

# “This House is Not for Sale!”

A discussion on securing assets, ‘dead capital’, and creating wealth for tomorrows unborn.

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# Nigeria



# Western World



*not quite*

**OPEN**

**FOR BUSINESS**

# Nigeria



# Western World



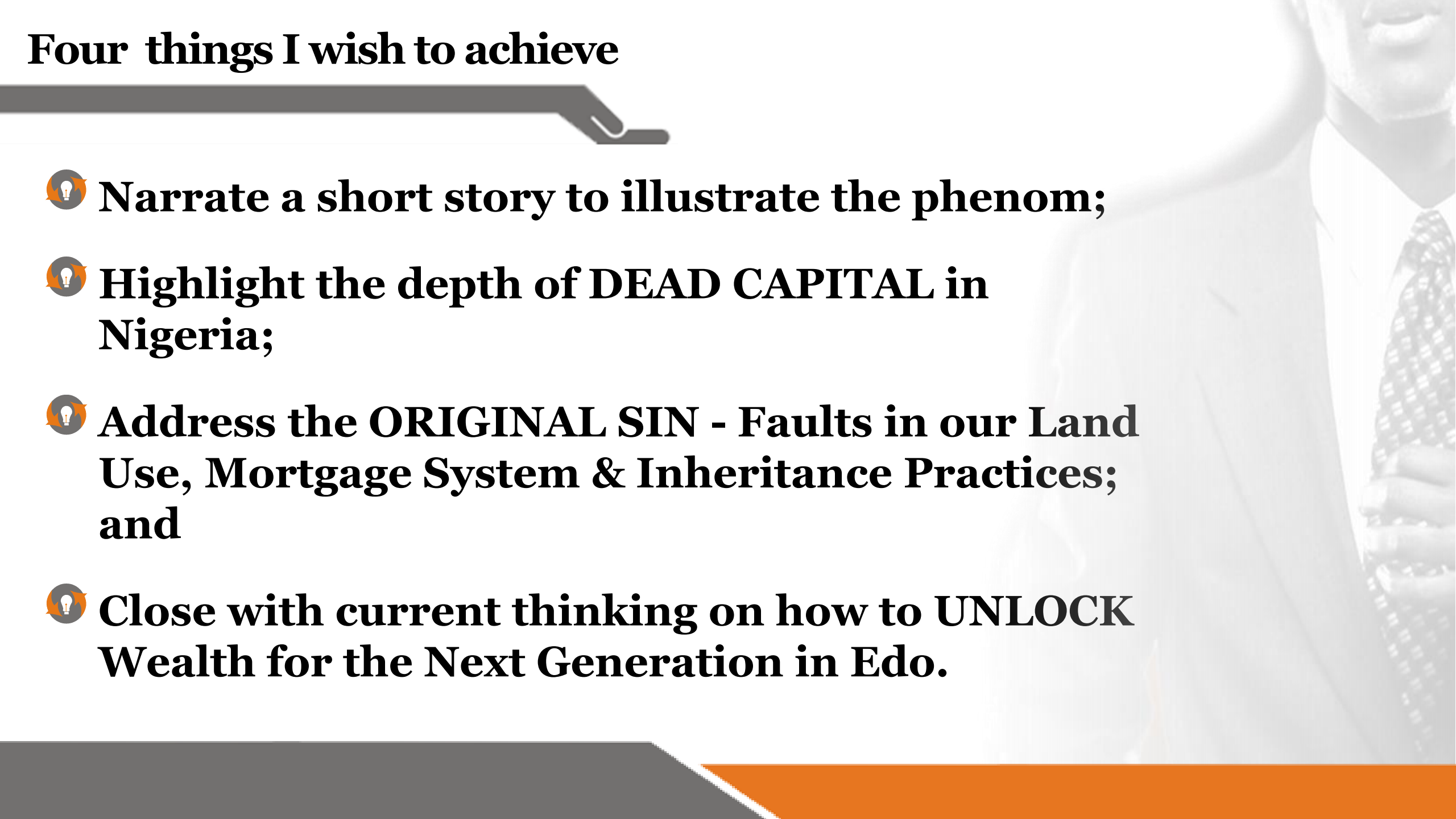


# The Clues are in the OPEN:

**The visible sign of a vast hidden process that connects assets to the economy (or disconnects it).**



# Four things I wish to achieve



- 💡 **Narrate a short story to illustrate the phenom;**
  - 💡 **Highlight the depth of DEAD CAPITAL in Nigeria;**
  - 💡 **Address the ORIGINAL SIN - Faults in our Land Use, Mortgage System & Inheritance Practices; and**
  - 💡 **Close with current thinking on how to UNLOCK Wealth for the Next Generation in Edo.**
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- 1. THIS HOUSE IS NOT FOR SALE!..**  
*A case study to understand...*



