

2. What happens if I get a Certificate of Customary Ownership?

If you want an official paper to say you own the land, but don't want to get a freehold title to your land, you can apply for a 'Certificate of Customary Ownership' (CCO). You cannot apply for this certificate if your land has already been registered, that is, if a title already exists for your land. You can apply for this by going to the Area Land Committee, and the Certificate is then issued by the Recorder (the Sub-county chief). Unfortunately, although Parliament created these certificates nearly ten years ago, most Districts have never offered them, and few people know what they are. As a result, there is a lot which we don't know about how the certificates will work - it is only with experience that we can say how the Courts will consider them, how the rights of different people to use the land will be protected, what procedures will be used for updating the certificates when there are land sales or upon inheritance when the certificate holder dies. In principle, you can get a certificate for land which you own either in rural or urban areas, as long as the land has never been registered (i.e. had a title issued for it). Unfortunately, the laws governing customary tenure are not very clear. You may need help in proving your rights to a Certificate. This situation should gradually improve if more people apply for CCOs.

Advantages of having a Certificate of Customary Ownership (CCO)

A CCO is an official document from the State saying that you are the owner of the land, because customary law recognised you as the rightful owner of the land. This can be used as proof of legal ownership if you want to sell the land, or if you have any land dispute. (If someone else manages to get a title issued on your land, this certificate may help you prove fraud or theft, but the title may still be regarded as having a stronger claim on the land.) It is much easier to write many names on a CCO than on a title- although there is nothing in the law which limits the number of names on a title.

The CCO has a map attached to it, so it also proves where your land boundaries are. This will reduce boundary conflicts because you will have formal proof of where your land ends. (However, the 'map' is not formally surveyed with marker stones, and so unless it is made very clear where the borders are, e.g. by planting marker trees, it is still possible for there to be a dispute about where exactly a boundary lies.)

In order to get a certificate, there has to be a public process with your neighbours of marking out where your boundaries lie and having a map drawn showing you own the land. This process is a public demonstration that you are regarded as the owner of the land and where your boundaries are. This alone should help reduce conflicts on the land.

A certificate will help protect you from land grabbers. It is an official document that you own the land, and this will be recognised by all courts in the country. Since the certificate is based upon the fact that you are regarded as the rightful owner by customary law, you will have to demonstrate that your

community or clan accepts that the land is yours. This means that in the future, your certificate should also be recognised by the clan heads or by your community, as well as by LCs and Magistrates.

A certificate will help you protect your land from claims by other members of your family. For example, if the family head tries to sell your land, your certificate will be proof that he had no right to do so and so the sale will not be valid.

The certificate will help ensure that the land will go to your wife and children (and anyone else) when you die. The simplest way to do this is by including their names on the certificate. In this way, even if one of you dies, the certificate will still be 'alive' in the names of all those remaining. You can also write a will, so that the people you want to leave the land to can have their names put on the certificate, to prove that they are the new owners of the land. Even if someone else tries to take advantage of them and to grab the land, they will always be able to come back and reclaim the land, for example, by going to court.

A certificate is much cheaper to acquire than a title. A title to land, including the costs of surveying, may cost hundreds of thousands of shillings. However, a certificate should only cost 10,000/-; that is 5,000/- on application and another 5,000/- when it is issued.

A certificate is much easier to obtain and to amend than a title, since it is administered by the sub-county. (You have to go to the District and Kampala in order to administer a title.) It should only cost 5,000/- to change the name on a Certificate on the

death of the owner, and 10,000/- to change the name if the land is sold.

You may be able to use the certificate as security for a loan with a bank. This may make the loan cheaper, since the bank does not have the risk that it will lose its money if you fail to repay the loan. However, you should remember, that if you use a certificate (or title) as security for a loan, you may lose the land if you don't repay the money you borrowed.

Once there is a certificate to a piece of land, all transactions on the land should be recorded with the sub-county. This means any sales of all or part of the land, any marriage, any gifts, and any inheritance should be officially written down. This will help reduce conflicts in the future.

According to the law, the land should remain as customary land, which means that customary law should still apply on the land. This means that the rights which different people have over the land will not change - e.g. if members of your family or your community had claims to use the land in some way, perhaps to graze animals or to fetch water, they should keep these rights. The principles of inheritance will also apply in the same way. If you needed permission to sell the land as customary land, you should still need the same permission even with the Certificate. This is in some ways an advantage, because the certificate should not create conflict with your family, with your neighbours or with your community, because no-one's rights should change. However, it is not easy for us to give good advice on this, because it is not clear

Disadvantages of having a Certificate

A Certificate is not as 'strong' in some ways as a title. There is no formal survey of the boundaries of your land. If someone manages to get a title to your land, in some way, the Law may regard this as a stronger claim on your land - though you should have some proof that there has been fraud and could get compensation.

A certificate is not free, though it is cheaper than a title. You need to "keep it alive", by registering and paying a fee of 5,000/- each time land is inherited, or 10,000/- if it is sold or given as a gift.

Although the process of getting a Certificate is easier than a title (and may not need any documents written in English), you still need to know what rights to claim and how to claim them. Some local authorities don't know much about customary law, about your rights to a CCO, or the fact that customary owners of land remain the legal owners even when the land becomes urban land. You may

how CCOs will be administered in practice. Courts are not very familiar with the ideas of customary law, and they sometimes think that 'their' ways of doing things are the only 'legal' ways. Therefore, we cannot be sure how Courts and recorders will regard rights over land with a CCO, or the rights of other people with other claims on your land, and whether they will properly apply customary law. For example, they may insist on 'formal' letters of administration in order for someone to inherit the land, as with a title. These can be difficult and expensive to obtain, since you may need the help of a lawyer. If in practice the Courts and Recorders insist that all rights and transactions on land with a CCO need to be 'properly' registered, then a CCO will have more of the advantages and disadvantages of a title, although registration will be easier (at the sub-county, not Kampala) and cheaper than for a title. (You can read the accompanying leaflet on '*what happens if I get a title*' to understand this better.)

Having a certificate should make it easier to sell or rent land. Someone who wants to buy or rent land will see that the Certificate proves that you own the land and there is less risk of them losing their money in a fake deal. This will make them more willing to buy or rent the land, and may mean you can get a higher price for a large land, especially in urban areas.

You can decide later to turn a CCO into a freehold title, if you pay to have your land surveyed, and pay for the title. (The advantages and disadvantages of doing this are discussed in the accompanying leaflet on '*getting a title*'.

need to find help in persuading the authorities to give you your Certificate.

The process is currently very difficult, because your claim to the land has to be verified by an Area Land Committee and then registered by the sub-county recorder (who is also the sub-county chief). However, in most places, Area Land Committees have never been set up by the District, and Sub-county chiefs are not working as Recorders. You may need help in pushing the District to respect your legal right to obtain a Certificate.

We simply don't know how ownership of land will be transferred where there is a Certificate. There is no reason why you should need formal 'Letters of Administration' from a Court which is what you need for titled land. Letters from your community (clan heads, family heads, etc.) should be enough, since the land is owned under customary law. However, we cannot be sure what Recorders will actually ask for.

