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Host Country Ownership Risk and FDI Sustainability Planning: Evidence from Commercial Real Estate Portfolios

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ABSTRACT: *Macroeconomic factors within a recipient economy are often considered in Foreign Direct Investment (FDI) research, but one of its significant indicators, ownership risk, is seldomly broached in extant literature. We argue that, from the perspective of a developing economy such as Nigeria, it is crucial to explore, in more detail, the relationship between ownership risk and sustainability planning of commercial real estate FDIs (CREFDIs). This is anchored on the hypothesis that sustainability planning is crucial for long-term value creation, and host country land policy presents considerable ownership risks from a real estate investment perspective. We identify four dominating determinants of real estate ownership risk in Nigeria (the Land Use Act of 1978, land titling irregularities, inconsequential compensation procedures, and delay in granting of consent for mortgages); and discuss their effect on sustainability planning of CREFDIs. We base this discussion on a survey of 17 foreign controlled hotels and shopping malls in Lagos and Abuja. Upon data analysis with Spearman's Rank Order Correlation, our results emphasize the significant negative effect of ownership risk on sustainability planning across the study sample, while tedious title documentation, delayed accent to mortgage facility requests, and delayed development approvals appear the most culpable. We recommend the automation of title documentation, development permits and approvals, and accent to mortgage facility processes for greater transparency and flexibility. In addition, the study also lends its voice to clarion calls for the review of the Nigerian Land Use Act (1978), for a more investor friendly land policy.*
KEY WORD*: Ownership risk, FDI, Sustainability planning, Land policy, Commercial real estate investment*

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I. INTRODUCTION

The globalization of investment markets has provided a great platform for universal investments in diverse investment vehicles across different sectors and geographical locations (Dabara, Odewande, Olatunde, Anthony & Anthony, 2016). The argument subsequently delves into the identification of choice as the key precursor to investment success or failure among geographical alternatives which may have unique appeal and limitations. This spatial approach to investment decision-making becomes imperative given the need to diversify investment portfolio among differing regions in a bid to manage risk. This aligns with the Capital Asset Pricing Model (Sharpe, 1964; Lintner, 1965) on risk mitigation through diversification of investment assets within a portfolio.

Therefore, in consideration of risk, a rational investor may prefer to diversify his real estate portfolio across various countries as each country offers unique opportunities and threats to the investment. One such scenario is a foreign investor contemplating diversification of his real estate assets through acquisition of controlling interest in the Nigerian commercial real estate market. This explains the concept of Foreign Direct Investment (FDI). With the logic of diversification through FDI, also comes the realization that such investments may not be immune from macroeconomic risks associated with the target country. Some of these risks are political, exchange rate volatility, financing, policy orientations, ownership risk (Vengesai & Muzindutsi, 2019; Sallai & Schnyder, 2019; Udobi et al, 2016), to name a few.

For emerging markets, one of the prevalent risk considerations is ownership risk (Obi, 2019; Udobi et al, 2016). The statutory position of the Nigerian Land Use Act of 1978 presents an interesting insight in this regard. The Act grants the Government controlling rights over all lands in the country, thereby vesting a mere "right of occupancy" to real estate investors. However, a juxtaposition of the provisions of the Act with the country's FDI policy presents a critical contradiction. The Nigerian Investment Promotion Commission Act (1995) freed up all restrictions on FDI thereby allowing for 100% control by foreign entities within all sectors, exempting only the petroleum sector. The implication is that foreign direct investors in the real estate sector are, by the NIPC Act, vested 100% ownership control of their real estate investments, which obviously includes the

land. Yet, the overriding land policy in the country (the Land Use Act) negates this fact, subjecting several properties in the country to title imperfection (Udobi et al, 2016).

