PRINT ISSN: 0794-0254
ONLINE: E-ISSN: 0794-084X

A COMPARATIVE ANALYSIS OF DIVORCE AND LAND PARTITION IN NIGERIA, THE UNITED KINGDOM, SOUTH AFRICA AND GHANA: LEGAL REMEDIES AND PRACTICAL CHALLENGES

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Abstract

This article examines the legal and practical challenges associated with the partition of matrimonial land following divorce in Nigeria, within the context of the country's plural legal system. Marriage creates proprietary and financial relationships between spouses, and its dissolution often leads to disputes over ownership and distribution of property, particularly land, which remains a vital economic and social asset. The study identifies a fundamental problem in Nigerian law: the absence of a clear statutory definition of matrimonial property and guiding principles for its equitable distribution. This gap has resulted in excessive reliance on judicial discretion, inconsistent outcomes, and significant evidentiary burdens on spouses seeking to establish proprietary interests. The study aims to evaluate the effectiveness of existing legal remedies for land partition after divorce and to determine whether the current framework adequately protects the proprietary interests of both spouses. Adopting a doctrinal methodology, it analyses statutory provisions, case law, and scholarly literature to assess the legal principles governing matrimonial property and land ownership in Nigeria. Findings reveal that Nigerian courts largely prioritise legal title and proof of financial contribution, often disadvantaging spouses who contribute indirectly through domestic labour and childcare. The study further identifies key challenges, including evidentiary difficulties, the influence of discriminatory customary norms, procedural delays, and the complexities of the Land Use Act. Comparative analysis shows that jurisdictions such as the United Kingdom, South Africa, and Ghana adopt more structured approaches that recognise both financial and non-financial contributions and promote equitable distribution. The article concludes that the current Nigerian framework is inadequate to ensure fairness, certainty, and gender equality in matrimonial property distribution. It recommends comprehensive legislative reform to define matrimonial property, recognise non-financial contributions, harmonise customary law with constitutional principles, and promote alternative dispute resolution mechanisms to enhance efficiency and access to justice.

Keywords: **Contribution, Divorce, Land, Matrimonial Property, Nigeria**

PRINT ISSN: 0794-0254
ONLINE: E-ISSN: 0794-084X

1.0 INTRODUCTION

Marriage under Nigerian law constitutes not merely a social union but also a legal relationship that generates proprietary, financial, and personal obligations between spouses.[1] The dissolution of marriage through divorce, therefore, inevitably raises complex questions relating to the ownership, control, and distribution of property acquired during the subsistence of the marital relationship.[2] Nigerian family law recognises both statutory and customary systems of marriage, each with distinct rules governing property relations between spouses. Statutory marriages celebrated pursuant to the Marriage Act and dissolved under the provisions of the Matrimonial Causes Act empower courts to make orders relating to the settlement and adjustment of property between spouses. These powers enable courts to determine disputes over matrimonial assets and to ensure that the financial consequences of divorce are addressed in a manner that is just and equitable. However, despite the existence of these statutory mechanisms, the legal principles governing the division or partition of matrimonial property, particularly land, remain largely underdeveloped in Nigerian jurisprudence, resulting in considerable uncertainty in post-divorce property disputes.[3]

The significance of property relations within marriage cannot be overemphasised in a country where land remains the most valuable and socially significant form of property.[4] Land serves not only as an economic asset but also as a symbol of social security, family continuity, and intergenerational wealth. Under the Nigerian land tenure system regulated by the Land Use Act, land is vested in the Governor of each state to be held in trust for the people, while individuals acquire rights of occupancy

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[1] Marriage Act Cap M6, Laws of the Federation of Nigeria 2004.
[2] E. Chianu, *Money, Marriage and the Law* (Benin City: Mindex Publishing Company Limited 2025), 2.
[3] A. Oyebode, Delays in Land Litigation in Nigeria (2010) 4 Nigerian Law Journal 45.
[4] Land Use Act, Cap LFN 2004, ss 1-6.

PRINT ISSN: 0794-0254
ONLINE: E-ISSN: 0794-084X

which may be transferred or assigned subject to statutory regulations.[5] Within marital relationships, spouses frequently acquire land either jointly or individually during the subsistence of the marriage, often using combined financial resources or indirect contributions such as domestic labour, childcare, and managerial support.[6] Consequently, when a marriage breaks down, disputes over land ownership and partition frequently arise, particularly where documentary evidence of ownership exists in the name of one spouse while the other claims beneficial interest based on contribution or equitable considerations. Scholars have observed that the absence of a clear statutory definition of matrimonial property under Nigerian law has left courts with broad discretionary powers, resulting in inconsistent judicial outcomes in property settlement disputes. Efe argues that Nigerian courts often treat property strictly according to legal title, thereby excluding assets registered in the name of one spouse from the category of matrimonial property unless the other spouse proves substantial contribution to its acquisition.[7]

The judicial approach to property disputes within marriage has evolved gradually through case law, although the courts have traditionally adopted a conservative stance that emphasises strict proof of ownership and contribution. Nigerian courts have consistently held that the mere existence of a marital relationship does not automatically confer proprietary rights in property acquired by one spouse. In the case of *Aderounmu v Aderounmu*,[8] the dispute concerned the ownership of certain assets, including a residential property and a vehicle, which were registered in the wife's name. The husband argued that the assets formed part of the matrimonial property and should therefore be shared between the parties upon the breakdown of the marriage. The wife, however, contended that the property constituted her personal property, which she had independently acquired. In determining the matter, the court examined the provisions of the Married Women's Property Law[9] and held that a married woman is legally

[5] *Ibid*.
[6] Chinedu J Efe, *Matrimonial Property Law in Nigeria (*Cambridge University Press and Assessment, 2015).
[7] *Ibid*.
[8] (2002) JELR 44723 CA.
[9] Married Women's Property Law, Cap 192, LFN 2004.

PRINT ISSN: 0794-0254
ONLINE: E-ISSN: 0794-084X

capable of acquiring and owning property in her own name independent of her husband. The court consequently ordered the husband to vacate the property belonging to the wife and to return the vehicle to her, thereby affirming the principle that ownership of matrimonial property depends primarily on proof of title and contribution rather than the mere existence of marriage. This decision illustrates the judicial emphasis on legal ownership in matrimonial property disputes and highlights the evidential burden placed on spouses seeking to establish beneficial interest in property registered in the name of the other spouse.

Beyond statutory matrimonial proceedings, Nigerian courts have also grappled with broader questions concerning property rights within the family context, particularly where customary law principles conflict with constitutional guarantees of equality. Despite these judicial developments, disputes over the partition of land following divorce have become increasingly common in Nigeria due to rising rates of marital breakdown, urbanisation, and the growing economic participation of women in property acquisition. The dissolution of marriage frequently exposes underlying tensions regarding ownership of land and other immovable assets accumulated during the marriage.[10] In many instances, one spouse may hold legal title to the property while the other claims equitable interest arising from financial contributions, joint efforts in construction, or indirect contributions such as domestic labour that facilitated the acquisition of the property. Nigerian courts have often required strict proof of financial contribution before recognising such claims, a requirement that scholars argue disproportionately disadvantages women whose contributions to marital property may be largely non-monetary. Diala has criticised the judicial insistence on documentary evidence, such as receipts and title documents, arguing that it fails to reflect the socio-economic realities of marriage in Nigeria, where spouses frequently pool resources

[10] E. Chianu, *Marriage and Divorce Law* (Benin City: Mindex Publishing Company Limited 2023) Chapter 30.