# Mr Imafidon ...

- 💡 Mr. Imafidon was a very educated, wealthy and industrious man who amassed substantial wealth and assets during his lifetime.
- 💡 As a young man he excelled in academics obtaining a Masters degree from University of Nigeria, Nsukka at the age of 24 and was very knowledgeable in the area of financial accounting. Due to his academic excellence, he was invited to the University of Alberta, Canada where he obtained his Doctorate degree.
- 💡 While on his visit to Canada, he came down with severe cold and shortness of breath, and later diagnosed with acute pneumonia. After treatments did not yield the desired results he returned home.
- 💡 For about two years, he suffered severely from the illness and later died on the 24th of March 2014 at the age of 45.
- 💡 He died without “A Will” leaving his properties to change of ownership based on the provisions of native law and custom.

## Mr Imafidon ...

● Soon after his death, his second son, Omoruyi Imafidon who has always had a witty attitude and has been nursing intentions of relocating to the United Kingdom, began selling off his father's properties to enable him gather funds to cover his travel expenses.

● Mr. Nosa, the deceased elder brother and a closest confidant, who had access to some documents relating to the Late Mr, Imafidon's assets also started selling off some of the assets.

● Mr. Imafidon's wife and other children, aware of the situation, took steps to prevent further sell-off by putting up the inscription "**THIS HOUSE IS NOT FOR SALE!**" on the deceased properties.

# This House is Not For Sale...

Literarily, the concept means the house *in question* is not under consideration for sale by the original owners.

It is a sign of caution for buyers to avoid scam by fraudulent agents.



## **This House is Not For Sale *to* dead capital...**

• Properties with the inscription- “**This house is not for sale!**” are mostly ***abandoned properties*** which cannot be exchanged for financial or economic capital... such properties are said to be ***dead capital***.

💡 To buttress the point... since 2014 when the inscription was written on some of Mr Imafidon’s properties till date, the said properties have been **lying waste** and **diminishing in value**.

# This House is not for Sale... the main issues



- ❖ Lack of ownership
- ❖ Non-registration of ownership rights
- ❖ Poor property documentation
- ❖ Inability to legally transfer
- ❖ Inability to leverage on the property as collateral



## 2. **THE DEPTH OF DEAD CAPITAL IN NIGERIA** *The Edo and Others*



# Dead Capital in the News Headlines

“Nigeria holds \$900billion dead capital in real estate...”

-PwC (Proshare, May 2019)

“FCTA decries rate of abandoned buildings in Abuja...”

-Premiumtimes (Jan 2021)

“Gbajabiamila inaugurates committee on Abandoned FG Properties...”

-Vanguardngr (May 2020)

“100 billion abandoned property should trouble our conscience...”

-Businessday (May 2020)

“Abandoned housing projects litter Nigerian cities...”

-Vanguard (July 2018)

“FG's abandoned properties valued at N230 billion...”

-Nairametrics (Feb 2021)



