Executive Instrument is signed and per section 1 of the State Lands Act, 1962 (ACT 125), the declaration is published in a newspaper in circulation in the district of the subject land on three consecutive occasions. Secondly, a copy of the instrument will be fixed at a convenient place on the land. Thirdly, the owner or owners of the subject land will be personally served with a copy or copies of the instrument or instruments or a copy may be left with any person in occupation of the land.

Finally, a notice to take ownership of the property will be served on the landowners and the acquiring authority will then be entitled to enter the property and begin construction. For their part, the owners of the subject land must provide the Minister with the following information within three months of the publication of the instrument:

- Details of their interest in the property;
- how the purchase influenced their ownership or interest in the property;
- the magnitude of any harm caused;

- and the extent of compensation being claimed and the basis on which the compensation was calculated.

Where there is a dispute over title or the amount of compensation to be paid to owners of the subject land, the Minister refers it to the Lands Tribunal. After compensation has been paid, the Minister issues a certificate of allocation to the department on whose behalf the land had been acquired.

2.4.2 Land Right Acquisition through Private Treaty

The agreement for the sale of a property at a price negotiated directly between the vendor and purchaser or their agents. A parastatal organisation in recent years due to the cumbersome nature of compulsory acquisitions and procedural requirements, many institutions prefer private treaty in land acquisition for projects.

2.5 VALUATION FOR SETTLEMENT OF LAND RIGHTS

2.5.1 Compensation Valuation

At the heart of compulsory acquisition is fair and adequate compensation. People lose their homes, their property, and sometimes their livelihoods as a natural consequence of public interference. Compensation is for those losses incurred remediation measures required for restitution. The principle of equivalence is crucial to determining compensation. This implies that, the affected owners and occupants should be neither enriched nor impoverished as a result of the compulsory acquisition. For these to be achieved, there are principles that are adhered in addition to the valuers professionalism. Some of the main principles are hereby considered below.

2.5.2 The Principle of Equivalence

Expropriated owners are to receive payment which is neither greater or worse than the injury resulting from the obligatory purchase of their property. As a result there is the need for appropriate measures to be adhered to in order to ensure that those affected, are not disadvantaged. Section 7 of The 1962 State Lands Act, Act 125 clearly affirms the ground and states inter alia that the “*amount required for reasonable re-instatement equivalent to the condition of the land at the date of the said declaration* (emphasis mine)” must be paid to the affected owners.

2.5.3 Assessing compensation

In assessing compensation, the value of the land and improvements to the land, and any incidental costs are factored into the calculation. The Lands Commission Act, 2008 (Act 767) section 22 (a) mandates the Land Valuation Division (LVD) of the Lands Commission to be responsible for assessing the compensation payable upon acquisition of land by the Government.

However, the expropriated owner has the option of engaging a Private Valuer to determine the extent to which his interest has been affected by the Executive Instrument issued under Act 125. The State Lands Act 1962, Act 125 nevertheless demands that the basis for the calculation be stated. The claims are prepared and lodged by qualified appraisers on behalf of the beneficiaries. Claims must be filed within six months of the issuance of the Executive Instrument. The claims will be presented to the Lands Commission's Land Valuation

Division. The Land Valuation Division prepares a proprietary plan upon receipt of the valuation reports on the claims, which is a composite plan on which each claim submitted is plotted. By so doing, conflicting and overlapping claims as well as the extent of conflicts are ascertained.

The State Property and Contracts Act, 1960 (CA 6) sets out guidelines for assessing the amount of compensation to be granted for property obtained under the Act. Compensation shall be granted in regard of the market value of the expropriated property, which is considered to be the sum that the property could have expected to command if offered by a willing vendor on the market.; any damage sustained at the time of and by reason of the acquisition by any person with an interest in the property acquired by reason of the severing of such property from any other property of such person; any harm sustained at the moment and as a result of the purchase by any individual with an interest in the estate obtained as a result of that acquisition influencing injuriously any other adjacent property in which that individual has an interest ; reasonable costs incidental to any change in residence or place of company of any individual with an interest in the property taken; the reasonable expenses incurred in the employment of a person qualified in land valuation and costing of buildings.

2.5.4 Payment of Compensation

In accordance with the 1962 State Lands Act (Act 125), Compensation is due and payable if there is no controversy in the claim lodged and the amount claimed is considered reasonable or if the claimant has negotiate successfully with the government on

entitlements based on equivalence of loss sustained. However, in cases where there are conflicting claim after claims have been submitted, the option available to the parties is the law court. After the case is determined, the party in whose favour the case is determined then submit the court judgement for claim. It is important to state that, the acquiring authority need not wait for final determination of the dispute before taking possession. The state lands Act stipulates that, the compensation sum be invested in an interest yielding venture until determination of the dispute.

2.6 COST OVERRUNS OF PROJECT

2.6.1 Introduction

Cost overrun, also known as budget overrun, involves unexpected incurred costs. When costs are in excess of budgeted amounts they are known by these terms.

Cost Overrun equals Final Actual Cost Less Original Estimated Budget Cost of a project. It can also be defined as “surplus of actual cost over budget”. Studies globally have shown that cost overruns in the construction industry are common phenomenon. Construction Cost overruns are indeed a growing issue, regardless of the studies conducted. If cost overruns are to be negated, then it is necessary to be able to determine the set of occurrences be validated and their causal relationships be accepted as real; neither can be corroborated at presently as argued by Odeck, 2004; Vidalis and Najafi, 2004; Cantarelli et al., 2012a, b,c.

Most publicly funded projects often tend to endure the long definition period after project inception of which many changes are made to scope. The accompanying costs are redefined when commencement is finally agreed as observed by Allen Consulting and the University of Melbourne, 2007. In most cases, making direct comparisons between the initial estimate at 'decision-to-build time' and that at project completion will be misleading, especially if the estimate at 'decision-to-build time' is based solely on a conceptual design (Love et al., 2015b). As Ahiaga-Dagbui and Smith (2014b) argue, a more efficient cost overrun explanation would have to be taken into consideration. Accordingly, this may lead to the pre-construction phase experiencing momentous cost escalation (Ahiaga-Dagbui and Smith, 2014b). It is noteworthy to consider the tendency of Governments to stay the initial budget estimate. The time between the establishment of the initial budget and the letting of contracts for construction may be lengthy; prices of materials and labor can increase. Moreover, as more information becomes readily available during the design process scope may change, which can also lead to increases in cost.