PRINT ISSN: 0794-0254
ONLINE: E-ISSN: 0794-084X

informally and property may be registered in the name of only one party for convenience. [11]

The persistence of these doctrinal and practical difficulties reveals a fundamental research problem within Nigerian family law: the absence of a coherent legal framework governing the partition of land and other immovable property upon the dissolution of marriage. While the courts possess statutory authority to make property settlement orders in matrimonial proceedings, the principles guiding the exercise of this power remain uncertain and often inconsistent. The lack of clear statutory guidance on what constitutes matrimonial property, combined with the influence of customary property norms and evidentiary challenges, has produced a legal environment in which the equitable distribution of matrimonial assets, particularly land, is far from guaranteed.

Against this background, the present study seeks to critically examine the legal remedies available for the partition of land following divorce in Nigeria and to analyse the practical challenges that arise in the enforcement of such rights. The aim of the study is to evaluate the effectiveness of the existing legal framework governing matrimonial property disputes and to determine whether the current judicial approach adequately protects the proprietary interests of both spouses after the dissolution of marriage. Specifically, the study seeks to analyse the statutory provisions regulating property settlement in matrimonial proceedings, examine relevant judicial decisions relating to land disputes between former spouses, and identify the practical and doctrinal obstacles that hinder the equitable partition of matrimonial land in Nigeria. By undertaking this analysis, the article aims to contribute to the ongoing scholarly discourse on matrimonial property rights and to propose reforms that would enhance fairness, certainty, and gender equality in the distribution of matrimonial assets.

The scope of the study is limited to the legal regulation of land and immovable matrimonial property in the context of divorce under Nigerian law. While reference may be made to inheritance and customary property cases where relevant, the primary

[11] Anthony C. Diala, A Critique of the Judicial Attitude Towards Matrimonial Property Rights under the Customary Law in Nigeria.'s Southern States. (2018) 18 (1) *African Human Rights Law Journa*l. 110.

PRINT ISSN: 0794-0254
ONLINE: E-ISSN: 0794-084X

focus remains on disputes arising from the dissolution of marriage and the subsequent partition of land between former spouses. Methodologically, the study adopts a doctrinal legal research approach involving the analysis of statutes, judicial decisions, and scholarly literature relating to matrimonial property law in Nigeria. Through a critical examination of statutory provisions, case law authorities, and academic commentary, the research seeks to identify doctrinal gaps within the existing legal framework and to propose reforms capable of addressing the persistent challenges associated with land partition following divorce in Nigeria.

2.0 CONCEPTUAL CLARIFICATIONS

A proper understanding of the legal issues surrounding divorce and land partition in Nigeria requires a clear examination of the fundamental concepts that govern matrimonial property relations. Since disputes relating to matrimonial land often arise from questions of ownership, contribution, occupation, and entitlement following the dissolution of marriage, it is necessary to clarify the key concepts upon which this study is based. These concepts include divorce, matrimonial property, land ownership, and land partition. Examining each concept separately provides a clearer understanding of the legal principles applicable to the distribution of property upon the dissolution of marriage in Nigeria.

2.1 Concept of Divorce

Divorce refers to the legal dissolution of a valid marriage by a competent court or other recognized authority, thereby terminating the marital relationship between spouses. Under Nigerian law, the nature and procedure for divorce depend largely on the type of marriage involved. Statutory marriages are governed principally by the Matrimonial Causes Act, while customary and Islamic marriages are dissolved according to the applicable customary or Islamic legal rules. Divorce brings to an end the legal rights and obligations arising from marriage and frequently gives rise to questions concerning the custody of children, maintenance, and the distribution of matrimonial property.

PRINT ISSN: 0794-0254
ONLINE: E-ISSN: 0794-084X

Divorce, within the context of Nigerian statutory law, refers to the legal dissolution of a valid marriage by a competent court of law.[12] Under the Matrimonial Causes Act, divorce is granted only upon proof that the marriage has broken down irretrievably.[13] The Act provides that such breakdown may be established through various facts, including adultery, desertion, cruelty, or separation for a specified period.[14] The dissolution of marriage has far-reaching legal consequences, including the determination of custody of children, maintenance obligations, and the settlement of matrimonial property. Nigerian courts have consistently emphasised that the power to adjust proprietary interests between spouses following divorce is derived from statutory authority and must be exercised judiciously to achieve fairness between the parties. In *Okere v Akaluka*, the dispute concerned the ownership of certain assets acquired during the subsistence of the marriage. The husband contended that the property belonged exclusively to him because it was purchased with his personal income, while the wife argued that she had contributed indirectly to the acquisition of the property through financial support and management of the family business. The court examined the circumstances surrounding the acquisition of the property and held that the existence of marriage alone does not automatically confer proprietary rights in property owned by one spouse. Rather, a spouse seeking a share in such property must establish some form of contribution, whether financial or otherwise, that gives rise to an equitable interest in the property.[15] The decision reflects the judicial position that matrimonial property claims must be grounded in demonstrable contribution rather than the mere fact of marriage.

Apart from statutory divorce, the Nigerian legal system also recognises the dissolution of marriages contracted under customary and Islamic law. Customary marriages, which are widely practised in many parts of Nigeria, are governed by the customs and traditions of the particular community in which the marriage is celebrated. Under customary law, divorce may occur through a variety of mechanisms, including the

[12] Nasiru Tijani, Matrimonial Causes in Nigeria: Law and Practice (3rd edn) (Lagos, Renaissance Law Publishers Limited, 2023) 56: s 27 Marriage Act.
[13] Matrimonial Causes Act, s 15 (1).
[14] Adetule v Adetule (2022) 10 NWLR (Pt 1838) 201 at 248-249.
[15] (2014) LPELR-24287(CA).

PRINT ISSN: 0794-0254
ONLINE: E-ISSN: 0794-084X

refund of bride price, mutual agreement of the parties, or a decision of a customary court.[16] However, customary law traditionally provides limited recognition of proprietary rights for wives in relation to family property, particularly land. In many Nigerian communities, land is regarded as communal or lineage property controlled by male members of the family. As a result, women may face significant challenges in asserting ownership or a beneficial interest in matrimonial land following divorce.[17] Oba posited that these customary practices often conflict with contemporary constitutional principles of equality and non-discrimination.[18] Nigerian courts have therefore increasingly subjected discriminatory customary practices to constitutional scrutiny, particularly where such practices undermine the property rights of women.