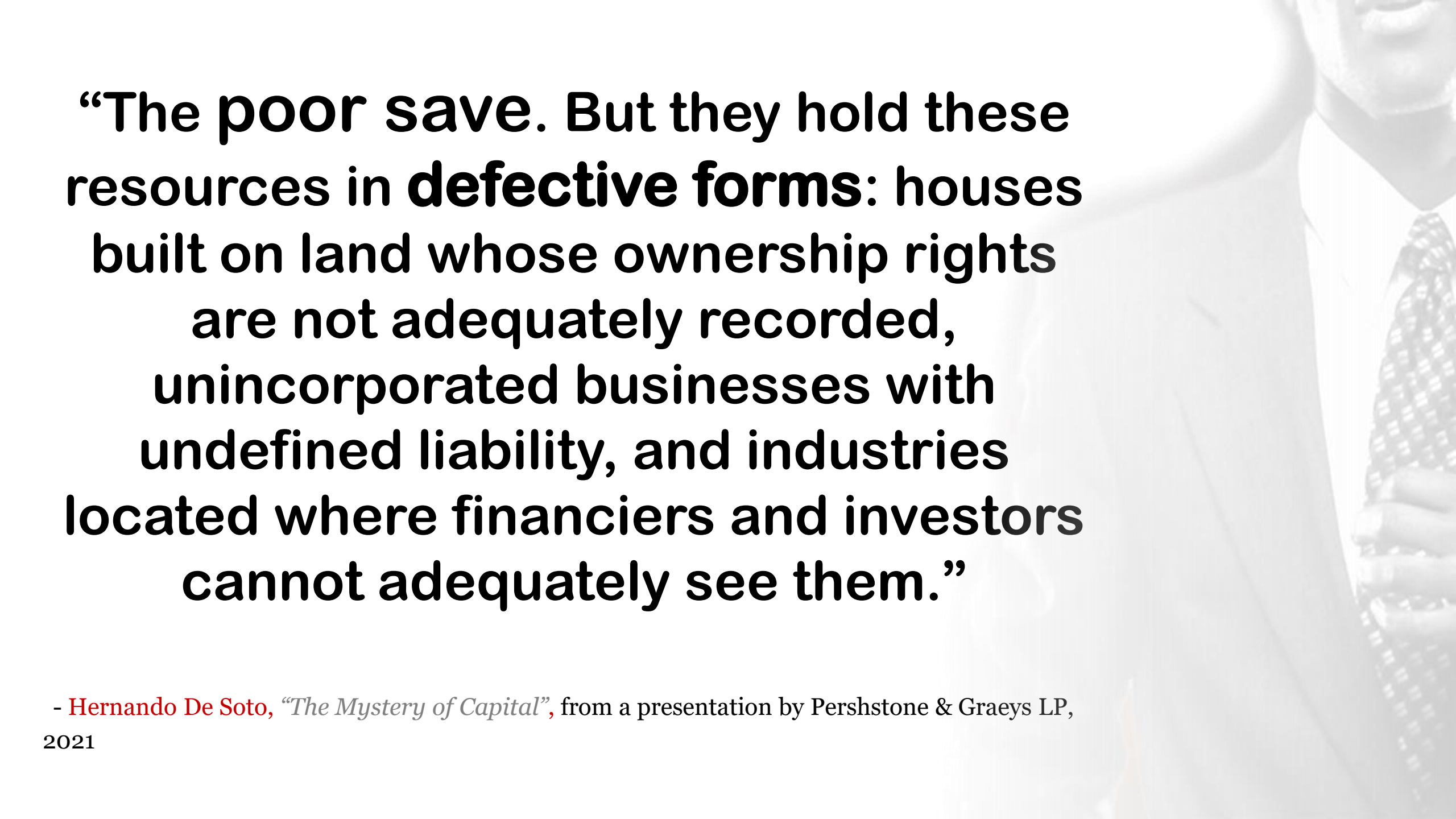
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PwC estimates that Nigeria holds at least \$300 billion or as much as \$900 billion worth of dead capital in residential real estate and agricultural land alone. The high value real estate market segment holds between \$230 billion and \$750 billion of value, while the middle market carries between \$60 billion and \$170 billion in value