This is consistent with the connotation of ownership risk as the uncertainties associated with land ownership structure, thus rendering the status of ownership insecure (Bohn & Robert, 2000; Obi, 2019). Such uncertainties may also include the Government's power of land right revocation, inconsequential compensation procedures, tedious title documentation, and delay in granting of consent for mortgages (Udobi et al, 2016; Ewurum & Ojobor, 2017). The study, therefore, examined the effect of these ownership risk considerations on sustainability planning of FDIs in Nigeria's real estate sector, which particular emphasis on commercial real estate investments in Lagos and Abuja. The National Bureau of Statistics reports that Second Quarter 2019 FDI data shows that Lagos and Abuja attracted 100% of FDI into the Nigerian economy (Adesoji, 2019). The focus on sustainability is due to its emergence as a critical factor in long-term value creation through the implementation of corporate strategies that guarantee organizational growth. To the best of our knowledge, this study is the first to analyze government land policy implications in the sustainability planning of commercial real estate FDIs in Nigeria.

1.1 Research Question

What is the effect of ownership risk on sustainability planning of commercial real estate FDIs in Nigeria?

1.2 Justification of the Study

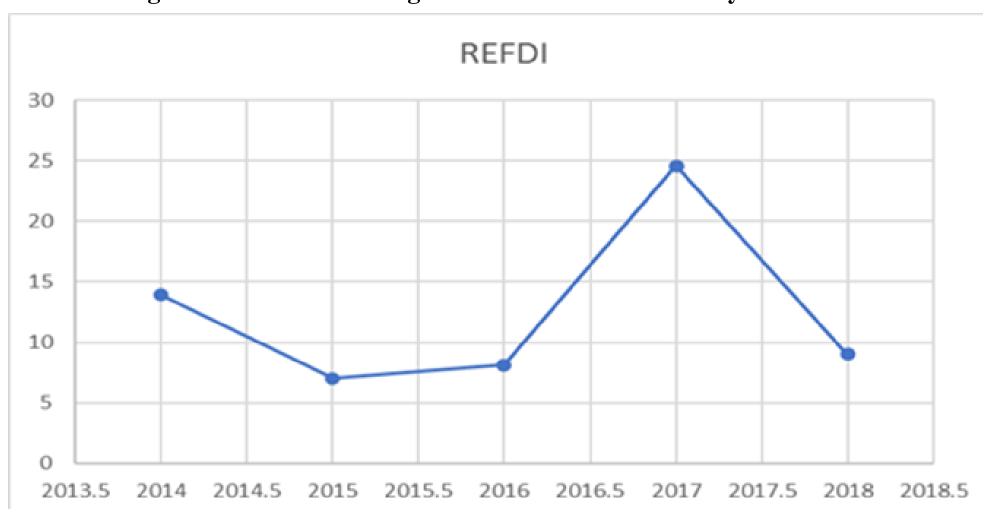
Foreign Direct Investment is crucial in fostering economic growth. Particularly, a gap exists in literature as to any evidence of how host country ownership risk has affected sustainability planning of FDIs in the commercial real estate sector of an emerging economy like Nigeria. Such consideration is critical because if foreign direct investors do not plan for long-term value creation in a certain country, then it may be assumed that the plan is to discontinue such investment in the country.

II. REVIEW

A performance appraisal of Foreign Direct Investment is not new in extant literature. What is relatively new, however, is the empirical undertones of the nature of relationship that exists between ownership risk and sustainability planning of FDIs in developing economies like Nigeria. We adopt the conceptual view of FDI as the procurement of lasting investment interest by a resident entity in an economy other than that of the investor (OECD, 2008; Obi, 2019). The "lasting interest" phrase in the definition offers a distinct indication of the controlling stake possessed by the foreign direct investor. Nweze (2010) succinctly elucidates that the lasting interest phrase denotes the controlling stake held by the resident entity through total ownership structure.

With this conceptualization in mind, what then happens when the so-called lasting interest becomes threatened by the issuance of a time-bound "Certificate of Occupancy" title for real estate investments. While we agree that all businesses run on land and the burden is obviously shared by all local and foreign investors, the problem is more critical for those in the real estate sector because their investment is not just on land, but their investment is land. Figure 1 shows the mean FDI inflow statistics for the real estate sector in Nigeria, using construction as proxy.