2.2 Concept of Matrimonial Property

Matrimonial property refers to the assets acquired, owned, or used by spouses during the subsistence of a marriage for the benefit of the family. Such property may include land, residential buildings, commercial properties, household assets, investments, and other forms of property, jointly or individually acquired by either spouse. Nigerian law does not provide a comprehensive statutory definition of matrimonial property, and courts have often relied on equitable principles, contributions of the parties, and the circumstances of each case in determining proprietary interests. The concept is particularly significant in divorce proceedings because it forms the basis on which claims for ownership, sharing, or partition of property are determined.

The concept of matrimonial property constitutes another critical issue in the analysis of land partition following divorce. Matrimonial property generally refers to assets acquired by either or both spouses during the subsistence of the marriage for the benefit of the family. However, Nigerian law does not provide a comprehensive statutory definition of matrimonial property, thereby leaving the determination of such property

[16] G. A Ahiakwo, 'Modification of Divorce Laws and Procedures in Nigeria:Lessons from India, the UK, and Australia'(2021) 7 (3) *International Journal of Law*, 209.
[17] J. O. Ezeanokwasa and C. S. Oduh, 'Marriage Dissolution in Nigeria: An Analysis of the Legal Framework'(2024) Vol. 1, 129.
[18] A. A. Oba, "The Future of Customary Law in Nigeria" (2002) 51 *International and Comparative Law Quarterly* 817.

PRINT ISSN: 0794-0254
ONLINE: E-ISSN: 0794-084X

largely to judicial interpretation.[19] The absence of a clear statutory definition has led courts to rely on equitable principles, particularly the doctrine of contribution, in determining whether a spouse has a proprietary interest in property acquired during marriage. In *Essien v Essien*, the court considered a dispute over a residential property which the husband claimed to have purchased solely with his earnings. The wife argued that although the property was registered in the husband's name, she had contributed significantly to the construction and maintenance of the property through her financial support and domestic labour. In resolving the dispute, the court acknowledged that matrimonial property may include assets legally registered in the name of one spouse where the other spouse can demonstrate substantial contribution to its acquisition or improvement. The court therefore recognised the wife's equitable interest in the property and ordered an appropriate settlement in her favour.[20] The decision illustrates the willingness of Nigerian courts to apply equitable doctrines in order to prevent unjust enrichment in matrimonial property disputes.

Closely related to the concept of matrimonial property is the doctrine of beneficial interest, which enables a spouse to claim ownership rights in property notwithstanding the absence of legal title. Under Nigerian law, courts have applied the equitable doctrines of resulting trust and constructive trust to protect the interests of spouses who contributed to the acquisition of property held in the name of the other spouse. These doctrines are particularly important in matrimonial disputes involving land, as it is common for property to be registered in the name of one spouse for administrative convenience while both spouses contribute to its acquisition. The doctrine of resulting trust arises where one party contributes to the purchase price of property that is registered in the name of another party, thereby creating a presumption that the property is held in trust for both parties. Constructive trust, on the other hand, may arise where it would be inequitable for the legal owner of the property to deny the beneficial interest of the other spouse who contributed to its acquisition.[21] Nigerian courts have

[19] J. O. Ezeanokwasa and C. S. Oduh, 'Marriage Dissolution in Nigeria: An Analysis of the Legal Framework'(2024) Vol. 1, 130.
[20] (2009) 9 NWLR (Pt. 1146) 306 (CA).
[21] *Hussey v Palmer* (1972) 1 WLR 1286 (CA). Constructive trust arises whenever justice and good conscience require -Per Lord Denning.

PRINT ISSN: 0794-0254
ONLINE: E-ISSN: 0794-084X

occasionally relied on these equitable doctrines to ensure fairness in matrimonial property disputes, although their application has not been entirely consistent.

In the case of *Aina v Aina*,[22] Hon. Justice Dorcas Olatokun of the Lagos State High Court added a new vista to the rights of women in Nigeria as it declared that wives are joint owners of the properties with their husbands as men hold such properties in 'constructive trust' for the family. The court ruled that "indirect contributions of a wife to the marital property should not be quantified in monetary terms in order to entitle her to a share of the property." Relying on the meaning of Constructive Trust, the court said, quoting the English Master of Rolls, Lord Denning, " is a trust imposed by law wherever justice and good conscience require, a remedy by which the court can enable an aggrieved spouse or party to obtain restitution and the success of the party's case does not depend on his or her direct physical or monetary contribution to the building or acquisition of the property".

Justice Dorcas T. Olatokun of the Ikeja Judicial Division made this pronouncement in a case between a couple, Mr Pius Aina and his wife, Caroline, over a property at Festac Town, Lagos, acquired by the husband while he worked with the Federal Housing Authority (FHA) in the early 1980s. The couple, who had been married for 35 years, live in the property with their three children for more than 30 years. After his retirement, the husband in 2018 sold the property for N20 million and relocated back to his hometown in Ondo State. The Judge held that there exists a valid marriage between the claimant and the first defendant, and that both had contributed to the marriage. "This inference of trust, the one for the other, is readily apparent when each has made a financial contribution to the purchase price or the mortgage instalment. The financial contribution may be direct, as where it is actually stated to be a contribution towards the price or instalments. It may be indirect, as where both go out to work and one pays for the housekeeping and the other the mortgage instalments." "It doesn't matter who pays what so long as there is a substantial financial contribution towards the family

[22] Lagos State High Court Judgment, Suit No LD/9239LMW/2029 delivered on May 22, 2023.(Unreported) Lagos Court Grants Wives Equal Rights over Husbands' Properties – Arise News

PRINT ISSN: 0794-0254
ONLINE: E-ISSN: 0794-084X

expenses; it raises the inference of trust. We should not give monied right over social justice."

Justice Olatokun then delved into the issue of ownership and ruled: "Where joint ownership of property exists, it means that each party has an equal proprietary right of ownership in the said land, notwithstanding the weight of contribution made by each party, and can jointly exercise such right in respect of the property. The position of the law is settled that where a property is jointly owned, the consent of the other is required before disposing of the property. In applying the principle of law to this issue, the Court finds that the Defendant cannot dispose of the property without the consent of the Claimant, first sought and obtained." The Court holds that the Claimant is entitled to be protected by the Court to ensure that the property in dispute is not alienated without her consent, and therefore the sale of the property by the first Defendant to the second Defendant is hereby set aside"

2.3 Concept of Land Ownership

Land ownership refers to the legal right of a person to possess, use, enjoy, control, and transfer interests in land subject to applicable laws. In Nigeria, land ownership is primarily regulated by the Land Use Act, which vests all land in each state in the Governor to hold in trust for the people. Individuals may acquire rights of occupancy over land through statutory allocation, customary tenure, inheritance, purchase, gift, or other recognised means. Understanding the concept of land ownership is important because disputes over matrimonial land often involve questions regarding legal title, beneficial ownership, and the proprietary interests of spouses.

Land occupies a central position in Nigerian socio-economic life and remains the most valuable form of property in many communities.[23] The legal framework governing land ownership in Nigeria is primarily regulated by the Land Use Act, which vests all land in each state of the federation in the Governor to hold in trust for the people[24].

