



Consent to authorize Customary land Transactions on Family Land

1. Section 39(7) of the Land Act provides that a spouse, may lodge a caveat on a certificate of customary ownership of the person who is the owner of the land to indicate that the property is subject to the requirement of prior consent of the spouse of the owner of the land.
2. The Recorder shall not register any transaction where consent required under section 39 of the Land Act is not produced, except where there is an order of the Court or Tribunal to dispense with that consent (Reg. 64 of the Land Regulations).
3. A holder of a certificate of customary ownership may Transfer, Lease, sublet, Assign or Mortgage his or her customary subject to the necessary consent (Reg. 57(1) of the Land Regulations).

4. The Mortgage Act 2009 provides for the requirement of an informed and genuine spousal consent in respect to mortgaging of matrimonial homes (sections. 5 and 6 of the Mortgage Act). In case of customary land which is owned by a family, the land may only be mortgaged with the consent of the spouse or spouses and children of the mortgagor (section. 7(6) of the Mortgage Act).
5. The consent of a spouse(s) required for any land transaction under the Land Act relating to customary ownership is obtained by filling land Form 41.

