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MATRIC NUMBER: 16/LAW01/059

LEVEL: 400

LECTURER: PROF E.A Taiwo

STATE: RIVERS STATE

LOCAL GOVERNMENT: OKRIKA LOCAL GOVERNMENT

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ASSIGNMENT QUESTION

PREPARE A BRIEF PAPER (NOT MORE THAN 3 PAGES, 12pt, TIMES NEW ROMAN, 1.5 LINE SPACING) ON THE CUSTOMARY LAND TENURE SYSTEM AS PRACTISED IN YOUR LOCALITY (STATE THE LOCALITY, STATE, LOCAL GOVERNMENT OR COMMUNITY YOU ARE WRITING ABOUT). THIS SHOULD **BRIEFLY** COVER THE CFREATION, OWNERSHIP, MANAGEMENT AND DETERMINATION OF FAMILY OR COMMUNUAL LAND IN YOUR LOCALITY.

ABSTRACT

This writer seeks to examine the customary land tenure system in her locality, which is a system of land holding governed by customary Law; It shall explore the intricacies of the land tenure system under the Nigerian Customary law paying close attention to the creation, ownership, management and Determination of communal land in her locality. As it is trite that the term 'customary law' is used in a blanket form as Nigeria is a heterogeneous society with diverse locality and tribal groups. Nevertheless, customary law shares common broad principles or features some of which will be examined in this paper in light of the custom and practices of the Rivers culture

INTRODUCTION

The term 'customary law' has been defined by various scholars according to Mqueke, Customary law is defined as the "custom and usages traditionally observed among the indigenous African peoples and which form part of the culture of those peoples". Customary land tenure is opposed to statutory tenure usually introduced during colonial periods. Land remains a very volatile area of dispute. To avoid these disputes, communities have over the years evolved modes or systems by which land and interests in Land is managed or owned.

Customary Land tenure system in Okrika Local government of Rivers State.

The people of Okrika are a group of Ijaws occupying the south Eastern part of Rivers State of Nigeria. Okrika is a typical riverside area and largely consisting of swamps, rivers and creeks. The term 'Land' in Okrika means or refers to the ground or the earth surface, like other communities, the ownership of land is a complex issue in Okrika Land Tenure. However, Okrika Land Tenure system recognizes *Ownership of Land as vested in the Amayanabo ,community, War canoe house, or Family and in some rare cases, the Individual*. As stated in **the case of Chief Allison Ibuluya & Ors vs. Tom Benebo Dikibo& Ors (1976)6SC Page 97 and Chief Daminabo Daniel-Kalio & 2ors V ELI Obudibo Kalio (1970-1972) Law reports of Rivers State of Nigeria page 45**. Each of the concept by which land may be held will be discussed below.

- 1) Ownership of Land; the concept of ownership alluded to an Amayanabo. The name "Amayanabo" means "Owner of the Land" Amayanabo's the theory emanates from the general conception that the first immigrant into a particular place, town or community or the first settler to a virgin land is usually referred to as the Amayanabo. Thus, being the owner of the town, he is also assumed to be the owner of all land within the territory of the town.

- 2) Communal and Family Ownership of Land: Land in Okrika could also be owned by a community, war canoe house or Family. The position was rightly observed by **Fiberesima** When he said “Any Land not vested in any Family or in an individual is communal Thus Land within Okrika is communal to Okrika people, within Ogoloma to Ogoloma people , within Ogu to Ogu people, within Bolo to Bolo people, within Abuloma to Abuloma people. **In KINGSLEY DAVID ISODIKIBIA Vs DICK GEORGE WARIBOKO & 2ORS** (Unreported suit No NHC/8/95. The plaintiff’s father- a member of the Bubo Family of Ofokome War canoe House filed this suit against the Defendant of same family claiming “a declaration that he is the sole devolve entitled to the reversionary interest over all the piece, or parcel of Land under temporary customary tenancy/grants by the Defendant respectively which is situated at Anyangubiri Okrika and called “Akirinaboka kiri on his death, his son (kingsley) was substituted, but the Ofokome war canoe house insisted that they give the land to the 1st Defendant’s father as a member of Bubo Family and that since the plaintiff Kingsley has decamped from Bubo family in Ofokome war canoe house he had to forfeit the title to the piece of land as per the tradition and custom of Okrika. The above case bears eloquent testimony of Family/War canoe House or communal ownership of Land.

- 3) Individual Ownership of Land; An Individual could also own Land in Okrika. This could happen by grant, purchase, gift, self acquisition, by land reclamation **Bennett Karibo & 2ors Vs Amos Grend & Anor (unreported suit No PHC/95/77)** Where a witness stated that Chief Sampson Igobo Adoki’s House was built on a reclaimed Land.

CONCEPT OF MANAGEMENT /TRUST IN OKRIKA LAND TENURE SYSTEM

As stated earlier, the Amayanabo’s position relating to Land is purely an emergence of his title and the fact that he is the founder. As the name or title suggests meaning “owner of town” However, it should be noted that the Amayanabo does not own the entire land he has the *power of management and control of the land*. He may be in charge of land to collect homage or levies accruing from the land. He may in some cases act by virtue of his position and in rare instances be autocratic in issues relating to land. In 1992, Port Harcourt Refining Company paid #20,600,000 to S.P.U Organ. in 1993 Shell petroleum Development company (Nig) Ltd also paid #50,000 to the Amayanabo of Okrika . The payment was to establish good public relations with the people of Okrika over land put to **use by the companies in Okrika territory. The chiefs filed suit No NHC/42/93 and NHC/44/93** and got a declaration that the sum of 70,000 was for the chiefs as such the money should be paid by the Amayanabo to the chiefs for equitable distribution among the chiefs. It means that the Amayanabo holds and manages the land for the members of the community. The case is the opposite in Individual ownership Where Individual

ownership of land is the case, He is the holder of the title as well as the beneficiary of the Land. He cannot legally be a trustee as he does not hold the land in trust for anybody but himself.

TERMINATION OF FAMILY PROPERTY IN OKRIKA LAND TENURE SYSTEM

- 1) **Transfer:** A family in Okrika local government can lose their interest in the family property when they transfer the property to another family either by gift or sale. This transfer cannot be done without the consent of the members of the family particularly the head or founder of the family. Or the majority of principal members of the family. Where this happens the transferee becomes the absolute owner. In Okrika, if the transfer is done without the consent of the family head or the principal members it will be void and in the case the family property still remains in the hands of the original owners of the property.
- 2) **Alienation:** It is trite that common ownership is one form of customary land ownership and Okrika community is not an exception. When members of a family jointly own a property, it ceases to be a family property when the members of the family alienate their interests in the land this is also called partitioning. At the instance of the alienation, it becomes individual property and not family property. An owner of the individual property can have exclusive possession over his portion of the property.
- 3) **Abandonment:** This is also a means by which a family in Okrika community can lose their interest in a property this is presumed when the members of the family leave a particular land or property for a long period of time with the intention of not returning to that property. In such a situation if a new family settles on that property and later the original owners try to claim their right in the property the latter can report the case to the Amayanabo or the chief of that community who will settle the dispute amicably.

CONCLUSION

From the totality of the above discourse, It is obvious that Okrika Customary Land Tenure system is peculiar. While the management concept applies in cases of ownership of land by the Amayanabo, community, war canoe house or Family Head, the position is different in the absolute cases of individual ownership of Land. This paper contains a brief explanation of the customary land tenure system in Okrika local government and it is an indication of the fact that customary law is used as a blanket description as various localities and tribal groups have their own peculiar and distinct laws that governs their system of customary Land holding.