[23] C. J. Efe and O. E. Eberechi, 'Property Rights of Nigerian Women at Divorce: A Case for a Redistribution Order' (2020) *Vol 23, Potchefstroom Electronic Law Journal* https://perjournal.co.za/article/view/5306 accessed March 8, 2026.
[24] Land Use Act, Cap L5, LFN 2004, s1.

PRINT ISSN: 0794-0254
ONLINE: E-ISSN: 0794-084X

Individuals may acquire rights of occupancy over land, which may be statutory or customary depending on the location and nature of the land. The Act also regulates the transfer and alienation of land, often requiring the consent of the Governor before certain transactions can be validly completed. These statutory requirements sometimes complicate the partition of land following divorce, particularly where the property in question is jointly owned or subject to multiple interests.

The Nigerian Supreme Court has emphasised the importance of compliance with statutory land regulations in determining the validity of property transactions and ownership claims. In *Savannah Bank Ltd v Ajilo*, the dispute involved the validity of a mortgage transaction executed without the consent of the Governor as required under the Land Use Act. The Supreme Court held that any transaction involving the transfer or alienation of an interest in land without the requisite consent of the Governor is null and void.[25] Although the case did not directly concern matrimonial property, its implications for land ownership disputes are significant because it underscores the legal complexities that may arise when land forms part of matrimonial assets. In divorce proceedings involving land partition, compliance with the statutory requirements of the Land Use Act may therefore become a critical factor in determining the enforceability of property rights.

Scholarly literature has consistently emphasised that the interaction between matrimonial law and land law in Nigeria creates significant doctrinal challenges. Several commentators have argued that the absence of a clear statutory regime for matrimonial property distribution leaves divorced spouses vulnerable to protracted litigation and uncertain outcomes.[26] Others have pointed out that Nigerian courts often adopt a rigid approach that prioritises legal title over equitable considerations, thereby disadvantaging spouses who contributed indirectly to the acquisition of property.[27] These scholarly debates underscore the importance of developing a coherent legal framework capable of addressing the complexities associated with land partition

[25] (1989) 1 NWLR (Pt. 97) 305 (SC.

[26] I. A. Ayua, "Matrimonial Property and the Nigerian Legal System" (1996) 40 *Journal of African Law* 54.

[27] Michael Attah, "Divorcing Marriage from Marital Assets: Why Equity and Women Fail in Property Readjustment Actions in Nigeria" (2018) 62 *Journal of African Law* 241,

PRINT ISSN: 0794-0254
ONLINE: E-ISSN: 0794-084X

following divorce. In light of these conceptual considerations, it becomes evident that disputes over matrimonial land in Nigeria are shaped by a combination of statutory provisions, equitable doctrines, and customary norms.[28]

3.0 LEGAL FRAMEWORK GOVERNING PROPERTY DISTRIBUTION AFTER DIVORCE IN NIGERIA

The legal framework governing the distribution and partition of matrimonial property following divorce in Nigeria is shaped by a combination of statutory provisions, judicial interpretation, equitable doctrines, and customary law principles. Unlike some jurisdictions that operate under detailed statutory regimes providing clear rules for the equitable distribution of matrimonial assets, Nigerian law largely relies on the discretionary powers of courts to determine property rights between spouses upon the dissolution of marriage. Consequently, disputes relating to matrimonial property, particularly land, are resolved through the interpretation of statutory provisions, judicial precedents, and equitable principles developed by the courts.[29] The absence of a comprehensive statutory framework defining matrimonial property has therefore resulted in a system where the outcome of property disputes often depends on the ability of a claimant to establish legal or equitable interest in the property.[30]

3.1Matrimonial Causes Act

The principal statutory authority governing the dissolution of statutory marriages and the settlement of property between spouses is the Matrimonial Causes Act. The Act confers broad powers on courts to make orders relating to the settlement of property and financial arrangements between spouses in matrimonial proceedings. In particular, section 72 empowers the court to make such order as it considers just and equitable with respect to the settlement of property to which either of the parties to the marriage is entitled. This statutory provision gives the court considerable discretion to

[28] G. A. Ahiakwo, 'Equitable Distribution and Gender Justice: Analyzing Women's Share in Marital Property Regimes'(2025) 2 (4) Fountain University Law Journal, 270.
[29] R. A. Aderibigbe, *Family Law in Nigeria*, (Sweet and Maxwell, 2018) 22.
[30] E. Chianu, *Money, Marriage and the Law* (Benin City: Mindex Publishing Company Limited 2025), 44.

PRINT ISSN: 0794-0254
ONLINE: E-ISSN: 0794-084X

redistribute property between spouses in order to achieve fairness following the breakdown of the marriage. However, the Act does not provide a detailed definition of matrimonial property or specify the principles that should guide courts in determining the respective proprietary interests of spouses. According to Attah, ironically, the courts' approach has often been to adjudicate on the basis of formal title, resulting in general failure to make any readjustments.[31] In recent times, Nigerian courts have developed judicial principles based largely on proof of ownership, financial contribution, and equitable considerations.

The exercise of judicial discretion in matrimonial property disputes has been illustrated in several Nigerian cases. In *Egunjobi v Egunjobi*, the dispute arose after the dissolution of the marriage between the parties, during which the wife sought a share of the matrimonial home, which was registered in the name of the husband. The wife argued that she had contributed significantly to the development of the property through financial support and domestic contributions that enabled the husband to invest in the property. The husband, on the other hand, contended that the property belonged exclusively to him because he had provided the purchase money. The court carefully examined the evidence presented by both parties and held that the mere existence of marriage does not automatically confer joint ownership of property acquired during the marriage. The court emphasised that a claimant seeking a share in matrimonial property must establish direct or indirect contribution to the acquisition of the property. Consequently, the wife's claim was only partially recognised based on the evidence of contribution she was able to establish.[32] The case illustrates the judicial insistence on proof of contribution as a fundamental requirement for establishing proprietary interest in matrimonial property under Nigerian law.

A similar judicial approach was adopted in *Mueller v Mueller*, where the parties were involved in a dispute over certain assets acquired during their marriage. The wife

[31] Michael Attah, Divorcing Marriage from Marital Assets: Why Equity and Women Fail in Property Readjustment Actions in Nigeria (2018) 62 (3) *SOAS*, University of London, Cambridge University Press.
[32] (1976) 2 FNR 179.