2.6.2 Factors Causing Cost Overruns

Causes of cost overruns have been researched extensively by Project management professionals world over. From the continuing discussion about the sources of cost overruns, two predominant schools of thought arose (Ahiaga-Dagbui and Smith, 2014a). These are the 'theorists of evolution' who suggest that overruns are the consequence of modifications in scope and definition between the initiation phase and the final closure of the project (e.g., Odeyinka et al., 2012). Sometimes modifications in scope can account for up to 90% of what is traditionally referred to as 'overruns' (Western Australia Auditor

General, 2012). The other school of thought is the 'Psycho Strategists' (i.e., a mixture of psychological contributors and company strategy) attribute overruns to deception, fallacy planning and unjustifiable optimism in setting original price objectives (e.g., Flyvbjerg et al., 2002; Siemiatycki, 2009). There has been a widespread campaign by the 'Psycho Strategists' that optimism bias (i.e. the underestimation of risks and overestimation of benefits) and strategic misrepresentation (i.e. deception) can adequately explain why construction projects experience overruns.

2.7 IMPACT OF LAND RIGHTS ON PROJECT

2.7.1 State Projects

Construction Cost management of Projects for many project managers and many writers largely commences when sites have been handed over for commencement of construction. It is important to underscore that, from identification of suitable parcels or land through the process of settling and dispensing obligations related to ownership rights involves considerable cost. Little is available in literature on relationship of cost of land acquisition relative to the actual construction cost. This study is therefore aimed to make contribution to literature in the field of Project management on the subject.

In most areas in Ghana, documentation of land rights is a challenge and identification of these rights during project conception stage becomes difficult. The unidentified rights at a later stage in project execution becomes a challenge and often results in litigation with associated injunctions. Arditi and Pattanakitchamroon (2006), observed delays as a challenge associated with the Construction Industry. They also indicated that delay is

experienced in all projects, although the extent of hitch differs from project to project as some delays result from days behind schedules while some are years behind schedules. Whether the pause took place within a few days or years, it has a detrimental effect on the overall project well-being in terms of price, time, quality and safety. Dispute associated with land rights and issues of trespass are one major problem that hinder and delay projects. Delays caused often affects project execution timelines and cost of the project.

Generally, the delays are caused by court injunctions normally secured by the owners of the land against the Contractor and its assigns from carrying out their work. Failure to adhere result in serious consequences with imprisonment being one. The effect of the above and the nature of the judicial system result in delays which affects schedule, Time and Cost of the project. Issues of threat from property right owners is another effect known largely in Ghana. The fear of losing right over a property handed down by generation past is a dreadful thought that many battles have been fought over the years. These fears result in threat of death to contractors on state projects. Many Projects have suffered considerable delays as a result of issues of property right. Many researches have concluded on delays being the results cost escalation on construction projects.

CHAPTER THREE

RESEARCH METHODOLOGY

3.0 INTRODUCTION

According to Boateng (2014); Saunders et al. (2009) the methodology adopted for carrying out a study clearly serves as a guideline and directs the conduct of the study. Thus, the various methods and techniques employed in a bid to providing answers to the research questions are stipulated in the research methodology. This chapter of the study encapsulates the research design, methods of data collection, sources and types of data, and the sampling techniques adopted for the study. It also presents a brief overview of the cases study area.

3.1 APPROACH FOR THE RESEARCH

The two main methodologies - qualitative and quantitative, were combined in this study. First, there was collection of quantitative data on cost associated with land rights affected by the Project, and qualitative data on general challenges encountered as a result of land rights. Second, the qualitative data on land rights challenges were organized into categorical statements and assigned numerical values to enable a quantitative measurement. Similar surveys conducted by different scholars have embraced a quantitative approach utilizing structured research questionnaires integrating open and close-ended questions.

3.2 POPULATION SIZE AND SAMPLING TECHNIQUE

The sampling structure of the study is all the team leaders executing the various sections of the Karpowership project located at Sekondi during the study. Purposive sampling technique has been adopted for this study due to information required for the thesis with the target being the Project Manager handling the Project, Various Team Leaders on the Project, and the Land Valuation Division of the Lands Commission, Sekondi Office. The sample size for the study comprised all the team heads handling the various aspect of the Karpowership project with major focus on land rights acquisition and how it affected the Ten-kilometre power enhancement project.

3.3 SOURCES OF DATA FOR THE STUDY

The Primary data was gathered from Valuers, Community Liaison Officers, the Chiefs, Lawyers, Engineers using semi-structured survey questionnaire. Books, world-wide-web, journals, conference papers relevant to the study forms the secondary data. This strategy gives strong basis for the research, comparable to what Megha and Rajiv (2013), Al-Momani (2000), Assaf and Al-Hejji (2006), Assaf et al. (1995), Mohd (2010), Motaleb and Kishk (2010), Odeh and Battaineh (2002) and Sambasivan and Soon (2007) have done in their research on construction delays in their respective jurisdictions.

3.4 DATA COLLECTION FOR THE STUDY

Comprehensive and all-encompassing information appropriate to the research were gathered from the Forty-Five selected participants through the use of survey questionnaires with a blended structure of open and closed issues. This strategy offered a solid basis for

the compilation of valid information for the research. The collection of data was done over a period of three (3) weeks, collecting data from management level personnel of the project. The questionnaires were distributed and collected personally. Out of the Forty-five (45) questionnaires distributed, thirty-nine (39) were retrieved; Six (6) were not retrieved due to non-availability of the respondents. Table 3.1 shows the summary of interviews conducted.

Table 3.1: Summary of interviews

INSTITUTION	INTERVIEWEES	INTERVIEWS CONDUCTED
	TARGETED	
Land Valuation Division of the Lands Commission	15	9
Ghana Grid Company Limited	13	13
Amandi Energy Limited	11	11
TOTAL	39	33

Source: Field survey, (2019).

3.5 ANALYSIS OF DATA

The data was analysed using Microsoft Excel. A descriptive approach of interpretation was employed using other solutions, such as the Relative Importance Index, for a thorough and comprehensive discussion.

