

## Chapter 13

### **The Invisible Contribution of Married Women in Housing Finance and Its Legal Implications: A Case Study from Port Harcourt, Nigeria**

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The importance of housing finance to the provision of urban shelter in Nigeria is undeniable. This in itself emphasizes the seriousness of the problems militating against the involvement of married women in housing finance in Nigeria, even though female recipients of mortgage loans have been more responsible about repaying their debts than male recipients, and a greater proportion of male recipients are defaulters (Moser and Chant, 1985). The paper discusses the legal implications of home ownership in Nigeria and how they affect the participation of married women in housing finance. Focusing on educated married women in Port Harcourt and their invisible contribution, the discussion includes the unfairness of the laws of ownership and inheritance. It offers a different perception of the role of women in the development of human settlements.

Generally, studies of women are of poor rural women, because it is assumed that urban women are more enlightened and therefore do not need assistance. Married women have not been conceptualized as comprising a group in need of special attention, especially in housing studies. In developing countries, housing finance studies that focused on women have concentrated on the difficulties female-headed households have in mobilizing resources and more specifically on their limited accessibility to housing loans and their repayment behavior (Schlyter, 1988; Mose and Peak, 1987). But there are indications that educated married women in urban areas are suffering from principally three main oppressions they encounter in their homes: oppression because they are women; oppression because they are educated and if given the opportunity they can assert their rights; and oppression because of the oppressive nature of traditional values and customs that they cannot do anything about individually.

Detailed information will be presented concerning twenty married women who have attained the highest level of competence in their chosen fields of occupation, are either in monogamous or polygamous homes, and whose husbands have built or bought houses and their involvement in the financing of such buildings. The women live in Port Harcourt, the capital of Rivers State and the fourth major industrial city in the country. Interviews of five married men who have built houses were also conducted.

The problems of women's involvement in housing finance are not restricted to Nigeria. They have been and are being experienced in other developing countries. They reflect the erroneous assumptions that all families conform to the Western nuclear model and that spouses

everywhere pool their resources for the welfare of everyone in the household. These assumptions ignore the extended family system of Nigerian society. Nevertheless, they permeate housing policies and programs in Nigeria. Thus the programs have been directed at heads of households, invariably men. Women's programs are few and far between, although it has already been acknowledged that women are a little over half of Nigeria's population.

## Research Methods

This paper is based on structured personal interviews. Although the age of the household was not a criterion, it turned out that none of the respondents had been married for less than ten years. The number of women to be interviewed was not decided in advance although we tried to vary their professions as much as possible. The interviews were continued until it was realized that new interviews would not add important information to our understanding of the problem under investigation. In all, twenty women were interviewed, as were five men, to get their opinions of their wives' involvement in housing finance.

To derive a better understanding of the problem, the following questions were posed:

1. What has been the contribution of women to the building or acquisition of houses by their husbands?
2. What are the current marital laws and their gender implications as they relate to housing?
3. What are the constraints limiting the participation of married women in housing finance?

These questions guided the preparations for the interviews. The different attitudes of monogamous and polygamous households, the different cultural values existing in the country, and the different attitudes of the Moslem and Christian religions were recognized.

## The Role of Women in Housing Finance

Some basic social assumptions are common to all the different cultural systems of Nigeria. These are:

1. Social and economic stability depends on men being made primarily responsible for maintenance of their families.
2. Cultural family laws create unequal responsibilities for maintenance and therefore permit unequal distribution of family assets.

Thus traditionally, it is the duty of the man to provide his wife with a place to live. However, this view is inconsistent with reality.

The following family circumstances are presented to give a more dynamic picture of the role of women in housing provision in general and in housing finance in particular. They will also highlight the contributions, both visible and invisible, made by the women and their feelings about how their contributions are appreciated by both their husbands and the state. Inferences from these recordings will inform the summary at the end of the paper.

### Indirect Contributions

Generally, the women not only contributed directly by giving money to their husbands but also indirectly by assisting in running the home, especially during the construction period.