PRINT ISSN: 0794-0254
ONLINE: E-ISSN: 0794-084X

contended that the property constituted matrimonial property and should therefore be shared equitably between the parties. The husband argued that the assets were acquired solely with his income and that the wife had no legal interest in them. In resolving the dispute, the court held that the determination of proprietary rights in matrimonial property must be based on evidence demonstrating contribution to the acquisition of the property. The court recognised that such contribution need not necessarily be financial, but may include acts that facilitated the acquisition or preservation of the property.[33] The decision therefore acknowledged the relevance of non-financial contributions in determining matrimonial property rights, although Nigerian courts have traditionally required substantial proof before recognising such contributions. There is a need for a law that will define matrimonial property and specifically state the rights of spouses, resolving lingering issues of inconsistencies and lack of fairness arising from existing statutes and case law.[34]

3.2 Married Women's Property

The courts have also relied on the principles contained in the Married Women's Property legislation, which recognises the capacity of married women to acquire, hold, and dispose of property independently of their husbands. This legislative development represented a significant departure from earlier common law doctrines that subsumed the legal personality of a married woman under that of her husband. The practical effect of this reform is that property registered in the name of a married woman is presumed to belong to her unless evidence is produced to the contrary. This principle was affirmed in *Aderounmu v Aderounmu*, where the dispute concerned the ownership of a residential property and a vehicle acquired during the marriage. The husband argued that the assets constituted matrimonial property and should be shared between the parties upon divorce. The wife maintained that she had independently acquired the assets and that they were therefore her personal property. After examining the evidence, the court held that a married woman is legally entitled to own property in her own name and that the husband had failed to establish any beneficial interest in the assets. The court therefore ordered

[33] (1976) 10 NSCC 81.
[34] Roseline O. Ehiemua, 'Advancing Women's Rights to Joint Ownership of Matrimonial Property in Nigeria: Using Kenya as a Model' (2024) 30 (4) *African Journal of International and Comparative Law*, 1.

PRINT ISSN: 0794-0254
ONLINE: E-ISSN: 0794-084X

the husband to vacate the property and return the vehicle to the wife.[35] The decision underscores the principle that legal title remains a crucial determinant of ownership in matrimonial property disputes.

3.3 Equitable Doctrines

Apart from statutory provisions governing matrimonial proceedings, Nigerian courts have frequently relied on equitable doctrines such as resulting trust and constructive trust in resolving disputes over property between spouses. These doctrines allow courts to recognise beneficial interests in property where strict legal ownership would produce an unjust outcome. In *Kafi v Kafi*, the court considered a dispute involving property that had been acquired during the marriage but was registered in the name of the husband. The wife argued that she had contributed financially to the acquisition of the property and therefore possessed an equitable interest in it. The court held that where a spouse contributes to the purchase price of property registered in the name of the other spouse, a resulting trust may arise in favour of the contributing spouse. Consequently, the court recognised the wife's beneficial interest in the property and ordered that her contribution be taken into account in the settlement of the matrimonial assets.[36] The case illustrates the application of equitable principles in matrimonial property disputes and highlights the willingness of Nigerian courts to depart from strict legal ownership where justice requires.[37]

3.4 Constitution of the Federal Republic of Nigeria (S 42)

In addition to equitable doctrines, Nigerian courts have also addressed the broader constitutional implications of property rights within the family context. The Supreme Court decision in *Ukeje v Ukeje* represents a landmark development in the protection of property rights, particularly for women. The case involved a dispute over the estate of a deceased man in which the respondent, his daughter, sought recognition as a beneficiary despite the existence of a customary rule that excluded female children from

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[35] (2003) 2 NWLR (Pt. 803) 1 (CA).
[36] (1986) 3 NWLR (Pt. 27) 175 (CA).
[37] A. O. Bello, *Matrimonial Property and Divorce Law in Nigeria* (Spectrum Books 2015) 12.

PRINT ISSN: 0794-0254
ONLINE: E-ISSN: 0794-084X

inheriting their father's property. The appellants argued that under the applicable customary law, only male children were entitled to inherit family property. The respondent challenged the validity of this custom on the ground that it violated the constitutional prohibition of discrimination. The Supreme Court agreed with the respondent and declared that any customary law which discriminates against female children in matters of inheritance is unconstitutional and therefore void.[38] Although the case concerned inheritance rather than divorce, its reasoning has significant implications for matrimonial property disputes because it reinforces the constitutional principle that women cannot be denied proprietary rights solely on the basis of gender.

Judicial interpretation of the Land Use Act has further clarified the nature of proprietary interests in land. In *Ogunleye v Oni*, the Supreme Court emphasised that a person who possesses a valid right of occupancy over land enjoys exclusive rights to its use and control, subject only to the statutory limitations imposed by the Act.[39] Similarly, in *Nkwocha v Governor of Anambra State*, the Supreme Court reaffirmed that the Land Use Act fundamentally altered the previous system of land ownership in Nigeria by vesting ultimate control of land in the state.[40] These judicial interpretations highlight the regulatory framework governing land ownership and demonstrate how statutory land law intersects with matrimonial property disputes.

Academic scholarship has extensively examined the limitations of the Nigerian legal framework governing matrimonial property distribution. Several scholars argue that reliance on proof of contribution often places an unfair burden on spouses, particularly women, whose contributions to the acquisition of property may be indirect or non-financial.[41] Others have observed that Nigerian courts tend to prioritise formal legal ownership over equitable considerations, thereby limiting the effectiveness of statutory provisions designed to promote fairness in matrimonial proceedings.[42] These scholarly

[38] (2014) 11 NWLR (Pt. 1418) 384 (SC).
[39] (1990) 2 NWLR (Pt. 135) 745 (SC).
[40] (1984) 6 SC 362.
[41] Micheal Attah, "Divorcing Marriage from Marital Assets: Why Equity and Women Fail in Property Readjustment Actions in Nigeria" (2018) 62 *Journal of African Law* 241.
[42] I. A. Ayua, "Property Rights of Women in Nigeria" (1999) 43 *Journal of African Law* 90.

PRINT ISSN: 0794-0254
ONLINE: E-ISSN: 0794-084X

critiques underscore the need for a more comprehensive legislative framework that clearly defines matrimonial property and establishes equitable principles for its distribution upon divorce.

In summary, the legal framework governing property distribution following divorce in Nigeria is characterised by a combination of statutory discretion, judicial interpretation, equitable doctrines, and land law regulations. While courts possess the authority to make property settlement orders in matrimonial proceedings, the absence of clear statutory guidelines has resulted in inconsistent judicial outcomes. Consequently, disputes involving the partition of matrimonial land remain one of the most complex aspects of family law litigation in Nigeria. Understanding this legal framework is therefore essential for evaluating the remedies available to divorced spouses and the practical challenges that arise in the partition of matrimonial land.

4.0 PRACTICAL CHALLENGES IN LAND PARTITION AFTER DIVORCE IN NIGERIA

Notwithstanding the existence of statutory and equitable remedies for resolving matrimonial property disputes, the practical enforcement of proprietary rights in matrimonial land following divorce in Nigeria is fraught with numerous legal, evidentiary, and socio-cultural challenges. These challenges arise largely from the interaction between statutory family law, customary land tenure systems, and judicial doctrines relating to proof of ownership.[43] In practise, many divorced spouses encounter substantial difficulties in asserting or enforcing their proprietary interests in land, particularly where ownership documents are held in the name of only one spouse or where customary norms influence the distribution of family property. As a result, disputes over matrimonial land frequently evolve into protracted litigation involving complex questions of title, contribution, and equitable entitlement.[44]

[43] C. Arinze, 'Discrimination/Inequitable Distribution of Marital Property Upon Divorce' (2024) 4 (1), *UNIZIK* Law Journal.91.
[44] A. O. Bello, *Matrimonial Property and Divorce Law in Nigeria* (Spectrum Books 2015) 25.