Figure 1: FDI into the Nigerian Construction Industry 2014 to 2019



Source: Nairametrics (2018)

Figure 1 demonstrates a highly volatile curve depicting FDI inflows into Nigeria's construction sector. Of more concern is the declining statistics of FDI inflow which continued till the Third Quarter of 2019 which recorded the least amount of FDI inflows into the country. Obi (2019) is of the view that while the Nigerian economy is in critical need of FDI injection, the country still has a long way to go in actualizing those needs going by its declining FDI Africa Attractiveness Index of 17th in the 2017 ranking, compared to being ranked 15th in 2016 and 1st in 2013. This decline may be attributed to the country's macroeconomic challenges (Ernest & Young, 2017). With this worrying trend and its implications for the Nigerian commercial real estate sector, there is need to ensure that already established FDI in the sector commits to sustained growth. By this, sustainability planning becomes vitally pertinent. Again, this begs the recurring question on the effect of ownership risk on sustainability planning of commercial real estate FDI.

2.1 Host Country Ownership Structure

One of the issues which have been raised in the investment incentive literature as it concerns FDI is the institutional framework of the FDI attracting country. This covers the administrative and legal policies which govern investment and the status of foreigners in a country (Bohn et al, 2000; Obi et al, 2019). One such institutional framework is the Nigerian Land Use Act (1978) and its overlying influence on land ownership and use within the country. In attempt to increase its FDI attractiveness index, the following reforms have been employed:

i. the deregulation of the economy in the 1980s,
ii. the New Industrial Policy of 1989,
iii. establishment of the Nigerian Investment Promotion Commission (NIPC) in 1992,
iv. the signing of Bilateral investment treaties in the late 90s (BIT),
v. establishment of the EFCC and the ICPC, and
vi. the establishment of Trade Free Zones (such as Lekki, Lagos and TINAPA, Calabar).

The potency of these laws may not form the immediate remit of this study. However, it is crucial to point to the fact that some other indigenous laws exist which may have influenced FDI entry into the real estate sector of Nigeria. The principal laws regulating foreign investments in Nigeria are:

a. the Nigerian Investment Promotion Commission Act No.16 of 1995; and
b. the Foreign Exchange (Monitoring and Miscellaneous Provisions) Act No.17 of 1995.
c. the Nigerian Land Use Act (1978).

2.1.1 NIPC Act No. 16 (1995)

The goal of this Act is basically to initiate and support measures which shall enhance the investment climate in Nigeria for both Nigerian and non-Nigerian investors. Offering a perceived threat to the Act is the Indigenization Policy which was fashioned to protect local content and facilitate employment opportunities for locals. Lending credence, Uwubanmwen and Ogiemudia (2016) assert that "in a bid to consolidate the gains of its political independence, Nigeria had in 1972 chosen, and reinforced in 1973, 1974 and 1977, the path of indigenization as a way of achieving economic independence. They argue that with Nigeria's weak economic base due to overreliance on oil revenue, indigenization was therefore not only to take over the businesses of expatriates in Nigeria, but an attempt to transform the economy into an 'authentically self-reliant African economy' using an internally bred process of development.

Still, the Indigenization Policy may not be a significant concern for foreign investors. First, the Policy while advocating for local presence in decision-making did not substitute local ownership for foreign ownership. Second, the Policy is still recognitive of a lasting controlling interest depicting a form of ownership. However, presumably to reinforce these arguments, the NIPC Act was amended in 2014 to allow for the deregulation of equity structure in Nigeria enterprises. By this, the amendment abolished any restrictions, in respect of the limits of foreign shareholding, in Nigeria domiciled enterprises, excluding production of arms and ammunition, production of and dealing in narcotic drugs and psychotropic substances, and manufacture of military/paramilitary wears and accoutrements (Sections 21 & 24). How then does this amendment affect real estate investment?