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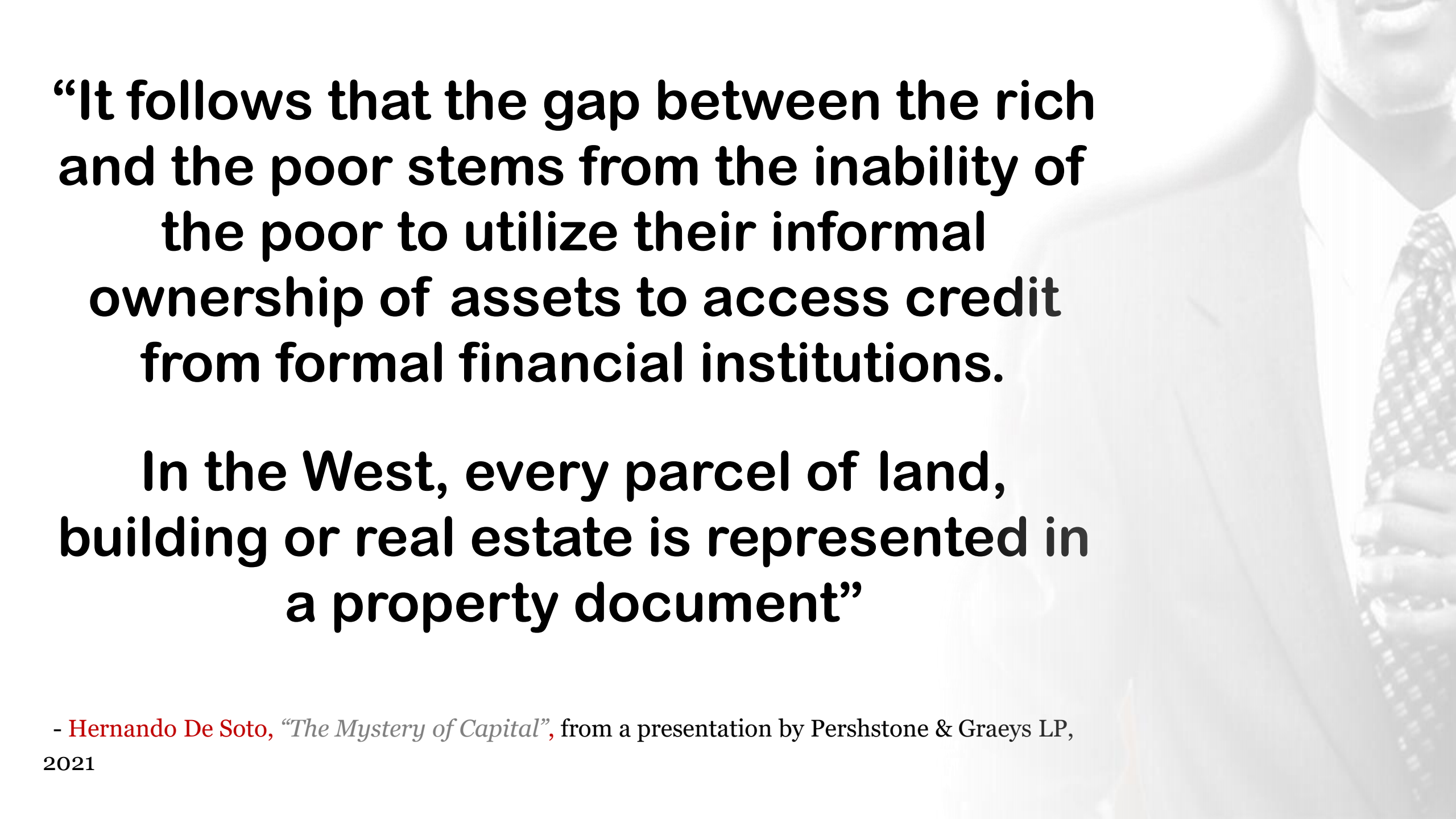
# A Quick Reality Check...

- Capital is scarce in societies with large stock of dormant assets. Ideally, a **standard description of assets** lowers the costs of economic transactions, as it *provides security* for parties involved by making transactions legitimate and legally binding.
- However, a lack of description makes transaction costs too high to be economically beneficial for both parties.
- The poor are therefore unable to leverage their assets and possessions for economic gain.



**“The poor save. But they hold these resources in defective forms: houses built on land whose ownership rights are not adequately recorded, unincorporated businesses with undefined liability, and industries located where financiers and investors cannot adequately see them.”**

- **Hernando De Soto**, *“The Mystery of Capital”*, from a presentation by Pershstone & Graeys LP,  
2021



**“It follows that the gap between the rich and the poor stems from the inability of the poor to utilize their informal ownership of assets to access credit from formal financial institutions.**

**In the West, every parcel of land, building or real estate is represented in a property document”**

# Dead Capital...

- Globally, about 4 billion out of the estimated 7 billion people live outside of the formal legal system. *The unregistered and inhabited property held by the world poor population is valued at \$9.3 trillion.* - Hernando (2001)
- Nigeria has become the **world's junk-yard of abandoned projects** worth billions of naira and it is greatly unthinkable that Nigeria blessed with so great potentials in the construction industry can experience such magnitude of project abandonment. - *Osemenan (1987)*
- All states in the country are flooded with weed-covered **dead capital**.



