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MATRIC NUMBER: 16/LAW01/005

COURSE TITLE: LAND LAW II

COURSE CODE: LPB 402

QUESTION: READ THROUGH THE COURSE MATERIAL ON CUSTOMARY LAND TENURE SYSTEM AS PREPARED BY PROF EA TAIWO.

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.

I hereby declare that the realization of this work is a record of my own research.

Customary land system of a given society is the manner in which land is owned and possessed. It is an institutional framework within which decisions are taken about the use of land, embodying that legal or customary arrangement whereby individuals or groups or organizations gain access to economic and social opportunities through land. However it is important to take note that the Nigerian Customary law differs from one locality to the other and from one tribal group to another.

The community in this study is the agrarian area situated midway between **Ibadan and Osogbo**, the capitals of **Oyo and Osun State** where the major economic activity of the people is farming, producing food and cash crops like maize, cassava, beans, cocoyam, tobacco and oil palm.

**This community is known as Ileogbo** which is the headquarters of **Aiyedire local government in Osun state which happens to be my locality**. Customary land law is worth investigating despite the existence of the Land Use Act in Nigeria. This is because the Act itself recognizes customary law in land administration.

However, based on the research conducted, the lands in Ile Ogbo were created by traditional evidence. This means in effect that the “Aderibigbe” family were the first settlers of the land. They were said to have “founded” and “settled” on the land over the years in the olden days and are deemed to be the owners of such land and subsequently more families settled into the land and it grew it Community..

However, the land ownership system in Ile Ogbo Nigeria is communal. The concept of communal ownership of land is based on the recognition that land is a gift of nature to mankind and that it is sacred. Land is available to all members of the community or family as a right. Communal Land is deemed not owned by individuals but by communities and families in trust for all the family members. Subsequently, The community initiated laws and regulations governing land ownership, land use and development among others to enable them acquire and convey titles to land for the purposes of commerce and governance.

In Ile Ogbo, Land belongs to all members of the family or community and therefore all the members are co-owners and therefore all are entitled to at least a portion, which meant that no family member could be landless in the community.

Land belongs to the whole community or family and is never to be alienated for any reason. Although customary tenancy and even a pledge can be granted to a stranger, the land always remained the property of the community or family, since both customary tenancy and pledges are terminable on the occurrence of determining events

No family member needs to labour to access it as it was seen as a gift of natural providence to all families to which each family member are entitled.

Land is managed by the community head known as the Kabiyesi, who acts as a kind of trustee for the people. He protects family land in all possible ways. The community head can allocate land to members and strangers based on need. He collects tributes from tenants and was not originally required to account to anybody.

The Head of the community manages the land in the interest of all the members of the community and is therefore in a fiduciary position with respect to other members. This means that he should not do anything radical to the land (such as permanent alienation) without prior consultation with the other members. Permanent alienation is not possible any way and he can grant customary tenancy without consultation. In the remote past, he could administer the land without any accountability to anybody. He would be the oldest member of the community or family and was revered as the representative of the ancestors. Therefore he is immune from challenge by younger members of the family or community. However, in modern times, he is required to account for the rents, royalties or tributes received. Now that alienation of land has become possible, he must consult with the principal members before he alienates the land or any part of it, otherwise such alienation may be declared void at the instance of a suit by any member.

Land has always been very valuable to the people and has always been held in high esteem. It provides political power to the family head, the community head and the chiefs. In the past, it was considered even more important more than children, and people preferred to pledge the service of their children to pledging or parting with land. This is the basis of the customary rule that no matter for how long in years a tenant remained on a land, he is forever a tenant and at any time when he derogates from his grant, such as by refusing to pay tribute, or denying the grantor's title, or attempting to alienate the land, he stands to forfeit his grant, which entitles the grantor to the right of ejection of the tenant from the land. .

Similarly no member of the family can dispose of land without the approval of the head, who is a kind of legal owner of the land (with the other members having several equitable ownerships). In the area of present study, the head of the family or community as the case may be, is the person vested with the powers to allocate land. His agreement with other principal members of the family or community is merely a courteous one. He owes them no legal duty to consult or share tributes. He may be criticized but nothing more serious can happen to him if he should choose not to consult or share tributes. But once a portion is allocated, his authority over that portion becomes insignificant.

However, with regards to the research conducted, Land in Ile Ogbo are mostly determinate as a result of the transformation of the indigenous subsistence economy into a monetized one , Thus, the community lands became freely saleable. This development is transforming most lands in Ile Ogbo into individual tenure.