Yet, a proviso persists in Section 23(1) which subjects such unrestricted ownership to the provisions of Government policy. This is more highlighted in Section 25 on guarantees pertaining to Investment Protection Assurance. No enterprise shall be nationalized or expropriated by any Government of the Federation; and No person who owns, whether wholly or in part, the capital of any enterprise shall be compelled by law to surrender his interest in the capital to any other persons [Section 25(1)]. Section 25(2) provides an interesting perspective. There will be no acquisition of an enterprise by the Federal government unless the acquisition is in the national interest or for a public purpose under a law which makes provision for (a) payment of fair and adequate compensation, (b) a right of access to the courts for the determination of the investor's interest of right and the amount of compensation to which he is entitled; (c) compensation shall be paid without undue delay, and

authorization given for its repatriation in convertible currency where applicable. Clearly, the Law indicated in Section 25 of the Act is the Nigerian Land Use Act (1978).

2.1.2 Nigerian Land Use Act (1978)

Bringing the Act into focus, Babalakin (2004) avers that government has overbearing influence in the Nigerian real estate sector which constitutes another hindrance to the development of virile real estate markets conducive for FDI. This is conversant with the provisions of Section 1 of the Land Use Act (1978) which proclaims that all land is vested in government to be held in "trust and administered for the use and common benefit of all Nigerians". By implication, private entities in Nigeria have mere possessory rights to land. This provision has made it mandatory for a developer to obtain two layers of approval from government and hence more difficult and costly for private real estate developers and foreign investors who intend to acquire land for real estate development and investment purpose (Oyewole, 2013; Udobi et al, 2016).

The Act is in conflict with the orientation of multinational and transnational corporations who come from an environment of assured security of long-term investments. The reality of this law in Nigeria presents a culture shock to these corporations as a result of the fear of losing their title along the line (Obi, 2019). This fear is further hiked by the inability of the country to signal transparency and accountability in governance both at the national and state levels, and may be impeding Nigeria's FDI country attractiveness (Adelopo et al, 2011). The transparency issue was further propagated by Udobi et al (2016) with the assertion that one of the greatest contrasts in developed and emerging markets is the difference in "transparency", in addition to the consistency of the rules and regulations with respect to property rights in the market. This is the foundation of ownership risk in the Nigerian real estate investment climate, and there is need for a closer examination of the concept.

2.2 Ownership Risk

Conceptualizations of ownership risk has mainly related the concept to expropriation. Actually, Bohn & Deacon (1997) posit that ownership risk is the possibility of expropriation. This presents a fascinating characterization of ownership risk given the use of that exact term (expropriation) in Section 25 of the NIPC Act (1995). In this regard, ownership risk has been presented to mean the possibility of an abridging event on an investor's claim to the investment's earnings (Bohn et al, 1997; Miceli et al, 2003). Simply put, the uncertainties associated with land ownership structure, thus rendering the status of ownership insecure (Bohn & Robert, 2000; Obi, 2019). From a real estate investment perspective, such uncertainties may also include the Government's power of land right revocation, inconsequential compensation procedures, tedious title documentation, and delay in granting of consent for mortgages (Udobi et al, 2016; Ewurum & Ojobor, 2017).

Ewurum et al (2017) asserts that such expropriation is not usually a welcome development for the victim, and has sometimes led to unrest. Udobi et al (2016) aver that such unrest results from perceived weak property rights, regulatory inconsistencies, low transparency, political undertones, and policy irregularities. Obi et al (2019) hold the view that these negative innuendos are in constant battle with the investment promotion incentives. How significant are these innuendos in sustainability planning of commercial real estate foreign direct investors in Nigeria?