### **3. NIGERIA LAND TENURE & MORTGAGE SYSTEM** *The reason for dead capital*



# Nigeria Land Tenure System...

- ❖ Land tenure system in Nigeria is largely in the communal and informal sectors.
- ❖ Land ownership has been quite a stressful process as a result of this complex land tenure system.
- ❖ The current legal status overseeing all formalization of land ownership in Nigeria is the **Land Use Act 1978**.
- ❖ Nigeria Land Use Act vests all land ownership in the urban areas to the state Governor who has the right to grant statutory right of occupancy to individuals and organisations.
- ❖ Only the Federal Government land is excepted.

# Nigeria Land Tenure System...

- ❖ The main objectives of the Land Use Act were to:
  - prevent speculative purchases of communal land;
  - simplify and modernize the management and ownership of land;
  - ensure availability of land for governments development purposes; &
  - ensure land tenure security in land administration.
- ❖ 43 years after, and the Act is yet to achieve the set objectives.
- ❖ For instance, **the Act strips citizens' ownership title to the land and it also suppresses land equity and remove tenure security.**

# Nigeria Land Tenure System... the woes

- ❖ Nigeria land administration under the Land Use Act 1978 is quite erratic and lacking in purpose and functions.
- ❖ It has resulted into many intractable issues: **insecurity of land title, endless litigation, disputes among families, underdeveloped mortgage market, and lopsided property tax regime.**
- ❖ The Act proposed a uniform national land administration, but created 2 administrative organs and 3 regulatory entities -National Council of States (NCS), State Governor (SG) and the Local Government.
- ❖ Naturally, there exist **confusion** as to the role of the NCS and that of the SG given that the determination of what constitutes non-urban land is at the discretion of the state governor.

# Nigeria Land Tenure System... the Edo woes

- ❖ Nigeria ranks **184** on the global scale in terms of *registering a property*.
- ❖ As in many states in Nigeria, it takes *Benin city, Edo State*, an average of 14 procedures and 68 days to register a property, costing up to 19.2 percent of the property value.
- ❖ This is due to the **low quality of land administration** in Edo State - scoring 5.0 (in 0-30 index).
- ❖ In terms of ease of *obtaining construction permits*, Nigeria ranks 149 and requires 17 procedures, 118 days, and 27.5% of property value.
- ❖ *On the ease of obtaining construction permits*, Edo State ranks 29 and requires 14 procedures, 61 days, and 4.2% of property value.
- ❖ This encourages more informal construction of properties and increases risks in the real estate sector.

# Nigeria Mortgage System... the woes

- ❖ Nigeria Mortgage Finance requirement is between ₦15 - 20 trillion conservatively.
- ❖ Stock of housing in Nigeria is estimated at 10.7million with only about 5% in formal mortgage.
- ❖ About 91% of home equity/saving in residential developments are **dead capital**.
- ❖ Yet, housing shortfall in the country is estimated at between ₦12 – 16 trillion.
- ❖ Homebased ownership in Nigeria is estimated at **10%** compared to 72% US, 78% UK, 60% China, 54% Korea, and 92% Singapore.
- ❖ As at 2019, Nigeria mortgage to GDP was 0.6% compared to 60% US, 70% UK, 30% South Africa, and 2% in Ghana.

# Edo State... *Land Registry in Benin City*

- ❖ Edo State has a regime of taxes and levies on property owners prior to the registration of their interests.
- ❖ These payments included
  - Capital Gains Tax on the property,
  - stamp duties on the value of the property after assessment by a registered estate valuer,
  - presentation of tax clearance certificate or payment of N100,000 in lieu of tax clearance certificate where the purchaser is not resident in Benin City and by implication does not pay tax to the Edo State Government.

## Edo State... *Land Registry in Benin City*

- ❖ Property owners were also required to lodge survey plans covering their property with the office of the Surveyor General or risk being rejected.
- ❖ Where the transaction is a mortgage, the cost of perfection was 5% of the mortgage sum. *This has been drastically reduced to 0.5%.*
- ❖ Historically, the length of time it takes for the Governor to give his consent has in all cases proven quite restrictive.
- ❖ The procedure for obtaining Certificates of Occupancy and the associated fees still remain in need of improvement.