PRINT ISSN: 0794-0254
ONLINE: E-ISSN: 0794-084X

One of the most persistent challenges in matrimonial property disputes involving land is the difficulty of proving contribution to the acquisition of the property. Nigerian courts have traditionally emphasised the requirement of demonstrable financial contribution before recognising a proprietary interest in property registered in the name of another party. This requirement often creates significant evidentiary challenges, especially in marital relationships where spouses commonly pool resources informally without maintaining documentary records of their respective contributions. In *Adesanya v Adesanya*, the Supreme Court emphasised that a spouse seeking to establish a beneficial interest in property must present credible evidence demonstrating contribution to its acquisition. The Court held that a claimant must prove actual contribution to the purchase or development of the property before a beneficial interest can be recognised.[45]

This judicial insistence on proof of contribution has been widely criticised by scholars who argue that it fails to recognise the economic value of non-financial contributions such as domestic labour, childcare, and household management.[46] In *H v H*, the court held that the wife who spends her youth and early middle age in bearing and rearing children and tending the home frees the husband for his economic activities. That, if the wife does not play her part, the husband cannot play his.

Closely related to the evidentiary difficulty of proving contribution is the broader issue of legal title in matrimonial property disputes. Nigerian courts often place considerable emphasis on documentary evidence of ownership, particularly certificates of occupancy, deeds of assignment, and other formal title documents. Consequently, where property is registered solely in the name of one spouse, the other spouse may face considerable difficulty in establishing proprietary interest in the property unless they can produce clear evidence of financial contribution. The importance of documentary evidence in establishing ownership of land was emphasised by the Supreme Court in *Idundun v Okumagba*, where the court identified recognised methods of proving title to land,

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[45] (1973) 5 SC 55.
[46] Lawrence Ogbogu, 'Settlement of Property Under the Matrimonial Causes Act 1979 of Nigeria: Defining Court's Requirement to Consider what is Just and Equitable'(2025) 5 (1) *COOU-JCPL*, 131.

PRINT ISSN: 0794-0254
ONLINE: E-ISSN: 0794-084X

including the production of documents of title, acts of ownership, and long possession.[47] Although the case concerned a general land dispute rather than matrimonial property, the principles articulated by the court have been widely applied in disputes involving matrimonial land. As a result, spouses who lack documentary evidence of ownership may find it difficult to assert their rights in property acquired during the marriage.

In *Talatu Williams v Williams Sunday*,[48] the parties got married over 20 years ago and lived together with four surviving children. The Petitioner subsequently left the marriage on the grounds of abusive treatment from the husband and approached the upper customary court of Kaduna State for dissolution of the marriage in accordance with Jaba custom, custody of the children and 5 million for compensation for her contribution to the building of the matrimonial home. The petitioner gave evidence of how she travelled two or three times weekly to Kaduna to personally supervise the building project and returned late. She narrated her financial contributions, which are partly evidenced by Exhibits P1 to P10. The court held that the petitioner has demonstrated beyond persuasion that she has committed not just her resources but also her time in the building of their matrimonial home. The court further held - we find the petitioner has presented credible and cogent evidence (Exhibits P1-P10) to establish her claim for five million as compensation for her contributions to the building. It is submitted that this was a laudable judgment from the customary court in Nigeria.

Another major challenge arises from the influence of customary law principles on property relations within marriage. Nigeria's plural legal system recognises customary law as an important source of legal regulation in matters relating to marriage, inheritance and land ownership. In many communities, customary norms place significant emphasis on patriarchal control of land and property, often limiting the proprietary rights of women within the family structure. These customs sometimes conflict with modern statutory principles of equality and fairness in matrimonial proceedings. The tension between customary practices and constitutional principles

[47] (1976) 9–10 SC 227.
[48] UCCK/CV/157/2023 Kafancha Customary Court Judgment delivered by His Worship Emmanuel Samaila September 22, 2024.(Unreported).

PRINT ISSN: 0794-0254
ONLINE: E-ISSN: 0794-084X

was vividly illustrated in *Ukeje v Ukeje*, where the Supreme Court considered the validity of an Igbo customary law rule that prevented female children from inheriting their father's property. The appellants argued that, under the relevant customary law, female children were not entitled to inherit family property. The Supreme Court rejected this argument and held that any customary law that discriminates against female children in matters of inheritance is inconsistent with the constitutional prohibition of discrimination and is therefore void.[49] Although the case concerned inheritance rather than matrimonial property, its reasoning has profound implications for matrimonial land disputes because it establishes the constitutional principle that discriminatory customs cannot override the property rights of women.

The interaction between statutory law and customary land tenure systems also creates significant practical difficulties in the partition of matrimonial land. Under the Land Use Act, all land in each state of the federation is vested in the Governor to be held in trust for the people. Individuals may obtain statutory or customary rights of occupancy over land, subject to various statutory conditions governing the use and transfer of such land. One of the most significant requirements imposed by the Act is the necessity of obtaining the consent of the Governor before transferring or alienating an interest in land. This requirement can complicate the partition of matrimonial land where the property must be transferred or subdivided between former spouses following divorce. The importance of this statutory requirement was emphasised by the Supreme Court in *Savannah Bank Ltd v Ajilo*, where the court held that any transaction involving the transfer of an interest in land without the requisite consent of the Governor is null and void.[50] The decision highlights the regulatory complexity surrounding land transactions in Nigeria and demonstrates how statutory land law may affect the enforcement of property rights in matrimonial disputes.

Judicial discretion also presents a practical challenge in the resolution of matrimonial property disputes. Because Nigerian law does not provide a comprehensive statutory

[49] (2014) 11 NWLR (Pt. 1418) 384 (SC).
[50] (1989) 1 NWLR (Pt. 97) 305 (SC).

PRINT ISSN: 0794-0254
ONLINE: E-ISSN: 0794-084X

formula for the distribution of matrimonial property, courts possess wide discretionary powers in determining the proprietary interests of spouses. While judicial discretion allows courts to consider the unique circumstances of each case, it may also lead to inconsistent outcomes in similar cases. Different courts may adopt varying approaches in assessing the relevance of financial and non-financial contributions to the acquisition of matrimonial property. Scholars have observed that the absence of clear legislative guidelines has resulted in a body of case law that lacks coherence and predictability.[51] This lack of consistency can create uncertainty for litigants and may discourage amicable settlement of matrimonial property disputes.

Procedural delays and the high cost of litigation represent additional challenges in the resolution of disputes involving matrimonial land. Land litigation in Nigeria is often complex and time-consuming, involving multiple procedural stages including pleadings, evidence, and appeals. Where matrimonial disputes involve questions of land ownership, the litigation process may be further prolonged by the need to obtain survey plans, title documents, and expert testimony relating to the history and ownership of the property. The cumulative effect of these procedural requirements can make litigation both expensive and time-consuming, thereby limiting access to justice for many litigants. Scholars have therefore advocated for the increased use of alternative dispute resolution mechanisms such as mediation and arbitration in matrimonial property disputes.[52] These mechanisms may provide a more efficient and less adversarial means of resolving disputes over matrimonial land.