2.3 Sustainability Planning

Stressing the decisiveness of sustainability planning in business organizations, Walsh and Yu (2010) argue that serious organizations are busily moving sustainability from the periphery of business operations to the centre. Obi (2019) adds that, it is only when sustainability issues are dealt with in the same way as other core issues, that real, long-term value is created. Otherwise, only short-term gain is guaranteed if sustainability is viewed as a 'nice to have' instead of as a 'must-have' (Quazi, 2007). What then is sustainability planning? Sustainability planning is the outlining of the organization's path to achieve its goals in a financial, societal and environmental manner. From the perspective of this study, this definition lacks relevance due to its negation of the long-term value creation angle. Seemingly aware of this, Burton (2019) opines that organizations need a sustainability plan in order to assure its long-term relevance within the market.

Providing a distinction between sustainability planning and environmental planning, Middle (2020) opines that while environmental planning is the theory and practice of making environmentally-safe decisions, sustainability planning is a collaborative approach to goal attainment. This posits environmental planning as a component of sustainability planning, and also exposes sustainability planning as a broad concept encapsulating environmental, economic, cultural and social aspects. Within the broad configuration of sustainability planning, the focus of the study is on the economic aspect. By this, we view sustainability planning as "theories and practices that support long-term economic growth without negatively impacting environmental, social and cultural aspects of the community" (Reddy & Thomson, 2015; Spangenberg, 2005; Basiago, 2005).

Divesting the complexity of sustainability planning, we construct a synthesized proxy development of the concept, albeit assisted by Spangenberg (2005), with the following indicators:

i. Diversity of economic structures
ii. Less redundancy in economic processes and technologies
iii. Development of multilateral networks
iv. Culture of technical, social, economic and institutional innovation frameworks
v. Promoting social cohesion and quality of life
vi. Integration of other sustainability aspects in business planning

For FDIs, sustainability planning is efficient when aligned with the overall corporate strategy with outcomes of efficient service delivery, improved revenue potential, growth and visibility of viable market opportunities within the host nation (Santoro, 2009). Lending credence, Bonaglia et al (2007) stress that sustainability planning of FDI organizations entails the development of a robust sustainability programme that includes prioritised initiatives, enablers, milestones, key performance indicators, and measurable targets. What is becoming increasingly evident from these submissions is that a sound sustainability strategy protects a multinational company's reputation; it drives innovation and employee engagement, it satisfies consumers and attracts and retains top competencies; it demonstrates compliance and leads to market differentiation - all key ingredients for long-term growth and profitability in an alien economy.

The foregoing suggests that for the goals of FDI to be achieved from the standpoint of the foreign direct investors, sustainability planning is indeed a must-have. Studies such as Quazi (2007), Neumayer and Spess (2005), Büthe and Milner (2008), Walsh and Yu (2010), Campos and Kinoshita (2003), Biglaiser and DeRouen (2010), Karakaplan, Neyapti and Sayek (2005), Nwezeh (2010), and Akinkugbe (2005) offer empirical evidence to the argument. Walsh et al. (2010) extrapolate that an effective sustainability strategy will have assessed risks and opportunities up and down the business of the organization. Through long-term objectives and short-term targets designed to mitigate the risks and maximise the opportunities, the sustainability strategy should deliver greater resilience in business operations as this, in turn, should reduce the degree of exposure to sharp environmental and social shocks (Campos et al., 2003).

Perhaps a possible issue with the submissions made in the preceding paragraph lies in the neglect of external environmental factors influencing the business of an organization. Businesses are influenced by legal, religious, sociocultural, political, economic indicators inherent in their operating environment; more so real estate which is affixed. The essence of these factors can be found in Campos' et al. (2003) submissions in the concluding statement of the preceding paragraph. Lending credence, Ezeh (2014) asserts that organizations do not and cannot exist in a vacuum. Therefore, the sustainability strategy of foreign direct investors is susceptible to the factors prevalent in its operating environment. Ogbojafor (1998) explains business environment, as the totality of factors, which are external to the organization and capable of leading to firm's opportunities and threats. These parameters highlight the relevance of environmental factors in the sustainability plan of FDI organizations, and one of these influences is the political environmental factor which envelopes the Land Use Act (1978). We peruse the theoretical and empirical submissions in this regard.