*Caroline* has been married for twelve years. Her husband has just finished building his house. Although she did not contribute directly, she knows that she contributed a lot by encouraging him to start building incrementally since they got married; during the construction, subsidizing the feeding allowance he gave her and/or doing without it when he did not give any; lending him money and foregoing the feeding allowance in any month he repays the loan; emotionally, by advising him; and morally, by encouraging him. When she asked her husband why her name was not included in the title to the property, he said there was no need to worry because what belongs to him belongs to her. The question is, "If it belongs to us, why is my name not on the title deed? Seeing my name on it makes all the difference." She knows that in case of divorce, she has to pack up and move out. Her consolation is that her children will inherit his properties, for no Nigerian man forgets his children. That is why as far as she is concerned any marriage without children is no marriage and of course she is his only wife (on paper). She cannot fight the issue on her own because the problem stems from the marital and traditional laws: women are not expected to own anything. However, women's organized conferences, talks, etc., have been opening everyone's eyes to the shortcomings of our cultural laws (e.g., women are gradually inheriting land). Another problem is that the battle for women in developing countries is fought more by women in the developed world. She does not keep a joint account with her

husband because in our society a husband and wife face different pressures from their extended families, the only sources of welfare. She also sincerely believes that a woman should be individuated in the control of the resources she creates.

*Monica* has been married for forty years by the common law with six children. When her husband was building the house twenty years ago, he consulted her. She assisted in paying the monthly mortgage, although he was the only person that signed the loan's papers. She also gave him money to buy building materials. It never occurred to her to ask whether her name was on the title to the property or to ask for the receipts of purchases she paid for. On hindsight, she knows that, had she asked, he would have insinuated that she did not trust him or asked whether she wanted to kill him. After the building was completed, she encouraged him to leave the civil service and set up a business of his own. During the teething period, she was practically financing the household alone. Fortunately, the business flourished. Then her husband took a younger wife by customary law and has practically abandoned her. When she consulted a lawyer, she was told that it would be difficult to contest the house since there is no proof of her involvement in the building, and furthermore she would not like to embarrass her children by taking their father to court. The only regret she has is that, instead of assisting her husband to build his house, she should have expended her energies to build a house of her own.

#### **The Effect of Customary Laws**

In some cultures, marriages cannot be dissolved.

*Ester* has been married for twenty-five years with five children. The husband consulted her when he was going to start the building. The title deed bears his name alone. She does not have a house of her own since she cannot afford to buy land in the open market. She was denied access to crown land which is given on a lease basis because her husband had already been given his. She did not play any role during construction because her husband did not consult her. She claimed that her type of marriage gave her confidence that all is not lost. "You are his property, although there can be separation, there can be no divorce even though he can marry more wives." She explained that it is not that the educated women are sleeping, but according to her, "When the people that take decisions are men—what do you expect?" For example, she is a member of the Women and Development Organization. They organize lectures and talks to enlighten the women. They know that there

cannot be meaningful changes until a lot of women get to positions of power. She does not keep a joint account with her husband. He discouraged the idea. She knows that our men are generally insincere and unfaithful to their wives all around.

#### **Influence of Polygamy and Religion**

In Moslem marriages, the wife is encouraged to own her own property. In a polygamous home, the economic tie between the husband and wife is very loose.

*Sadia*, who has been married for fifteen years, is the second wife in a polygamous Muslim family. The husband informed her when he was going to start the building. Although she did not contribute to the building, she consciously made less demands on him during the period. She knows that she does not have any stake in the house. However, her children have rights equal to those of the other wife's children. She knows her name was not on the deed of the house, but she did not expect it to be. In case of divorce, she does not expect to contest the house. "How can I, when I know that there is no law to back me? I would be crazy to take a housing loan with him to build a house. If I am able to take a loan, it will be for my own house." As far as she is concerned, the efforts of the women's commission is a lost cause. "Who is going to judge the cases? Is it not male judges, who invariably will be in the same circumstances like my husband?"

#### **The Strong Cultural Influence**

The marriage is influenced by the culture whether it is contracted under common law, Islamic law, or customary law.

*Linda*, who has been married for eighteen years, contributed financially to the building of the house, although only the husband's name is on the deed to the property. She contributed because they share their resources together, although they do not have a joint account. She said that her husband is more understanding than most, because in her culture, the man has rights over everything, including the wife's salary. For example, her friend is having a lot of problems with her husband: he insists that she gives him her pay, from which he doles out what she will spend according to his decisions. Her husband made all the decisions about the housing loan and its disbursement, but she monitors the repayment because she does not like owing money, and she knows that her husband can be extremely careless. What baffles her is that men cleverly forget that accord-

ing to the same custom, tradition, and culture, the man is expected to take care of the household and build houses for his wives.

### **Influence of the Extended Family System**

Because of insecurity in the household, spouses keep close ties with their first families to which they fulfill economic commitments.