3.6 ETHICS

Interactions with all parties in relation to this research was kept in the highest standards of nondisclosure. All interactions have been opened and frank and discussions were done in utmost frankness. All activities involving other parties were executed with objectivity. All other essential ethics were duly observed to make the study a success.

CHAPTER FOUR

DATA ANALYSIS AND DISCUSSION OF RESULTS

4.1 INTRODUCTION

This section analyses and discuss the data collected from the respondents. The data was collected with the aid of a structured interview and structured questionnaire. In all, thirty-nine (39) respondents were targeted however, thirty-three (33) respondents were available to respond to the questionnaire. The analysis of the data collected begins with the background of the respondents followed by a content analysis of the responses given by the respondents. The respondents were asked two (2) major questions were;

1. How does property rights contribute to construction cost overruns and delay of the Karpowership project located at Sekondi?
2. What are strategies that can be adopted to improve land rights acquisition so as to reduce cost overruns and delays of Karpowership project located at Sekondi?

Finally, the mean score ranking is used to analyse the section C of the questionnaire. The respondents were asked to identify some contributory factors which lead to difficulties associated with poor land right handling in the emergency Karpowership project execution. The background of the respondents was analysed using frequencies and percentages whiles the section B of the interview guide was analysed using content analysis.

4.2 BACKGROUND OF THE RESPONDENTS

This section analyses the questions on the background of the respondents. The respondents were asked to indicated their work category, their number of years of experience and their

highest level of education. Table 4.1 shows a summary of the background of the respondents.

Table 4.1: Background of the respondents

DESCRIPTION	FREQUENCY	PERCENTAGE
Work category		
Land Valuation Division	9	27.27
Regional head	1	3.03
Deputy	1	3.03
Head of Field Team	1	3.03
Field officers	6	18.18
Ghana Grid Company Ltd	13	39.40
Director of Engineering	1	3.03
Head, Land Management	1	3.03
Deputy, Land Management	1	3.03
Project Monitoring team	9	27.27
Head of Land surveys	1	3.03
Amandi Energy Limited (Contractor)	11	33.33
Project manager	1	3.03
Head of survey	1	3.03
Head of engineering	1	3.03
Head, Quality control	1	3.03
Construction team	7	21.21
Work experience		
1-3 years	6	18.18
3-6years	9	27.27
6-10 years	11	33.33
Above 10 years	7	21.21
Highest level of education		
HND	5	15.15
BSC	19	57.58
Postgraduate	9	27.27

Source: Field survey, (2019)

With the work category, 27.27% of the respondents were from the Land Valuation Division, 39.40% were from the Ghana grid company limited and 33.33% were from Amandi Energy Limited.

The respondents were also asked to indicate their working experience in the organization. Higher number of years of experience depicts higher level of knowledge. From Table 4.1, majority of the respondents had 6 to 10 years of experience forming 33.33%. This was followed by 3-6 years of experience forming 27.27%.

Finally, the respondents were asked to indicated their highest level of education. Majority of the respondents had BSc qualification forming 57.58% followed by a postgraduate qualification which formed 27.27%.

4.3 CONTENT ANALYSIS OF THE QUALITATIVE DATA

The interviewees were asked to give their opinion on how property rights contribute to construction cost overruns and delay of the Karpowership project located at Sekondi and strategies that can be adopted to improve land rights acquisition so as to reduce cost overruns and delays of Karpowership project located at Sekondi.

4.3.1: Contribution of property rights to construction cost overruns and delay

Using the content analysis, it was realized that, the delays in projects are caused by court injunctions on the Land. These injunctions are normally secured by the owners of the land against the contractor and its assigns from carrying out their work. Failure to adhere result in serious consequences with imprisonment being one. The effect of the above and the nature of the judicial system result in delays which affects schedule. Many Projects have

suffered considerable delays as a result of issues of property right. Many researches have concluded on delays being the results cost escalation on construction projects.

Some of the respondents also indicated the payment of compensation as a major increase in cost of a project. In accordance with the 1962 State Lands Act (Act 125), Compensation is due and payable if there is no controversy in the claim lodged and the amount claimed is considered reasonable or if the claimant has negotiated successfully with the government on entitlements based on equivalence of loss sustained. However, in cases where there is conflicting claim after claims have been submitted, the option available to the parties is the law court. After the case is determined, the party in whose favour the case is determined then submit the court judgement for claim. It is important to state that, the acquiring authority need not wait for final determination of the dispute before taking possession. The state lands Act stipulates that, the compensation sum be invested in an interest yielding venture until determination of the dispute.

In most areas in Ghana, documentation of land rights is a challenge and identification of these rights during project conception stage becomes difficult. The unidentified rights at a later stage in project execution becomes a challenge and often results in litigation with associated injunctions. Arditi and Pattanakitchamroon (2006), observed delays as a challenge associated with the Construction Industry. They also indicated that delay is experienced in all projects, although the extent of hitch differs from project to project as some delays result from days behind schedules while some are years behind schedules. Whether the pause took place within a few days or years, it has a detrimental effect on the overall project well-being in terms of price, time, quality and safety. Dispute associated

with land rights and issues of trespass are one major problem that hinder and delay projects. Delays caused often affects project execution timelines and cost of the project.