2.3 Theoretical Framework – Theory of International Production

We anchor this investigation on the assumptions of the Theory of International Production proposed by Dunning (1988). The Theory states that the tendency of firms to invest overseas is dependent on a cost–benefit analysis of particular factors in both its home country and the receiving country. Explicitly, the position of the theory suggests that the decision to invest in a country is dependent not only on the anticipated returns but also on country specific factors like barriers to entry, political stability, land use policy and laws, cost of capital and production, economies of scale and demand for products. The study examines the truism of this assertion, from the perspective of land use policy, in commercial real estate FDIs in Abuja and Lagos, Nigeria.

2.4 Empirical Review: Host Country Ownership Risk and Sustainability Planning of FDIs

The primer risk in foreign real estate development in Nigeria is ownership risk, manifested in insecurity of title, legal hassles and bureaucratic encumbrances associated with purchase and development of land (Obi, 2019; Udobi et al, 2016). In support, albeit in a different sector, Dahai et al (2010) employed logit, tobit and ordered probit models that correspond to three different indicators of export performance in China. The study found that the export performance of Chinese foreign direct investment firms is related not only to foreign capital involvement but also to the extent of foreign investors' control. Foreign controlled enterprises were found more likely to show better export performance than those controlled by domestic investors.

From studies available to the authors, it is tempting to ponder that very few studies have examined the effect of ownership risk on sustainability planning of foreign direct investments, and even fewer, if not none, have approached the investigation from a real estate viewpoint. For instance, Zeitun and Gang-Tian (2007) investigated the impact of ownership structure on organizational performance and default risk. While their study does not share the ingredients of our investigation, it would be interesting to gain an insight into the ownership

structure and organizational outcome nexus. Their study was based on a sample of 59 publicly traded firms in Jordan, from 1989 to 2002. They found that ownership structure had significant effects on return on assets.

Perhaps closer to the operationalization of our independent variable are the works of Miceli et al (2003) and Bohn et al (1997). Bohn et al (1997) examined the effect of insecure ownership on ordinary investment. The studies definition of insecure ownership as "the probability that the future returns of an asset may be confiscated" mirrors our view on ownership risk. Their study modeled such probability with political situations as instability and governance model. A regression of obtained values shows that as ownership risk increased, further investment declined. Comparatively, findings by Miceli et al (2003) demonstrates that "certain and unlimited duration of private ownership corresponds with increased efficient development incentives amongst landowners". The study also defined ownership risk as "arising from title imperfections, encroachment, and adverse possession. The absence of the sustainability planning variable in these studies embolden our resolve to examine the nature of relationship it has with our independent variable; and expose the need for such studies for countries who wish to increase the volume of their FDI inflow.

III. METHODOLOGY

The study adopted survey method, and data was procured from primary sources. The population of the study was 17 commercial real estate foreign direct investments, specifically shopping malls and hotels in Lagos and Abuja, Nigeria. The study used purposive sampling to delist investments where the foreign owners do not also own the real estate. The population distribution is shown Table 1.

Table 1: Population Distribution of Hotel and Mall FDIs in the Study Area.

Hotels	Shopping Malls	Area
3	5	Abuja **(8)**
2	7	Lagos **(9)**
5	12	Total **(17)**

Source: Field Survey (2019)

Table 1 shows that out of the 17 commercial properties under study, 5 were hotels, while 12 were shopping malls. Also, evidence from Table 1 indicates that 8 of the properties consisting 3 hotels and 5 shopping malls are domiciled in Abuja, while 9 consisting 2 hotels and 7 shopping malls are located in Lagos. Holistic sampling was employed by the study.

The research instrument was a Likert Scale structured questionnaire, was subjected to validity and reliability tests. Reliability test was conducted using Cronbach's Alpha, and the test score is shown in Table 2.

