

NAME: DAHUNSI OLUWATOMILOLA

MATRIC NUMBER: 16/LAW01/056

STATE OF ORIGIN: OSUN STATE

LOCALITY: INISA

LOCAL GOVERNMENT AREA: ODO-OTIN LOCAL GOVERNMENT AREA

INTRODUCTION

Nigeria is a heterogeneous society with diverse customs and culture. Land tenure is the system of land holding in a given society. However, the Nigerian customary land tenure has been modified to a large extent, by the *Land Use Act 1978*¹. Although, the Act provides for a new uniform tenure system in Nigeria, nevertheless, knowledge of the previous tenures is necessary for the proper understanding of the scheme of things before the Act came into operation. In the case of *Owonyin v. Omotosho*².

I am a native of Inisa town which is situated in Osun State in the South-Western Nigeria and is also an agrarian town in Odo-Otin Local Government Area. It is in the Yoruba cultural and ethnic region of the country, and is a trading centre for cocoa and other agricultural products. Hence, this brief paper is on the customary land tenure system as practiced in Inisa (my locality) and it covers the creation, ownership, management and determination of family or communal land in Inisa.

OWNERSHIP

With regards Communal land holding in *Inisa*, the "***Oba***" of *Inisa* who

¹ Land Use Act 1978

² *Owonyin v. Omotosho* (1961) All NLR 304 at 309; This definition was also adopted by the Nigerian Supreme Court of Nigerian in *Kimdey v. Military Governor of Gongola State* [1988]

serves as the head of the community possesses the power of control and management of communal land on behalf of the community. A member of the community has equal right to a portion of community land upon which to build and farm. It is however pertinent to note that allocation of portions of communal land to families for residency and farming purposes would require the payment of what is known as "*Isakole*" which is a tax paid through either farm produce or money.

Upon allocation of the portion, the member (person allotted to) does not become the owner of the land but he enjoys exclusive possession, which the title still remains with the community. Strangers on the other hand, do not have the entitlement members have to a portion of communal land by right. Furthermore, if any circumstance causes him to need a portion of the communal land, he must acknowledge such need with payment of customary tributes.

Family land holding is very prominent in Inisa. What is defined as a family in relation to a family property in Inisa is similar to the definition given in the case of *Lopez v. Lopez*³;

"The term "family 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"

Generally, in Inisa the word "children" refers to both sexes of the offspring and as such, male and female children have been held entitled to inherit the property of their late father together with their mother. This means, extended family member do not have such entitlement except the deceased had incorporated such provision which enlarges to include such relatives in his will.

CREATION OF FAMILY LAND

With regards to creation of family land or property in Inisa, members of the family may decide to create the property by purchasing land or property with the

³ *Lopez v. Lopez* (1924) 5 NLR 50

family money. Also, family property is created by succession, whereby, if an owner of land who is subject to customary law dies without a will, his acquired property devolves on his children as family property in accordance with the applicable customary law rules.

MANAGEMENT OF FAMILY LAND

Powers and rights of ownership of the family property are vested in and exercised by the family head who is referred to as "*Olori Ebi*" on behalf of the family members. The *Olori Ebi* is usually the eldest son of the founder of the land upon the founders' death. In Inisa, only males can be *Olori Ebi*. He manages and controls the land but has no right to deal in any transaction for his personal benefit, making him deals with the family property only in the interest of the family.

DETERMINATION OF FAMILY LAND

Generally, there are several ways in which a family property can be determined. However, in Inisa, the most common ways is 'Partition'. This is simply the process of sharing the family property amongst the family members. Therefore, causing a permanent division of the property for the purpose of ownership. This connotes that, every partitionee becomes an absolute owner of his or her share. It is pertinent to note that most times, the partition is as a result of mutual agreement amongst members of the family.

Conclusively, it has been emphasized above that Inisa, which is my locality practices two types of land tenure system; Communal and Family land tenure system. Also, it was established that the community owns the land at large while families are entitled to portions of the communal land. The communal land is controlled by the community head (*Oba*), while the *Olori Ebi* of the family is in control of the family land or property. Family land is created by purchase of land and succession. Finally, family land in Inisa ceases to be that belonging to the family when partition takes place. This however terminates the concept of family land.