4.2.4 Relationship between Property Rights and Construction Execution Cost

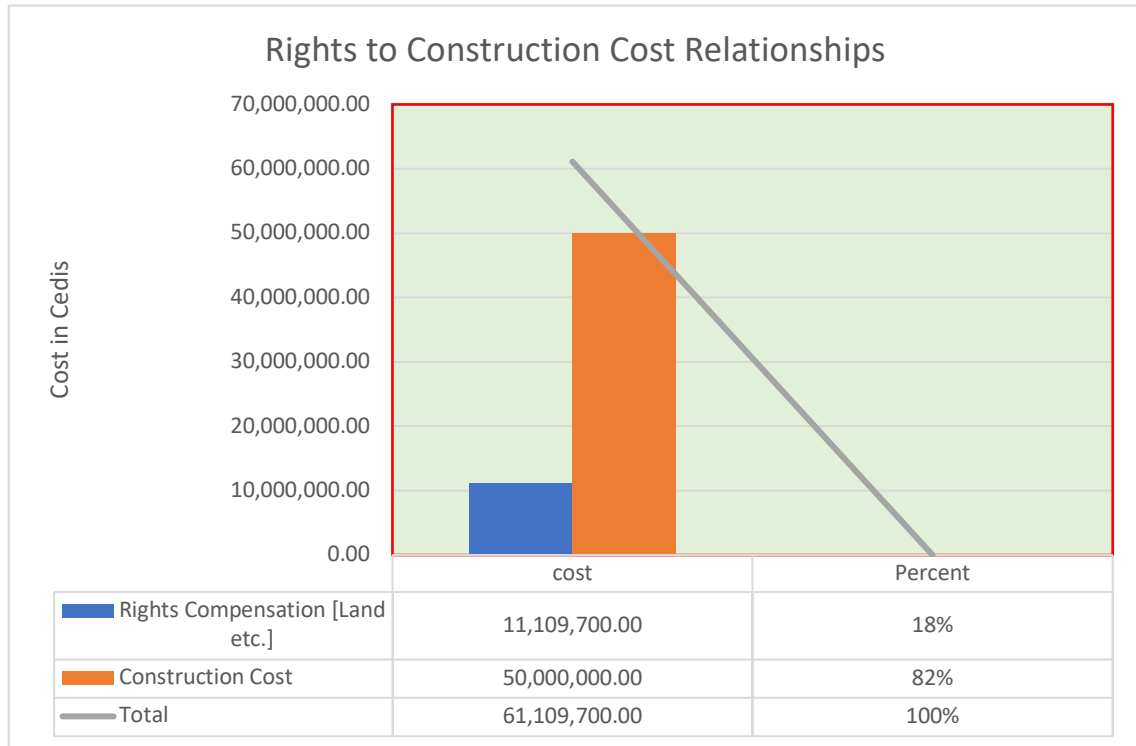


Figure 4.1: Relationship between Property Rights and Project Execution Cost

Field Survey, (2019)

The figure 4.1 details out clearly the relationship between compensated rights and project execution cost. What stands clearer and inferential is the high cost associated with execution. Eighty-Two Percent (82%) of the cost is construction cost. Though high, relative to property rights, benefit analysis may have far exceeded expended cost. This is essentially the motivating factor. As such, it is imperative to recognise that, this relationship will continue further is rights are not addressed properly and construction works are stalled consequent to court injunctions. The direct implications are that, holdout period will be

billed against the state which will further burden the tax payer if delays are of no fault of the contractor. Although small groups generate these obstacles, they can delay, cancel, and ultimately undermine political interest in infrastructure. If states are more eager, desperate and in the state of despondency to build infrastructure than those affected, property owners do withhold their consent in direct attempt at taking a larger share of the pie in negotiations.

4.3.2: Factors affecting that property rights management

The respondents were asked to rate the factors that contributes to poor property rights management. Their responses were analysed using the mean score ranking. From the analysis, inadequate time allowed for re-engagement was ranked first followed by resistance from documented right owners and opportunity offered to undocumented rights. In assessing compensation, the value of the land and improvements to the land, and any incidental costs are factored into the calculation. The Lands Commission Act, 2008 (Act 767) section 22 (a) mandates the Land Valuation Division (LVD) of the Lands Commission to be responsible for assessing the compensation payable upon acquisition of land by the Government. The State Property and Contracts Act, 1960 (CA 6) sets out guidelines for assessing the amount of compensation to be granted for property obtained under the Act. Compensation shall be granted in regard of the market value of the expropriated property, which is considered to be the sum that the property could have expected to command if offered by a willing vendor on the market.; any damage sustained at the time of and by reason of the acquisition by any person with an interest in the property acquired by reason of the severing of such property from any other property of such person; any harm sustained at the moment and as a result of the purchase by any individual with an interest in the estate obtained as a result of that acquisition influencing injuriously any other adjacent property

in which that individual has an interest ; reasonable costs incidental to any change in residence or place of company of any individual with an interest in the property taken; the reasonable expenses incurred in the employment of a person qualified in land valuation and costing of buildings. Hence inadequate time and the resistance from documented rights owners affects the management of land rights as seen from Table 4.2.

Table 4.2: Factors affecting property rights management

Factors	MEAN	RANK
Inadequate time allowed for re-engagement	4.52	1 ST
Resistance from Documented Right Owners	3.56	2 ND
Opportunity offered to Undocumented Rights	2.88	3 RD
Withholding Consent to use	2.16	4 TH
Inadequate Community Engagement	1.96	5 TH
Open Discussion of Entitlement	1.84	6 TH
Offers made prior to payment	1.40	7 TH
Constructional Damages at Clearing	1.40	8 TH
Time Lapse and commencement of ownership identification	1.30	9 TH
Inadequacy of Offer Amounts	1.26	10 TH

Source: Field survey, (2019).

4.4 SUMMARY OF CHAPTER

This chapter analyze and discuss the data collected from the respondents. The data was collected with the aid of a structured interview and structured questionnaire. In all, thirty-nine (39) respondents were targeted however, thirty-three (33) respondents were available to respond to the questionnaire. The data collected were analysed using content analysis and mean score ranking. From the analysis, it was realized that, the delays in projects are caused by court injunctions on the Land. These injunctions are normally secured by the

owners of the land against the contractor and its assigns from carrying out their work. Also, it was realized that, the payment of compensation is a major cause of increase in cost of a project. In accordance with the 1962 State Lands Act (Act 125), Compensation is due and payable if there is no controversy in the claim lodged and the amount claimed is considered reasonable or if the claimant has negotiated successfully with the government on entitlements based on equivalence of loss sustained. Finally, it was realized that, inadequate time allowed for re-engagement, resistance from documented right owners and opportunity offered to undocumented rights are the major factors affecting property rights management.

CHAPTER FIVE

SUMMARY OF FINDINGS, CONCLUSION AND RECOMMENDATION

5.1 INTRODUCTION

The study aimed at assessing the impact of land rights on project cost overruns in the delivery of governmental projects in Sekondi - Takoradi focusing on the Karpowership project. With this aim, two (2) objectives were set which were to identify the contribution of property rights to construction cost overruns and delays of the Karpowership project located at Sekondi and to identify the factors that leads to poor property rights management in construction at Karpowership project located at Sekondi. The study adopted the mixed research approach in collecting data. The data was collected with the aid of a structured interview and structured questionnaire. In all, thirty-nine (39) respondents were targeted however, thirty-three (33) respondents were available to respond to the questionnaire. The data collected were analysed using content analysis and mean score ranking. The summary of the findings is discussed in subsequent section.