*Hope*, who has been married for thirteen years, informed her husband about the house when it was up for sale since she works in the building section of the ministry in charge. She knows that her name is not on the lease because her husband is fond of telling her to move out of his house any time there is a misunderstanding. "If my name is there, he will not do so." She has no house of her own but she contributed to the building of her parents' house because she knows they can never reject her. She is aware of her rights and does not push for them just to keep peace in the home. If she raises the issue of inclusion of her name in the deed, it will trigger anger and bitterness on his part. "It is the fault of our social system which gives the man the freedom to do whatever he likes and the wife either takes it or ships-out." Educated women are the most prepared to subjugate their rights to the requirements of society, to subordination of women to their husbands' whims and caprices, so as to keep their marriages.

### **Influence of Diverse Upbringing**

Because of diverse upbringing by different cultures, customs, religions, etc., most married couples view their homes differently.

*Beauty* has been married for ten years. She did not contribute anything because she did not know that her husband was building a house. She learned of it by accident through a friend. When she confronted him, she was told that it was meant to be a surprise. Automatically, she assumed his name alone will be on the title to the property. She does not have any stake in the property and in case of divorce, she does not expect any benefit from it. She feels that this is because the orientation of a home is not in her household. It has to do with the different background of both of them. According to her, a man from a polygamous home, although married by the common law, does not know how to make a home with a woman. All he knows is that his father and mother lead separate lives and that is what he brings into his own married life. She knows that the level of awareness of women is very low and

that they should be educated about owning houses of their own without depending on their husbands.

### **Professional Influence**

From their experiences of the few cases that get to the law courts, some of the women are insisting on their rights.

*Janette* has been married for ten years. She keeps a joint account with her husband and he consulted her before buying the land and building the house. Initially in their married life, the husband's name was on their possessions, e.g., furniture, cars, etc., but with her experiences in the law courts as a lawyer, she had to change things. This is why she insisted that her name should also be on the deed of the house. The reason is that the extended family members can be very troublesome, especially within her own traditions. She said that, generally, Nigerians have a superstitious phobia about writing wills and that women are fond of blindly trusting their husbands. They built the house through their joint resources and took a loan together from their bankers. Because of the confidence he gave her, she decided he should control the disbursement of the money to the workers. She could not see married women taking active part in housing finance except for direct enactments and judges are becoming more accommodating to the needs of women. She thinks that women should be more vocal and active in demanding their rights, educating the nation, and demanding actions, although there is the problem of intimidation both at home and in society.

### **The Men's View on the Issues**

The views of some men were sought and reported, to balance the presentation.

*James* has been married for eleven years. He told his wife that he had bought land after the fact, and he did not consult her before he started the building, although she knew about it as the work progressed. He behaved in this fashion because he knows that she does not want to contribute to anything in the household although she earns as much as he does. Since he was spending his money, he did not need her consent. Of course the title to the property is in his name alone because whatever he has belongs to him and his children. He does not think that the house belongs to the two of them because she is always resisting contributing so, in case of separation, she has to move out of his house. He feels that contribution to housing finance in whatever form should be



voluntary, and it is the materialistic nature of women, especially the married ones, that is the major block to their better treatment by their husbands. He thinks that for women to be able to assist in housing, they must change their attitudes, and that if a wife is cooperative, a man does not need the law to tell him to include her name in the title to the property.

*John*, who has been married for seventeen years, has seven children. He is proud to admit that he has a very close relationship with his wife. He discusses everything he does with her, although they do not keep a joint account. After he has praised her with all the superlatives, it is surprising that his name is the only one on the title to the deed to the house. His explanation is that there is no need to put her name on it since she belongs to him; it is contrary to our culture; and as far as his inheritance is concerned, she is number one although he has not made a will. He admitted that his wife played a very important role in the building of the house by contributing financially and morally, and by giving him encouragement. He never contemplates divorce, because as Christians they cannot divorce. He knows that, if they have problems, prayers will solve them.

### **The Problem of Marital Laws in Nigeria**

The problem with marital laws stems from the infusion of the common law instituted by the former colonial administrators into the existing customary laws. Thus, in contrast to the Europeans' one-system law, Nigeria operates three systems: common law, customary law, and Islamic law. The common law has remained at the state of English common law when women were classified with children and lunatics. This has resulted in confusion, with the result that women are unable to take their husbands to court for most of the offenses the men get away with. The revised constitution of 1949 declares that there is no child that is illegitimate; thus men now openly commit bigamy. If women take their husbands to court for bigamy, very few marriages by the common law will be left in the country. Also, women have realized the futility of embarking on prosecution for bigamy, because the judge, who invariably is a man, will in most cases be guilty of the same offense. In customary and Islamic law, a man can have more than one wife.

In Nigeria, in case of rights *intervivos*, it seems that in every type of marriage the husband has automatic right to the wife's property, but the wife has no such reciprocal right to her husband's property. According to the common law, all and any property of the wife brought to

the marriage or acquired while she is married belongs to both of them, unless the wife clearly manifests a contrary intention. The same is not true of the husband's property. Even when she has contributed, she must be able to show concrete evidence of her contributions.

