**NAME: JIDDA SALAMA YETUNDE**

**MATRIC NUMBER: 16/LAW01/115**

**COURSE: LAND LAW**

**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 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.**

**CASE STUDY: KWARA STATE**

**ILORIN**

**ILORIN WEST LOCAL GOVERNEMNT**

**BABOOKO COMMUNITY**

**ERUDA (JIDDA FAMILY SETTLEMENT IN BABOOKO)**

**ABSTRACT**

The case study for this paper is a small community in Ilorin; Babooko located in Ilorin west local government, which houses Eruda (an area in Babooko that serves as the Jidda family settlement). In this paper, what will be dealt with has been outlined as follows:

* Creation of subject matter
* Ownership of subject matter
* Management of subject matter
* Determination of subject matter

**INTRODUCTION**

Customary land tenure system has been defined as the system of landholding indigenous to Nigeria under customary law. Ilorin is an emirate that operates under customary law (Sharia law). The Babooko community is one, under the Ilorin emirate. It comprises of various family settlements that existed during the pre-colonial era which dates back over a hundred years ago, and is acknowledged as such by the Emirs in council. Eruda is the family land of the Jidda family which is located in Babooko community. Under customary law, there are three types of landholding systems. Each of which, are dealt with differently under customary law;

* Communal landholding
* Family landholding
* Individual landholding

The Babooko community operates only family landholding and individual land holding, seeing as it comprises of mainly family settlements.

**COMMUNAL LANDHOLDING**

This is the land vested in the community as a corporate whole and in which no individual member of the community could claim exclusive ownership. The community of Babooko does not operate this landholding system.

**FAMILY LANDHOLDING**

A family can be defined as a group of people related by blood, and marriage or a unit consisting of parents and children[[1]](#footnote-1). However, in terms of family property under native law and custom, the family property is that property belonging to the family as a unit with undivided interest in land; and until it is determined, continues to be held jointly by the entire family as a unit. Eruda was originally the family land of the extended Jidda family.

**CREATION OF FAMILY LAND**

A family land may be created by either operation of law or by acts of the parties.

(a) **Creation by Operation of Law**

Where a land owner dies intestate, the land is naturally inherited by his children under native law and custom, and thereby becomes family property. The Eruda land comprises of a land that belonged to my Grandfather. Upon his demise, the land devolved to his children thereby becoming a family land.

(b) **Creation by Acts of the Parties**

Parties may by their own acts create family property by way of the following:

* **First Settlement**

In ***Ajala v Awodele & Or[[2]](#footnote-2)s*** the Supreme Court held that settlement is one of the traditional modes of acquisition and that where the plaintiff’s case is that the land was acquired by settlement, it should not be open to question as to who made the grant. The eruda family land was originally created by settlement of the family during the pre-colonial era.

* **Purchase**

Family property may arise where family money is used to purchase land.

* **Gift**

Where a family is a donee of unconditional gift of land, family property is created. A land located at police road, which was given to the Jidda family as a gift by the Emir, can be deemed a family land.

**MANAGEMENT OF FAMILY LAND**

The management of the entire family property is vested in the family head that holds the property as a ‘trustee’ on behalf of the family (not as under English law). In ***Akano v Ajuwon[[3]](#footnote-3)*** Supreme Court referred to the family head as a “manager.” As a manager, director, representative or agent, the family head has power or authority to direct the affairs of the family property. In the Jidda family, the head of the family is known as the Magaji Jidda of eruda. He is usually the eldest male child in the whole extended family. In any case, where a situation as to managing the land comes into play, the Magaji Jidda, as well as other principal members representing each nuclear unit in the extended family meet to agree on decision to be taken..

**DETERMINATION OF FAMILY PROPERTY**

The occurrence of any of the following events determines family property.

(i) **Absolute Transfer**

Absolute transfer of family property occurs where the family transfers the totality of its interest in the family land to another person by way of sale or gift where the transfer is sanctioned by the family head and principal members of the family. Where the Eruda family land remained undivested by partition, and it had been sold as a whole, it would divest the members of the family of their right in the land.

(ii) **Partition**

Partition is the act of sharing of family property among the members of the family. In ***Alhaja Barakat Alafia & Gbode Ventures Nig. Ltd[[4]](#footnote-4)***, it was held that partition means the permanent division of land for purposes, not of user only, but of ownership as well. Where there is partition of family property, each “partitionee” becomes an absolute owner of his or her share. The land subsequently devolved from its original nature, whereby land was partitioned to accommodate each nuclear unit in the family. As such each unit had an area of land which also subsequently operated as family lands in each nuclear unit.

**INDIVIDUAL LANDHOLDING**

Niki Tobi is of the opinion that the question of individual ownership of land was known to customary law in the country before the arrival of the British[[5]](#footnote-5).In explaining this, using the Eruda family land as an example, when the land was partitioned, it originally belonged to the principal members of the family, as individual persons. Subsequently, the land devolved to their children as family lands. Hereby, it is correct to opine that family lands devolve from individual landholding.

**CONCLUSION**

The operation of landholding system has been examined in this paper. As such, it can be surmised that the community of Babooko operates both family landholding as well as individual land holding systems.

1. Law dictionary [↑](#footnote-ref-1)
2. (1971) NMLR 127. [↑](#footnote-ref-2)
3. (1982) 11 SC 1 at 72. [↑](#footnote-ref-3)
4. (2016) 7 NWLR (pt 1510) 116. [↑](#footnote-ref-4)
5. See Niki Tobi, op. cit 46-47 [↑](#footnote-ref-5)