5.2 SUMMARY OF FINDINGS

The first objective of the study was to identify the contribution of property rights to construction cost overruns and delays of the Karpowership project located at Sekondi. Literature review was conducted and based on the review; a structured interview was conducted among thirty-three (33) respondents. The data collected was analysed using content analysis. From the analysis, it was realized that, the delays in projects are caused by court injunctions on the Land. These injunctions are normally secured by the owners of the land against the contractor and its assigns from carrying out their work. Also, it was

realized that, the payment of compensation is a major cause of increase in cost of a project. In accordance with the 1962 State Lands Act (Act 125), Compensation is due and payable if there is no controversy in the claim lodged and the amount claimed is considered reasonable or if the claimant has negotiated successfully with the government on entitlements based on equivalence of loss sustained.

The second objective was to identify the factors that leads to poor property rights management in construction at Karpoweship project located at Sekondi. Literature review was conducted and based on the review; a structured questionnaire was developed and distributed among thirty-three (33) respondents. The data collected was analysed using mean score ranking. From the analysis, it was realized that, inadequate time allowed for re-engagement, resistance from documented right owners and opportunity offered to undocumented rights are the major factors affecting property rights management.

5.3 CONCLUSION

The study aimed at assessing the impact of land rights on project cost overruns in the delivery of governmental projects in Sekondi - Takoradi focusing on the Karpowership project. In order to achieve the aim, two (2) objectives were developed. Based on the findings of from the study, it was realized that, the payment of compensation is a major cause of increase in cost of a project. Also, the delays in projects are caused by court injunctions on the Land. Therefore, clearly there is relationship between compensated rights and project execution cost. If states are more eager, desperate and in the state of despondency to build infrastructure than those affected, property owners do withhold their consent in direct attempt at taking a larger share of the pie in negotiations.

5.4 RECOMMENDATIONS

The following recommendations are made following the findings identified.

5.4.1 Recommendations to State Institution

Institutions responsible for community engagements must endeavour to cover all rights. Property Rights Computations for compensation purposes must have the long-term view by setting aside a percentage of the compensable sum aside to address undocumented property rights that have the potential of igniting a court suit. Considering the relative cost of property rights to the cost of the project and resultant claim request from the contractor. It must be understood that communities contribute to the value of property and therefore also have rights to weigh in on the use of property, consequently, ‘rambo-style -acquisition’ must be toned down to foster cordial relationships between workers /contractors on the ground during execution and land owners.

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inhibiting factors and mitigating measures in practice, Construction Management

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APPENDICES

APPENDIX I – QUESTIONNAIRES

KWAME NKRUMAH UNIVERSITY OF SCIENCE AND

TECHNOLOGY, KUMASI

COLLEGE OF ARTS AND BUILT ENVIRONMENT

DEPARTMENT OF BUILDING TECHNOLOGY

Dear Sir,

REQUEST FOR ASSISTANCE

As part of research into the topic ‘Impacts of Land Rights on Cost of Government Projects’, this questionnaire has been designed to aid in collecting relevant information necessary for the research.

Valuable information gathered or provided would be useful to the Ghanaian Construction Industry professionals, Government and other parastatal organisations with knowledge which would help grow the industry.

Information provided to the researcher shall be handled in utmost confidentiality. It is imperative that you complete the questionnaire in totality. This would enable the researcher to make meaningful analysis based on the information provided.

Your co-operation is GREATLY appreciated.

.....

Yours Sincerely

Peter Donkor [Researcher]

INTERVIEW GUIDE AND STRUCTURED QUESTIONNAIRE

SECTION A

Please indicate your work category

.....

Work Experience

☐ 1-3 years

☐ 3-6years

☐ 6-10 years

☐ Above 10 years

Highest level of education

☐ HND

☐ BSC

☐ Postgraduate

SECTION B

How does property rights contribute to construction cost overruns and delay of the Karpowership project located at Sekondi?

SECTION C

The below factors have been identified as some contributory factors which lead to difficulties associated with poor land right handling in the emergency Karpowership project execution. Rank on a scale of 1 – 5 as detailed in the table below.

1	2	3	4	5
Moderately low contributory factor	Low level of contribution	Neutral	Contributory factor	High level of contribution

Factors	1	2	3	4	5
Inadequate Community Engagement					
Inadequate time allowed for re-engagement					
Time Lapse and commencement of ownership identification					
Open Discussion of Entitlement					
Offers made prior to payment					
Constructional Damages at Clearing					
Opportunity offered to Undocumented Rights					
Resistance from Documented Right Owners					
Inadequacy of Offer Amounts					
Withholding Consent to use					

Suit on Registered Property

COPY FOR SERVICE



WRIT OF SUMMONS

(Order 2 rule 3(1))

WRIT ISSUED FROM... 25-1-19... 2019... SUIT No. C1/17/2019

IN THE HIGH/CIRCUIT COURT OF JUSTICE

WESTERN REGION-TAKORADI

BETWEEN

EKOW BOISON
CHAPEL HILL
TAKORADI

Plaintiff *

AND

GHANA GRID COMPANY LTD
HEAD OFFICE
ACCRA

Defendant *

To

AN ACTION having been commenced against you by the issue of this writ by the above-named Plaintiff.

EKOW BOISON

YOU ARE HEREBY COMMANDED that within EIGHT DAYS after service of this writ on you inclusive of the day of service you do cause an appearance to be entered for you.

GHANA GRID COMPANY LTD

AND TAKE NOTICE that in default of your so doing, judgment may be given in your absence without further notice to you.

Dated this 25TH day of JANUARY 2019

GHANA GRID COMPANY LTD

Chief Justice of Ghana

SOPHIA A.B. AKUFFO (MS)

NB: This writ is to be served within twelve calendar months from the date of issue unless, it is renewed within six calendar months from the date of that renewal.

The defendant may appear hereto by filing a notice of appearance either personally or by a lawyer at Form 5 at the Registry of the Court of issue of the writ at ... A defendant appearing personally may, if ... give notice of appearance by post.

*State name, place of residence or business address of plaintiff if known (not P.O. Box number).