No system of customary law gives the wife any right to inherit her husband's property. It does not recognize monetary or non-monetary contributions by the wife either to the marriage or to the purchase of matrimonial assets as constituting a claim to an equitable interest in any of the properties owned by the husband. Although Islamic law generally encourages the principle of separate properties, the same principle as that of the customary law applies. In both customary and Islamic law, as observed by Akande (1979), the wife is herself a property of the husband. Therefore, whatever she acquires in marriage is a property of the husband.

In all systems, a divorced wife must vacate the premises since her right to remain depends on her continued marriage to the husband. She has no claim to the property. With regard to inheritance, a wife has no succession rights to her husband's estate, irrespective of her contributions toward the acquisition of the property. At the same time, a woman cannot acquire or hold an interest in property which her husband built in the village, even if she contributed to the cost of its building.

### **Findings and Implications for Women's Involvement in Housing Finance**

1. The social and cultural norms in Nigeria have very strong effects on the behavior of spouses irrespective of the type of marriage contracted.
2. Married women's potentials in mobilizing resources, especially for housing finance, disbursing same, and making sure that mortgages are paid regularly, have not been utilized because of the identified constraints of marital laws existing in the country.
3. A woman's effective possession of the resources she produces or earned within the household is determined by her relative power *vis-à-vis* her husband's, whereas the husband's control of the resource she creates depends on him. In most of the customs existing in the country, she does not have any rights.
4. A long habit of not thinking a thing wrong gives it a superficial appearance of being right, especially when it is a custom with a religious foundation that has always favored a dominant group. There must, therefore, be planned interventions as distinct from autonomous

processes of social change. And, as argued by Lele (1986), it is by changing the mix of legal institutions, education, and economic incentives, that public policy over time will make a significant difference to social choices affecting female members of traditional households.

5. Two concepts of sharing in households have emerged: total sharing and partial sharing of resources between spouses. Policies must recognize the two concepts for them to be effective. Partial sharing gives the wife room to have her own investments irrespective of the contributions she makes toward the husband's investments. Laws are needed to back up her ownership. In the case of total sharing, the study has shown that the family set-up is not conducive for it to be effective.

To utilize the potentials of about half of the population, policies must recognize that there are different actors in the household and, therefore, must be directed at individuals in the households rather than households themselves.

When a house is being built, the spouses do not anticipate future separation. As argued by Lord Denning (1980), if the whole of the husband and wife's resources are expended for their joint benefits, then the product should belong to them jointly. This is the crux of the problem — the inequitable distribution of household benefits. It is only when married women know that they have a stake in the properties that they will be willing to assist in their financing and execution.

We can argue that policies should move in this direction, but we must recognize that, because of tradition and culture, the task will be formidable. What we need, first, are judges who are forward-looking activists, who recognize that women are persons and not things as already stated in the Nigerian constitution.

At present no organizations give credit specifically to women for housing in Nigeria. It is necessary to recognize that women can own houses of their own, even when they are married. It is surprising that, although women use housing more than men, they participate less than men in the execution of the projects. The men conveniently refuse to recognize their invisible contribution through subsidizing other household expenses. It is not possible to correct this imbalance found to exist in property right bias between husband and wife without legislation (Lord Denning, 1980).

But when legislation is needed to correct injustices passed down through tradition and custom, then it is society, epitomized by the judiciary, that has to decide to

rid itself of this injustice. Only when women know that they have a right to what they earn, have a right to the houses they build with their husbands, that they will willingly assist in acquiring housing for their households. But tradition is a matter of process, and ridding it of negative influences will also have to go through stages.

## Summary

It would be difficult and pretentious to end this paper with a conclusion since the lessons of how to finance the provision of shelter are still being assimilated and absorbed. Some of the issues are becoming clearer. There is a growing awareness of the need to seek pragmatic solutions to the problems that arise, to listen and learn from the people themselves about their experiences and what must be done to maximize their involvement in acquiring and using available resources. Since the problem has strong cultural connotations, global generalizations cannot be made.

The country's marital laws, especially regarding property and ownership, are the major constraints on married women's involvement in housing finance. But the resource women represent cannot be useful until society is ready to recognize its importance and therefore changes its retrogressive attitude to women. At the same time women's organizations should not relent in their efforts to educate the populace through lectures, conferences, and research of this nature so as to direct the attention of men to the benefits and the importance of participation of married women in housing finance and to the interrelated problems that face women in the urban environment.

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