

Owning Land In Botswana: What the prospective buyer must know

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When a prospective buyer is considering buying land - a farm or plot or stand - in Botswana, the person must first take note of how land ownership in Botswana works.

What type of land is there?

The right to land is determined by what type of land it is, which is determined by law:

- State land, is governed by the State Land Act, Cap. 32:01;
- Tribal land by the Tribal Land Act, Cap. 32:02; and
- Freehold provided by the Land Control Act, Cap. 32:11 if it is agricultural land.

What is a Title Deed?

The document registered with the deed's office, in terms of the applicable legislation and is not necessarily card and transport as we understand it. It can therefore be freehold or lease hold.

State land occupies only about 4% of the total area of Botswana and in exceptional cases it can be leased from the Botswana government.

Tribal land covers about 71% of the total area of Botswana and for each area there is a Land Board tasked with the Tribal Land Act to

regulate the allocation and use of land in its area. Leases are usually awarded for 50 years with an option to renew them for another 50 years, but may vary;

- The purpose of the law is to regulate land for the benefit of citizens of Botswana;
- The initial leases may only be awarded to a Botswana citizen;
- No alienation of rights acquired in terms of a Lease will be valid if the Land Board has not approved it;
- A foreigner can therefore only take over rights in an existing Lease, but must first approve the Land Board and will only do so if Ministerial permission has already been obtained;
- Usually the lease contains a condition - Building Covenant - that depending on the use allocated to the property, certain improvements associated with it must be completed within 2 years;
- If the Building Covenant has not been complied with, or rights have been taken over by a foreigner without the necessary permission, the lease agreement cancelled - the so-called "Building Covenant";
- The lease can be registered with the Deeds Office;

Unfortunately, a practice has emerged to suggest to foreigners that it is sufficient to repurchase the shares of a company that is the lessee of tribal land, but as pointed out, the lease can be declared void without any compensation from will be paid.

Freehold is the ground for which card and transport can be given. However, where it applies to agricultural land, the Land Control Act provides that if a foreigner wishes to hold more than 49% of such farm, ministerial permission must first be obtained.

The Romans' saying of over 2000 years ago that reads: Caveat emptor - let the buyer beware, is definitely applicable, because there are many pitfalls in which you can step! But with the friendly people and security in Botswana, owning land in Botswana is more than worthwhile and the Swiss Africa Group can assist you to do it right and legally.

The Swiss Africa Group

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