**State name, place of residence or business address of defendant (not P.O. Box number).

FORM 1

STATEMENT OF CLAIM

The Plaintiff's claim is for:

- I. General damages for Trespass to Plaintiff's land.
- II. Recovery of Possession
- III. Perpetual injunction restraining the Defendant its agents, assigns, privies and workmen from interfering with Plaintiff's land.
- IV. Costs.

KWAKU GYIMAH KYE
KYE GYIMAH KYE
OBOYANG CHAMBERS, HSE NI: F1
ST. FRANCIS STREET ACTKCCU HOUSE
ANAJI- TAKORADI
0244 000 208
WR18946/18

This writ was issued by

KWAKU GYIMAH KYE

whose address for service is

**OBOYANG CHAMBERS, HSE NI: F1
ST. FRANCIS STREET ACTKCCU HOUSE
ANAJI- TAKORADI**

Agent for

Address Number and date of lawyer's current licence.

KWAKU G KYE

TAKORADI

Lawyer for the plaintiff

who resides at

Indorsement to be made within 3 days after service

This writ was served by me at

on the defendant

on the day of

endorsed the day of

Signed.....

Address.....

NOTE: If the plaintiff's claim is for a liquidated demand only, further proceedings will be stayed if within the time limited for appearance the defendant pays the amount claimed to the plaintiff, his lawyer or his agent or into court as provided for in Order 2 rule 3(2).

IN THE CIRCUIT COURT
WESTERN REGION
TAKORADI

Filed on... 25-1-2019
at... 2:05 PM
SUIT NO... 7
...PLAINTIFF
Registrar
Circuit Court, Takoradi

BETWEEN
EKOW BOISON
CHAPEL HILL
TAKORADI

AND

GHANA GRID COMPANY LTD
HEAD OFFICE
ACCRA

... DEFENDANT

STATEMENT OF CLAIM

- 1) Plaintiff is the owner of a tract of land measuring approximately 0.75 acres lying at Essipon in the Sekondi Takoradi District.
- 2) Defendant is a statutory body set up by government and incorporated as a limited liability company to among others supply and distribute electricity.
- 3) Defendant has a branch office in the Takoradi Metropolis and are directly responsible for acts complained of in this suit
- 4) Plaintiff says about a month ago he saw the Defendant engaged in act of trespass on his land by way of clearing weeds and digging trenches with intent to commence a project thereon.
- 5) Plaintiff confronted the workers on his site engaged in the trespass on his site who directed him to see their principals.
- 6) Plaintiff consulted with Defendant who acknowledged they were not challenging Plaintiff's ownership to the land but that Plaintiff would be given adequate compensation for the use of portion of his land being used by Defendant.
- 7) Plaintiff says the acts of the Defendant have rendered his entire land useless to the extent that the damage would not warrant Plaintiff using the land the way he intends
- 8) Although Defendant has not sat down with Plaintiff to discuss and agree on quantum of compensation, Defendant on its own accord has re-entered the land and is serious putting a mask on it.
- 9) Plaintiff says without an Agreement on compensation payable and its subsequent payment thereof the Defendant cannot enter the land and start developing same as Plaintiff is the owner has not granted them permission.
- 10) To all intent and purpose Defendant's aim is to use the land and at thereafter pay Plaintiff what it deems fit.
- 11) Plaintiff says there is even no guarantee that Defendant would pay compensation after using the land.
- 12) Furthermore should the parties disagree on the quantum payable Plaintiff would suffer irreparable damage as the destruction caused cannot be remedied.

- 13) That there is no guarantee that Defendant would pay compensation after developing the land
- 14) The Defendant would not stop committing the acts of trespass unless restrained by this honorable court
- 15) Wherefore Plaintiff claims against the defendant per the writ of summons as follows:
 - I. General damages for Trespass to Plaintiff's land.
 - II. Recovery of Possession
 - III. Perpetual injunction restraining the Defendant its agents, assigns, privies and workmen from interfering with Plaintiff's land.
 - IV. Costs.

DATED AT OBOYANG CHAMBERS, TAKORADI THIS DAY OF

24th Jan 2019
KWAKU GYIMAH KYE
KYE LAW CONSULT
OBOYANG CHAMBERS, TAKORADI
0244 060 208
LAWYER FOR PLAINTIFF
(Solicitor's License No. WR. 18946/18)

TO: THE REGISTRAR
CIRCUIT COURT
TAKORADI

Suit on Registered Property

COPY FOR SERVICE



WRIT OF SUMMONS (Order 2 rule 3(1))

Filed on 25-3-2019
At 3:40 pm
Registrar
Circuit Court, Takoradi

WRIT ISSUED FROM 25-3-2019 19 SUIT No. G/22/2019

IN THE ~~XXXX~~ CIRCUIT COURT OF JUSTICE

.....TAKORADI - WESTERN REGION.....

BETWEEN

BETWEEN:
ESTHER DEBRAH
HSE NO. EP1/2
ESSIPONG

Plaintiff *

AND

GHANA GRID COMPANY LTD
HEAD OFFICE
ACCRA

Defendant *

*To** (Service through Takoradi Office)*

AN ACTION having been commenced against you by the issue of this writ by the above-named Plaintiff.

ESTHER DEBRAH

YOU ARE HEREBY COMMANDED that within EIGHT DAYS after service of this writ on you inclusive of the day of service you do cause an appearance to be entered for you.

GHANA GRID COMPANY LTD

AND TAKE NOTICE that in default of your so doing, judgment may be given in your absence without further notice to you.

GHANA GRID COMPANY LTD

Dated this 25TH day of MARCH 2019

Chief Justice of Ghana

SOPHIA A.B. AKUFFO (MS)

NB: This writ is to be served within twelve calendar months from the date of issue unless, it is renewed within six calendar months from the date of that renewal.

The defendant may appear hereto by filing a notice of appearance either personally or by a lawyer at Form 5 at the Registry of the Court of issue of the writ at A defendant appearing personally may, if he desire give notice of appearance by post.

*State name, place of residence or business address of plaintiff if known (not P.O. Box number).

**State name, place of residence or business address of defendant (not P.O. Box number).

FORM 1

25-3-2019
MP

STATEMENT OF CLAIM

The Plaintiff's claim is for:

- i. A declaration that Defendant cannot put up a tower on Plaintiff's land without its prior acquisition or payment of compensation thereof.
- ii. General Damages for trespass.
- iii. Recovery of possession.
- iv. Perpetual injunction restraining the Defendant its agents, servant, workmen, privies and assigns from interfering with Plaintiff's.
- v. Costs.