## 4. UNLOCKING WEALTH FOR THE NEXT GENERATION...



# Current measures in Edo State

- 💡 The Edo State government has recently funded a scheme of e-initiatives to improve registration systems through computerization and digitization of records and geographic information systems.
- 💡 The Ministry of lands has now been replaced by the Lands Bureau -a one-stop shop land regularization scheme.
- 💡 The Government has set in motion an innovative mechanism for granting electronic Certificates of Occupancy in recognition that this singular innovation has the capacity to convert otherwise dead assets to capital.

Small but deliberate actions inspired  
by true desires create what we want.

-Danielle LaPorte

# Reforms Required - Edo State...

- ❖ There is a need to review the entire legal and regulatory process as well as the attendant infrastructure in the following respects:
  - **Titling all properties:** Beyond the GIS, verification of title documents from each household will trigger a chain reaction that would assist those with properties under litigation to convert same into a liquid asset, domiciled as a trust fund. Whoever succeeds in the litigation is entitled to the fund.
  - **Insuring all titles in its registry:** All the titles issued under the above scheme may then be subject of title insurance. In effect where title is defective and such property is introduced into the financial system, the State bears some of the risk of that defect. The overall benefits of converting most assets into capital or bankable asset will far outweigh the risk that the State is absorbing from insuring every title.
- ❖ Other recommendations which the State may introduce are as provided in the World Bank report some of which have been implemented in Lagos State. These recommendations can be classified in categories: short, medium and long term.

# Reforms in Edo State... *Land Registry in Benin City*

- **Enhancing legal infrastructure and reducing delay in foreclosure cases:** Lenders experience inordinate delay with cases dealing with enforcement of loans and debts where the collateral is real property. It is recommended as done in Lagos that a court or courts be designated within the High Court, to fast track mortgage related cases.
- **Introducing a mortgage law:** The State has the capacity to enact legislation that removes the pitfalls in the mortgage industry, if not all the inhibitions that currently plague the current system. For instance, a law that a dispute between the banker and the borrower will be resolved by arbitration in the first instance. The borrower more or less forgoes his right to proceed to court.
- **Democratising the issue of consent:** The Governor may consider delegating the power to issue consent for mortgage related cases to a commissioner. This will inevitably compliment the one stop registration programme already in place. In essence the electronic Certificate of Occupancy may be issued by designated Commissioners in the Cabinet. Eg Lagos State.

# Reforms in Edo State... *Land Registry in Benin City*

- **Law on Registration of apartment buildings:** The State can also be innovative to prepare and adopt a new law on registration of apartment buildings and multiple unit developments. This can be further strengthened by making provisions for management of properties by legally empowered homeowners' associations.
  - Effectively the present law seems only to recognise rights attaching to Certificates of Occupancy and or leases of entire rights attached to such certificates.
  - Consequently there is a gap in situations where numerous apartments are built on land having a single Certificate of Occupancy. The owners of such flats neither have Certificates of Occupancy, nor a lease of the Certificate of Occupancy. At best each has a fragmented lease derived from a common Certificate of Occupancy.
  - It becomes complex to establish legal rights to common appurtenances and common rights of ways. It is recommended as done in Lagos State that a court or courts be designated within the High Court, to fast track mortgage related cases.

# Six Main Effects of Property Formalisation...

- 💡 It restore the economic potential of assets.
- 💡 It unifies the different property systems.
- 💡 Integrating the property systems makes individuals accountable.
- 💡 It also uncouple the economic features of the property.
- 💡 Attaching ownership to property create a network of stakeholders who are identifiable and accountable.
- 💡 It also protect transactions.

# Property Trustee...

- ❑ Property trustee is an arrangement where a person and firm holds and manages property in good faith for the original beneficiary.
- ❑ Commonly used when the beneficiary is immature or lack the requisite capacity.
- ❑ However, the prevalence of dead capital in contemporary time underscores the need for many properties to be held in trust whether or not the beneficiary is mature till the beneficiary will be ready for its development.

# Property Trustee...

□ Adopting property trustee model has many advantages for growth and investment purposes:

- 💡 An investment driven trustee is a viable alternative to avoid dead capital in the absence of the real beneficiary to develop a property.
- 💡 Trustee is obligated by law to act in the interest of the beneficiary. Hence, he protects the value of the property.
- 💡 Most trustees have special knowledge on trusts and investments which help to further increase the value of the property.
- 💡 Trustees are paid for their services which further add to economic activities.