Furthermore, the absence of clear statutory guidelines defining matrimonial property remains a fundamental structural challenge within Nigerian family law. Unlike jurisdictions that operate under equitable distribution regimes, Nigerian law does not automatically classify property acquired during marriage as matrimonial property subject to division upon divorce. Instead, courts rely largely on proof of contribution and equitable doctrines in determining proprietary interests. This approach has been

[51] A. C. Diala, "Divorcing Marriage from Marital Assets: Why Equity and Women Fail in Property Readjustment Actions in Nigeria" (2018) 62 *Journal of African Law* 241,

[52] A. O. Obilade, *The Nigerian Legal System* (Sweet & Maxwell, London, 1979) 213.

PRINT ISSN: 0794-0254
ONLINE: E-ISSN: 0794-084X

criticised by several scholars who argue that it fails to reflect the collaborative nature of marital relationships in which property is often acquired through the combined efforts of both spouses.[53] Consequently, spouses who are unable to demonstrate direct financial contribution may find themselves excluded from property ownership despite having played significant roles in the acquisition or preservation of matrimonial assets.

In addition to doctrinal and evidentiary challenges, social and cultural factors also influence the enforcement of proprietary rights in matrimonial land disputes. In many Nigerian communities, societal expectations and family pressure may discourage women from pursuing legal claims against former spouses, particularly where such disputes involve family land. Cultural attitudes towards marriage and divorce may therefore limit the willingness of some spouses to assert their legal rights in property acquired during the marriage. This socio-cultural dimension of matrimonial property disputes underscores the need for legal reforms that not only clarify property rights but also promote greater awareness of those rights among members of the public.

5.0 COMPARATIVE JURISPRUDENCE: UNITED KINGDOM, SOUTH AFRICA, AND GHANA

Comparative analysis plays a significant role in legal scholarship, particularly in areas where domestic legal frameworks reveal doctrinal gaps or inconsistencies. In the context of matrimonial property disputes, comparative jurisprudence provides useful insights into how other jurisdictions address the division of property following divorce. Unlike Nigeria, where the distribution of matrimonial property largely depends on proof of ownership and contribution, several jurisdictions have developed clearer statutory regimes that recognise the collaborative nature of marriage and promote equitable distribution of matrimonial assets. Examining the approaches adopted in the United Kingdom, South Africa, and Ghana therefore provides a useful framework for evaluating the strengths and limitations of the Nigerian legal system in relation to the partition of matrimonial land.

[53] I. A. Ayua, "Property Rights of Women in Nigeria" (1999) 43 *Journal of African Law* 90.

PRINT ISSN: 0794-0254
ONLINE: E-ISSN: 0794-084X

In the United Kingdom, matrimonial property distribution is primarily governed by the Matrimonial Causes Act 1973, which confers broad discretionary powers on courts to redistribute property between spouses upon divorce. Section 25 of the Act requires courts to consider several factors when determining the appropriate division of matrimonial assets, including the financial resources of the parties, their contributions to the welfare of the family, and the needs of any children of the marriage. A distinctive feature of the British approach is the recognition of non-financial contributions as equally valuable to financial contributions in the acquisition of matrimonial property. This principle was firmly established by the House of Lords in *White v White*, where the court rejected the traditional view that financial contribution should carry greater weight than domestic contribution. The case involved a dispute between spouses who jointly operated a farming business during their marriage. The husband argued that the majority of the assets should remain under his control because he had been primarily responsible for the business operations that generated the family's wealth of the family. The wife contended that her domestic contributions and involvement in the management of the farm justified equal entitlement to the matrimonial assets. The House of Lords held that there should be no discrimination between the roles performed by spouses within the marriage and emphasised the "yardstick of equality" as an important guiding principle in property distribution.[54]

The principle of equal sharing in matrimonial property was further reinforced in *Miller v Miller; McFarlane v McFarlane*, where the House of Lords clarified that matrimonial assets should generally be divided equally unless there are compelling reasons to depart from equality. The court identified three key principles guiding matrimonial property distribution: needs, compensation, and sharing. These principles reflect a policy objective of ensuring fairness between spouses by recognising both financial and non-financial contributions to the marriage.[55] The British approach therefore differs significantly from the Nigerian system, which places greater emphasis on proof of financial contribution before recognising proprietary interest in matrimonial property.

[54] [2001] UKHL 54; [2001] 1 AC 596.
[55] [2006] UKHL 24; [2006] 2 AC 618.

PRINT ISSN: 0794-0254
ONLINE: E-ISSN: 0794-084X

South Africa adopts another distinctive approach to matrimonial property distribution, primarily through statutory regulation of marital property regimes. The principal legislation governing matrimonial property relations is the Matrimonial Property Act 1984,[56] which introduced the accrual system as the default marital property regime for civil marriages. Under this system, spouses retain separate ownership of their respective assets during the marriage, but upon divorce the increase in the value of each spouse's estate during the marriage is calculated and shared equitably between the parties. The purpose of the accrual system is to recognise that both spouses contribute to the growth of the marital estate, even where one spouse does not directly earn income.

The practical application of this principle was examined by the South African Constitutional Court in *Gumede v President of the Republic of South Africa*, which addressed the property consequences of customary marriages. The case arose when the applicant challenged the constitutionality of statutory provisions that denied women in customary marriages equal rights to matrimonial property. The applicant argued that the existing legal framework deprived her of ownership rights in property acquired during the marriage. The Constitutional Court agreed with this argument and held that the relevant statutory provisions were inconsistent with constitutional guarantees of equality and dignity. The court consequently recognised that spouses in customary marriages are entitled to equal proprietary rights in matrimonial property.[57] The decision reflects South Africa's commitment to ensuring gender equality in matrimonial property relations and illustrates the constitutional dimension of property distribution in divorce proceedings.

Another instructive jurisdiction is Ghana, whose legal system shares historical similarities with Nigeria due to their common colonial heritage. Ghanaian matrimonial property law has evolved significantly in recent years through judicial interpretation of constitutional provisions relating to equality and property rights. The Ghanaian

[56] No 88 of 1984-3 July 1984, South Africa.
[57] 2009 (3) SA 152 (CC).

PRINT ISSN: 0794-0254
ONLINE: E-ISSN: 0794-084X

Constitution recognises the right of spouses to equitable distribution of property acquired during marriage, and the courts have played an active role in developing this principle. In *Mensah v Mensah*, the Supreme Court addressed the issue of whether property acquired during marriage should automatically be regarded as jointly owned by the spouses. The dispute involved a residential property acquired during the marriage but registered in the name of the husband. The wife argued that she had contributed indirectly to the acquisition of the property through domestic work and support for the family business. The husband denied that she possessed any proprietary interest in the property. The Supreme Court rejected the husband's argument and held that property acquired during marriage is presumed to be jointly owned by the spouses unless evidence demonstrates otherwise.[58]

This principle was further reinforced in *Quartson v Quartson*, where the court clarified that domestic labour and childcare constitute valuable contributions to the acquisition of matrimonial property. The court emphasised that the concept of contribution should not be limited to financial input but should also include activities that support the welfare of the family and facilitate the acquisition of property during marriage.[59] These decisions represent a significant departure from earlier judicial approaches that required proof of direct financial contribution before recognising proprietary interest in matrimonial property.