KWAKU GYIMAH KYE
KYE LAW CONSULTANT
OBOYANG CHAMBERS, TAKORADI
0244 060 208
KSR. 00281/19

This writ was issued by

KWAKU GYIMAH KYE

whose address for service is

**OBOYANG CHAMBERS, HSE NO: F1
ST. FRANCIS STREET ACTKCCU HOUSE
ANAJI- TAKORADI**

Agent for

Address Number and date of lawyer's current licence.

Lawyer for the plaintiff

who resides at

Indorsement to be made within 3 days after service

This writ was served by me at

on the defendant

on the

day of

endorsed the

day of

Signed.....

Address.....

NOTE: If the plaintiff's claim is for a liquidated demand only, further proceedings will be stayed if within the time limited for appearance the defendant pays the amount claimed to the plaintiff, his lawyer or his agent or into court as provided for in Order 2 rule 3(2).

Filed on 25-5-2017
At 3:40 pm per

IN THE CIRCUIT COURT
WESTERN REGION
TAKORADI - GHANA

Registrar
Circuit Court, Takoradi
SUIT NO.

BETWEEN:
ESTHER DEBRAH
HSE NO. EP1/2
ESSIPONG

... PLAINTIFF

AND

GHANA GRID COMPANY LTD
HEAD OFFICE
ACCRA

... DEFENDANTS

*** (Service through Takoradi Office)

STATEMENT OF CLAIM

1. Plaintiff is a poultry farmer and owner of a parcel of land lying at Aboadze measuring approximately 1.16 acres.
2. Defendant is a statutory body set up with a core function to supply and distribute electricity power.
3. In or about October, 2018, Plaintiff saw Defendant illegally trespassing on her said land in an attempt to build a tower on it.
4. Plaintiff confronted Defendant who agreed to compensate Plaintiff before using her for the intended purpose.
5. Plaintiff says she has since October, 2018 been demanding the compensation but Defendant keeps promising her that the compensation would be paid
6. Just a few days ago, Defendant without the permission of Plaintiff has started construction of the tower on her land which among others is deteriorating the land and its users thereof.
7. Defendant has not bought the land neither has it compensated the Plaintiff to enable them enter the land.
8. Plaintiff says if Defendant is not restrained from entering the land and or putting up the tower, it would forcibly take the land with no guarantee of Plaintiff being paid for it.
9. Plaintiff says although all owners of surrounding and adjoining lands affected by the activities of the Defendant have been paid their due compensation for the user of the land Plaintiff has for no justifiable reason refused to pay her

10. Defendant's discriminatory tactics has no legal basis
11. Plaintiff says the fact that Defendant got onto her land in October 2018 and has as of date not paid her is clear indication that she may not be paid.

WHEREFORE Plaintiff claims per the writ of summons as follows:-

- i. A declaration that Defendant cannot put up a tower on Plaintiff's land without its prior acquisition or payment of compensation thereof.
- ii. General Damages for trespass.
- iii. Recovery of possession.
- iv. Perpetual injunction restraining the Defendant its agents, servant, workmen, privies and assigns from interfering with Plaintiff's.
- v. Costs.




DATED AT OBOYANG CHAMBERS, TAKORADI THIS 25th DAY OF Nov 2019

KWAKU GYIMAH KYE
KYE LAW CONSULT
OBOYANG CHAMBERS FOR PLAINTIFF
0244 050 208
(Solicitor's Licence No. WSR 00281/19)

TO: THE REGISTRAR
CIRCUIT COURT
TAKORADI

AND COPIES FOR SERVICE ON THE DEFENDANT

Suit on registered Property by a Company



WRIT OF SUMMONS
(Order 2 rule 3(1))

WRIT ISSUED FROM 20..... SUIT NO.

IN THE HIGH COURT OF JUSTICE
WESTERN REGION - SEKONDI

BETWEEN

1. JOHN BITAR & CO LTD
2. GHASSAN JOHN BITAR
ESSIKADO - SEKONDI
AND

Plaintiff:

GHANA GRID COMPANY LTD
[GRIDCO]
HEAD OFFICE
TEMA

Defendant:

AN ACTION having been commenced against you by the issue of this Writ by the above-named plaintiff **JOHN BITAR & CO LTD & ANOR**

YOU ARE HEREBY COMMANDED that within EIGHT DAYS after service of this Writ on you inclusive of the day of service you do cause an appearance to be entered for you.

AND TAKE NOTICE that in default of your so doing, judgment may be given in your absence without further notice to you.

HIGH COURT, SEKONDI

Dated this day of 20.....

Chief Justice of Ghana
SOPHIA A.B. AKUFFO (MS)

NB: This writ is to be served within twelve calendar months from the date of issue unless, it is renewed within six calendar months from the date of that renewal.

The defendant may appear hereto by filing a notice of appearance either personally or by lawyer at Form 5 at the Registry of the Court of issue of the writ at A defendant appearing personally may, if he desires, give notice of appearance by post.

* State name, Place of residence or business address of plaintiff if known (not P.O. Box number).
* State name place of residence or business address of defendant (not P.O. Box number).

FORM 1

STATEMENT OF CLAIM

The Plaintiff's Claim is for:

- i) Declaration of title to the 2 pieces of land at Essipon and Ngyiresia as contained in a Lease Documents registered with the Lands Commission Secretariat as WR 392/96 with Deed Registry No. 2323/1997 and WR 3029/2001 and LVB WR 2605A/01 respectively.
- ii) Recovery of the current value of the 2 pieces of the land at Essipon and Ngyiresia less the payment of compensation paid by the Defendant with respect to the land at Essipon.
- iii) General Damages for Trespass to the land at Ngyiresia belonging to the 2nd Plaintiff.
- iv) Recovery of legal cost.

This Writ was issued by

whose address for service is

Agent for

Lawyer for the plaintiff

BEN ACKAAH-GYASI ESQ.

