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**MARTIC NO: 16/LAW01/040**

**LAND LAW 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 practiced in your locality (state the locality, state, local government or community you are writing about). This should briefly cover the creation, ownership, management and determination of family or communal land in your locality. Note that the examiner expects you to write based on your research or knowledge acquired with respect to customary land tenure in your locality.

**ANSWERS**

 Under customary law tenure system, land is own either by the commodity, family or individuals. Customary law tenure is the law that was handed down from time immemorial from ancestors and as such, it represents a collection of precedents and decisions of the by-gone chiefs. Customary land tenure refers to the systems that most rural African communities operate to express and order ownership, possession, and access, and to regulate use and transfer. Although the rules which a particular local community follows are known as customary law, they are rarely binding beyond that community. The Nigerian customary law differs from one locality to the other and from one tribal group to the other, nevertheless, customary law shared common broad principles. Ownership signifies the largest claim to land under customary law and therefore, a recognized concept of customary law.

 Under the Nigerian customary law, ownership may be held by, the community, family and the individuals. Communal land is the land vested in the community as a corporate whole and in which no individual member of the community could claim exclusive ownership to any portion of such land. A communal land has been characterized as land belonging to a vast family of which many are dead, few are living and countless members are unborn. Community is a political and social concept, and cannot act on its own. It can only act through some human agents such as the headman, chief or traditional ruler of the community who exercises the power of control and management of communal land on behalf of the community. In **Amodu Tijani v Secretary Southern** **Nigerian**, the court held that land belongs to the community, village or the family, and never to the individual.

 Family land is land vested on family as a corporate entity. The individual member of the family, therefore, has no separate claim of ownership to any part or whole of it. The term “family” in relation to a family property means a group of persons who are entitled to succeed to the property of a deceased founder of a family. Such persons are usually the children of the deceased founder of the family. According to **Woodman,** he defines family as a group of persons lineally descended from a common ancestor exclusively through males or exclusively through females starting from the mother of such ancestor and which group succession to office and property is based on this relationship.

 Individual ownership was rare in the olden days but today it has gained tremendously in prevalence, owing to modern conditions. So prevalent it’s indeed that it appears to predominate over communal ownership in the more sophisticated urban centers. Considering the family structure and its relationship to land before the advent of British, the whole idea of communal or family ownership emanated from individual ownership. Land was originally owned by the individual and the concept of communal ownership of land was a later development.

 Relating to the question, the customary land tenure system practiced in my locality, which is AYEGBAJU Ekiti which is under the OYE local government has to do with more of family land. Communal land can also be seen in some cases.

 Under the family land, the creation in my locality according to the family land holding, they believed that nobody in the family is the single owner, it belongs to every member of the family and if they want to sell a particular land they need the consent of everyone not just one person. This type of process is also adopted in my locality, AYEGBAJU Ekiti. Also a member of my family can sue to protect the interest of the family in respect of any family property.

 Basically, under the communal land, community is a political and social concept and it can’t act on its own .it basically act through human agents e.g. chiefs or traditional rulers etc. in the communal land holding , the chief or the headman of the village or community has charge of the land and sometimes referred to as the owner. He is to some extent in the position of a trustee and as such, holds the land for the benefit of the community. This is process quiet similar in some cases in my locality Ayebaju Ekiti.