The comparative experiences of these jurisdictions highlight important differences in the legal treatment of matrimonial property. In the United Kingdom, the courts emphasise equality and fairness through discretionary redistribution of matrimonial assets. South Africa adopts a statutory regime that recognises the growth of the marital estate through the accrual system, thereby ensuring that both spouses benefit from increases in wealth during the marriage. Ghana, on the other hand, has developed a judicial presumption that property acquired during marriage is jointly owned by the spouses unless proven otherwise. These approaches reflect a broader recognition of the

[58] [2012] 1 SCGLR 391 (Supreme Court of Ghana).
[59] [2012] 2 SCGLR 1077 (Supreme Court of Ghana).

PRINT ISSN: 0794-0254
ONLINE: E-ISSN: 0794-084X

collaborative nature of marriage and the diverse contributions that spouses make to the acquisition of family property.

By contrast, the Nigerian legal system continues to rely heavily on proof of financial contribution and formal ownership documents in determining proprietary interests in matrimonial property. While Nigerian courts possess discretionary powers under the Matrimonial Causes Act to make property settlement orders, the absence of a clear statutory framework defining matrimonial property often leads to inconsistent judicial outcomes. Comparative jurisprudence therefore demonstrates that Nigeria may benefit from adopting clearer legislative guidelines that recognise both financial and non-financial contributions in the distribution of matrimonial property following divorce. Such reforms would align Nigerian matrimonial property law with contemporary international standards and promote greater fairness in the partition of matrimonial land.

6.0 REFORM PROPOSALS

The persistent uncertainty surrounding matrimonial property distribution in Nigeria highlights the urgent need for deliberate legal reform. Although Nigerian courts have attempted to fill the legislative gap through judicial interpretation, reliance on case-by-case adjudication has resulted in doctrinal inconsistencies and unpredictability. Consequently, legal scholars increasingly advocate for comprehensive reforms aimed at establishing clearer statutory rules,[60] strengthening recognition of non-financial contributions, harmonising customary law with constitutional equality principles, and promoting alternative dispute resolution mechanisms in matrimonial property disputes.

6.1 Legislative Reform

Nigeria should enact a comprehensive Matrimonial Property Act to provide clear rules on the ownership and distribution of matrimonial property upon divorce. The law should define what constitutes matrimonial property and establish guiding principles for its distribution. Lessons can be drawn from Ghana, where courts have increasingly treated marriage as a partnership and recognised the joint interests of spouses in

[60] Nasiru Tijani, 'Evaluating Consent Judgements in Petitions for the Dissolution of Marriage in Nigeria'(2026) 14 (1) International Journal of Innovative Legal and Political Studies 134.

PRINT ISSN: 0794-0254
ONLINE: E-ISSN: 0794-084X

property acquired during marriage. Clear statutory provisions would promote consistency, fairness, and predictability in judicial decisions.

6.2 Recognition of Non-Financial Contributions

The law should expressly recognise non-financial contributions such as domestic work, childcare, homemaking, and emotional support as valuable contributions to the acquisition and preservation of family property. Experiences from Ghana, South Africa, and England demonstrate that marriage is not solely an economic arrangement but a partnership in which both financial and non-financial contributions should be accorded equal recognition.

6.3 Harmonisation of Customary Law with Constitutional Values

There is a need to review and harmonise customary laws relating to property ownership and inheritance with the constitutional principles of equality and non-discrimination. Customary practices that deny women access to property rights should be reformed. Valuable lessons may be drawn from South Africa, where courts have played an active role in aligning customary law with constitutional guarantees of equality and human dignity.

6.4 Promotion of Alternative Dispute Resolution

Mediation and other alternative dispute resolution mechanisms should be encouraged in matrimonial property disputes. Experiences from England and other jurisdictions show that mediation is often faster, less expensive, and less confrontational than litigation. Establishing specialised family mediation centres would help parties reach amicable settlements while preserving family relationships.

6.5 Improved Documentation of Matrimonial Property

Spouses should be encouraged to properly document and register jointly acquired property. This would reduce disputes over ownership and provide clearer evidence of each spouse's interest in the event of divorce. The practice of joint registration, which is common in several jurisdictions, offers a useful model for Nigeria.

These reforms would promote fairness, protect the interests of both spouses, and ensure a more equitable system for resolving disputes relating to divorce and land partition in Nigeria.

PRINT ISSN: 0794-0254
ONLINE: E-ISSN: 0794-084X

7.0 CONCLUSION

The study of matrimonial property disputes in Nigeria, particularly in relation to land partition following divorce, reveals a complex interplay of statutory law, judicial interpretation, and customary practices. The findings indicate that, although the Matrimonial Causes Act 1970 empowers courts to make ancillary property orders, the absence of detailed statutory guidance has resulted in reliance on judicial discretion and principles of equity.[61] Consequently, decisions are often inconsistent, and spouses may face significant challenges in establishing proprietary interests, particularly where non-financial contributions are involved.[62] The persistence of discriminatory customary practices further complicates the equitable distribution of matrimonial property, often disadvantaging women despite constitutional guarantees of equality under Sections 42 and 43 of the Constitution of the Federal Republic of Nigeria 1999.

Comparative analysis underscores the potential benefits of statutory reform. Jurisdictions such as the United Kingdom, South Africa, and Ghana provide clear frameworks recognising both financial and non-financial contributions to matrimonial wealth. In the United Kingdom, the principles established in *White v White* and *Miller v Miller; McFarlane v McFarlane* emphasise equality and the "yardstick of fairness," ensuring that domestic and indirect contributions are appropriately recognised.[63] Similarly, South Africa's accrual system under the Matrimonial Property Act 1984[64] guarantees that increases in marital wealth are equitably shared, while Ghanaian jurisprudence presumes joint ownership of property acquired during marriage unless evidence proves otherwise.[65]

[61] Matrimonial Causes Act, Cap M7 Laws of the Federation of Nigeria 2004, ss 72–73.
[62] (2014) LPELR-22960(CA).
[63] [2001] UKHL 54; [2001] 1 AC 596; [2006] UKHL 24; [2006] 2 AC 618.

[65] *Mensah v Mensah* [2012] 1 SCGLR 391 (Supreme Court of Ghana); *Quartson v Quartson*[2012] 2 SCGLR 1077 (Supreme Court of Ghana).

PRINT ISSN: 0794-0254
ONLINE: E-ISSN: 0794-084X

In light of the foregoing, it is evident that Nigeria requires a balanced legal framework that adequately protects both spouses' interests and recognises the diverse forms of contribution to marital wealth. Legislative reform should codify equitable principles, ensure the recognition of non-financial contributions, harmonise customary law with constitutional guarantees, and institutionalise alternative dispute resolution mechanisms to reduce litigation and preserve familial relationships.