Table 2: Reliability Statistics

Cronbach's Alpha	Cronbach's Alpha Based on Standardized items	No of items
.912	.932	7

Source: SPSS 21

The study made use of non-parametric data, and thus the hypothesis was tested using Spearman's Rank Order Correlation Coefficient.

IV. RESULTS

The investigation was based on determining the effect of ownership risk on sustainability planning of commercial real estate foreign direct investments (CREFDIs) in Lagos and Abuja, Nigeria. 17 copies of the study questionnaire were distributed to the CREFDIs, and a total of 12 were successfully returned. This gave a response rate of 70.6%, which was adjudged to be above the acceptable criterium of 65% (Ewurum et al, 2020). The results are shown in Table 3:

Table 3: Ownership Risk on Sustainability Planning of Commercial Real Estate Foreign Direct Investments in Lagos and Abuja.

S/N	Matching of Study Variables	Weighted Mean
1	Tedious title documentation is significant diversification decision tree analysis	4.3529
2.	Possibility of title revocation for supposed public overriding interest is a key consideration in strategic corporate-level long-term goal setting	3.2941
3	Delays due to mandatory government assent to mortgage accessibility influences sustainable retrofitting plans	4.1176
4	Regulatory inconsistencies have affected sustainability integration in business planning	3.8235

5	Perceived weak property rights amid structured long-term leases affect economic and technological redundancy planning	3.2353
6	Ground rent payments have a significant effect on cash flow of the commercial real estate	2.0000
7	Delay in assessing town planning approval has influenced commitment to social cohesion and environmental quality	4.1765

Source: Field Survey (2019)

Table 3 reveals that the dominant ownership risks affecting sustainability planning in CREFDIs are tedious title documentation, delayed accent to mortgage facility requets, and delayed development approvals; as represented by weighted mean values of 4.3529, 4.1176, and 4.1765 respectively. However, the least dominant ownership risk was the land policy issue of ground rent payment which generated a weighted mean of 2.000.

4.1 Test of Hypothesis

Our null hypothesis states that, ownership risk has no significant effect on sustainability planning of CREFDIs in Lagos and Abuja, Nigeria. This was tested using Spearman's Rank Order Correlation Coefficient as shown in Table 4:

Table 4: Correlations

Correlations	Value	Asymp. Std. Error	Approx. Sig.
Contingency Coefficient	0.376	0.070	0.000
Pearson's R	0.407	0.056	0.000
Spearman Correlation	-0.407	0.056	0.000
N of Valid Cases	12		

Source: SPSS 21

Table 4 shows the result of the Spearman's rank correlation analysis. The estimated Spearman rho value of 0.407** and significance value of $p<0.05$ is indicative of a significant relationship between ownership risk and sustainability planning. The negative sign of this correlation coefficient shows that ownership is negatively related with sustainability planning of FDIs, implying that an increase in ownership risk led to a decrease in sustainability planning in commercial real estate FDIs in Lagos and Abuja, Nigeria. Therefore, we reject the null hypothesis.

Finding: Ownership risk had a significant negative effect on sustainability planning of commercial real estate FDIs in Lagos and Abuja, Nigeria ($r=-.407$; $p<0.5$).

V. CONCLUSION AND RECOMMENDATIONS

From the results of the study, we conclude that effect of ownership risk on sustainability planning of CREFDIs in Abuja and Lagos, Nigeria was significantly negative. The most culpable indicators of this result were corporate phobia associated with tedious title documentation, delayed accent to mortgage facility requests, and delayed development approvals. Consequently, the study recommended the injection of transparency and flexibility in obtaining title documentation, development permits and approvals, and accent to mortgage facility requests. This would be achieved through a reengineering process that integrates automation mechanisms in such appeals. In addition, the study also lends its voice to clarion calls for the review of the Nigerian Land Use Act (1978), so as to alleviate land holding fears in the country and make land policy more people and investor friendly.

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