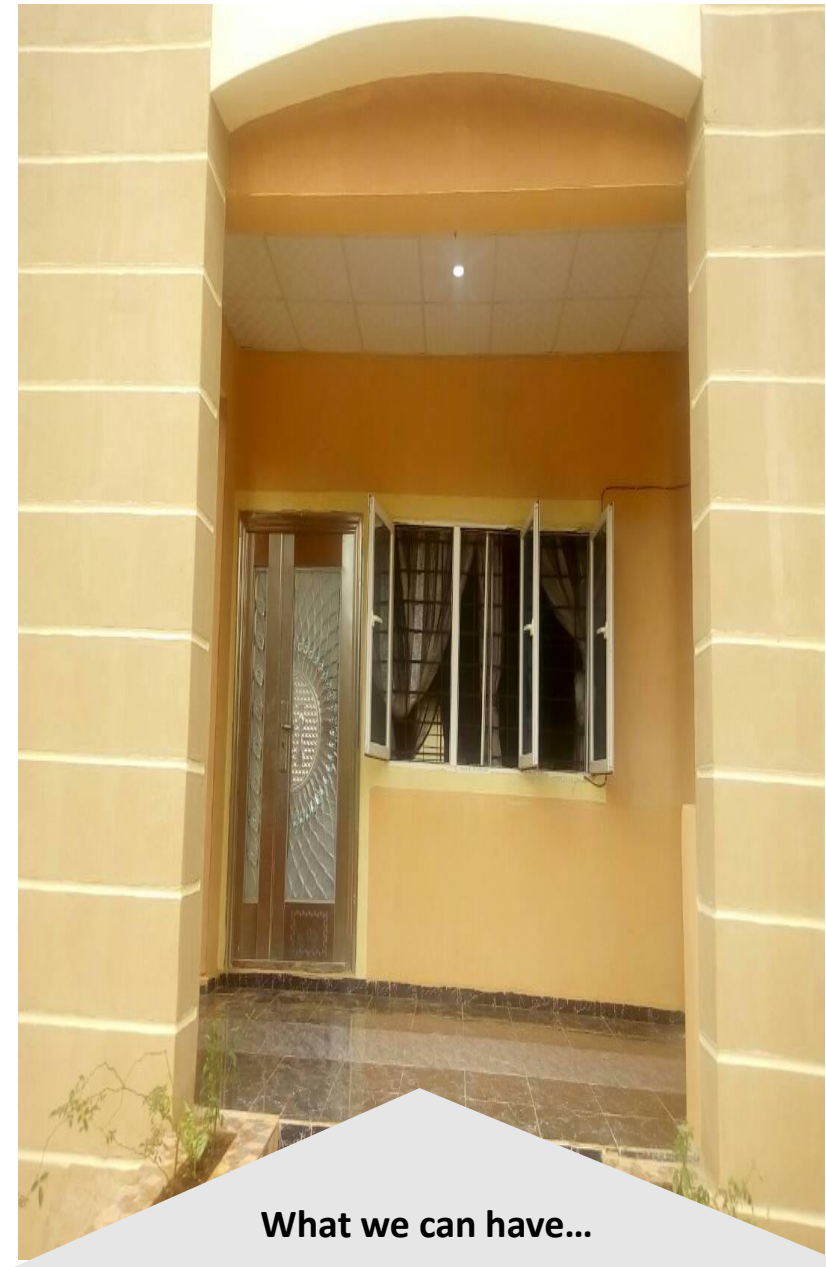
# Checks on the inscriptions...

- A mechanism can be developed by the government to register formally all of such inscriptions in the economy.
- Where formal title exist, the designated authority can issue a statement for the development of the property to the titleholders who had abandoned the property for up to 10 years.
- In the absence of property title, the designated authority on behalf of the government can lease the property in trust till all issues on the property are resolved.
- Forceful takeover and development of abandoned property should be adopted as a last resort.

# Securing this Landed Assets...

- ❖ There is need for a modern and **streamlined extant land administration policy** to enhance access to land for the purposes of home ownership, agriculture and infrastructural development.
- ❖ Legislative effort is also required in land reform to review the inconsistency and void in the nation's land tenure system. In short, we need to **decouple, deconstruct and reform** the Land Use Act.
- ❖ Institute a free-market **mortgage system in Nigeria** by setting up appropriate infrastructure (or updating the mandates of existing ones).
- ❖ **Automate** the land registry and processes.

**What we have...**



**What we can have...**

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# Thank You



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