KENDICKS LAW FIRM -TAKORADI

LICENCE NO. WR 21231/19 DATED 17/12/18

KENDICKS LAW FIRM

**28/8 OLD JOHN SARBAH ROAD
TAKORADI**

Indorsement to be made within 3 days after service

This Writ was served by me at

On the defendant

on the day of

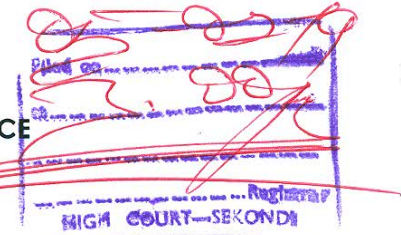
endorsed the day of

Signed.....

Address.....

NOTE: If the plaintiff's claim is for liquidated demand only, further proceedings will be stayed if within the time limited for appearance the defendant pays the amount claimed to the plaintiff, his lawyer or his agent or into Court as provided for in Order 2 rule 3 (2).

IN THE HIGH COURT OF JUSTICE
WESTERN REGION
SEKONDI



SUIT NO.:

BETWEEN:

1. JOHN BITAR & CO LTD
2. GHASSAN JOHN BITAR
PLOT NO. 1/20 MEMPEASEM
ESSIKADO – SEKONDI.

.....

PLAINTIFFS

A N D

GHANA GRID COMPANY LTD
[GRIDCO]
HEAD OFFICE
TEMA.

.....

DEFENDANT

STATEMENT OF CLAIM

1. The first Plaintiff is a Registered Timber Processing Company under the Laws of Ghana with its Headquarters at Essikado – Sekondi whilst the 2nd Plaintiff is the Managing Director of the 1st Plaintiff Company.
2. The Defendant is a Registered Public Company engaged in the distribution of Electricity in the country.
3. The Plaintiffs contend that the 1st Plaintiff has a tract of land bordering the Atlantic Ocean at a place called Essipon which measured 10.09 acres which is registered with the Lands Commission Secretariat as WR 392/96 with Deeds Registration No. 2323/1997.
4. The 2nd Plaintiff has a tract of land also bordering the Atlantic Ocean at a place called Ngyiresia measuring 8.90 acres and same registered with the Lands Commission Secretariat as WR 3029/2001 and LVB/WR 2605A/01.
5. The Plaintiffs further contend that new Cadastral Site Plans for the 2 pieces of the land were duly made and by this the size had been revised from the previous Site Plans as 8.25 acres and 6.20 acres respectively.

6. It is the case of the 1st Plaintiff that the Defendant officials had various discussions with the officers of the 1st Plaintiff Company and ultimately agreed between the 2 parties that they are constructing electricity pylons which the defendant informed the 1st Plaintiff they would position the pylon on the fringes of the 1st Plaintiff's boundary on the Essipon land.
7. Consequent upon this understanding the 1st Plaintiff through its Managing Director agreed to receive compensation for the pylons to be erected on the boundary of the 1st Plaintiff's land.
8. Regrettably the Defendant did not go by their word but has sited the pylons in the area which effectually has rendered the usage of the land for it intended purposes useless.
9. This is because the pylons is running through the best part of the land which faces the ocean for which purpose the Plaintiff purchased the land. Indeed the 1st Plaintiff brought this "trickery" conduct to the attention of the Defendant that the rest of the plot cannot be used and therefore needs to be compensated for same.
10. The 1st Plaintiff avers that prior to the construction of the pylons of the Defendant thereon, the said plot had been valued and the forced sale price of the land at Essipon was GH¢4,631,310.00 and this was done in 2016 which may not be the current valuation because of effluxion of time.
11. The 1st Plaintiff says that the Defendant only paid them GH¢^{199,000.00}~~100,000.00~~ and because the rest of the land is rendered useless it is the contention of the 1st Plaintiff that the Defendant should compensate them less the amount paid.
12. As regard the 2nd Plaintiff's land at Ngyiresia the Defendant did not consult him but trespassed unto the said land at Ngyiresia and has started the foundation construction of the pylons at the central part of the land.
13. The 2nd Plaintiff contends that the total area of the parcel of land under consideration is 6.20 acres and position of the pylon and its accessories obstruct the beautiful view of the Atlantic Ocean Beach.
14. Indeed the North-Western part of the parcel towards the sea is made of rocks which make it difficult to access the beach hence affecting the intended land use. The location of the pylon also affects the architectural beauty of the land use and tempering with vast convenient access to the beach.

15. It is the case of the 2nd Plaintiff that the land was valued sometime in 2016 with the Forced Sale Value of GH¢4,165,200.00 and say that it would currently be more than that due to effluxion of time.
16. The Defendant unlike the land at Essipon never consulted nor negotiated with the 2nd Plaintiff but just went unto the land with impunity to construct their pylons is most unacceptable and monstrously bad in the eyes of the law.
17. It is the case of the 2nd Plaintiff that either the Defendant compensates him for the rest of the land as the intended use of the land had been defeated by the positioning/construction of the pylons or in the alternative stop any work being carried out on the said land.
18. It is also the contention of the 2nd Plaintiff that the Defendant be restrained from ever continuing to develop the land.
19. WHEREFORE the Plaintiffs claim against the Defendant as follows:
 - (a) **Declaration of title to the 2 pieces of land at Essipon and Ngyiresia as contained in a Lease Documents registered with the Lands Commission Secretariat as WR 392/96 with Deed Registry No. 2323/1997 and WR 3029/2001 and LVB WR 2605A/01 respectively.**
 - (b) **Recovery of the current value of the 2 pieces of the land at Essipon and Ngyiresia less the payment of compensation paid by the defendant with respect to the land at Essipon.**
 - (c) **General Damages for Trespass to the land at Ngyiresia belonging to the 2nd Plaintiff.**
 - (d) **Recovery of legal cost.**

DATED AT KENDICKS LAW FIRM, TAKORADI, THIS 31ST DAY OF JANUARY, 2019.

Numbers and date of lawyers' current license:

WR 21231/19 dated 17/12/2018

WR 21232/19 dated 17/12/2018

WR 21233/19 dated 17/12/2018

LAWYERS FOR PLAINTIFFS

KENDICKS LAW FIRM

Legal Practitioners, Consultants &

Public

Plot 1656, Takoradi

TELEPHONE: 031-2032069

22/8 OLD JOHN SARBAH ROAD

TAKORADI.

SOLICITORS CURRENT LICENSE NO:

WR 21231/19 dated 17/12/2018
TIN NO.: P000085333X

THE REGISTRAR
HIGH COURT
SEKONDI.

AND FOR SERVICE ON THE DEFENDANT HEREIN