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**MATRIC NO: 16/LAW01/195**

**LEVEL: 400**

**COURSE: LAND LAW ASSIGNMENT (LPB402)**

**QUESTION: PREPARE A BRIEF PAPER ON THE CUSTOMARY LAND TENURE SYSTEM AS PRACTICED IN MY LOCALITY.**

**INTRODUCTION**

This assignment is aimed at studying the customary land tenure system in my locality, my case study being Badore Ajah, Eti-Osa Local Government, Lagos State.

**Land tenure** basically refers to the holding of land. Customary law is defined as the custom and usage traditionally observed among the indigenous African people and which form part of the culture of the people.

**Customary land tenure system** has been defined as the system of landholding indigenous to Nigeria, relating to family and inheritance systems based on the concept of group ownership of absolute rights in land with individuals acquiring usufructary rights. Under customary rules of tenure, it was observed that each individual member of a landholding family was entitled to a portion of land sufficient to feed both himself and his family; no member of the community could dispose another of his stake in family land and on one could alienate family members interest in family land without the knowledge and consent of those members the right to land might be perpetual, for certain periods, example farming or for the lifetime of the holder. The Nigeria customary land tenure has been modified to a large extent, by the land use act, 1978. The act provides for provides for a new uniform land tenure system in Nigeria. In ***Otunba Hakeem*** ***Sobande V. Barrister Andy Igbowkwe***, the Supreme Court held that the object of the land use act is not intended to destroy incidence of the customary law, but it modified its application. The Nigeria customary law is diverse in cultural setting but those customary law share common principle which is the concept of ownership there is a lot controversy regarding ownership in customary law, however the term ‘ownership’ signifies the largest claim to land under customary law and it is therefore a recognized concept of customary law and ownership may be held by 1. The community 2. The family and 3. The individual. The type of ownership that is being practiced in locality is “the family” which i would be covering the creation, ownership, management and determination of the family land in my locality.

***A Family*** can be defined as the body of person who live as on and it includes the parent, children, servant, the group of the parent and children whether or not they live together so far they share the same blood or connected with the same they are family. In ***Coker V. Coker, Carey J***. Stated that it is well established that the primary meaning of the team family refers to the children. ***Family*** in relation to a family land means a group of people who are entitled to be a successor to the land upon the death of the previous successor or founder of the family. A family land is vested in a 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.

**CREATION OF THE FAMILY LAND**

Family property can either be created by act of the party or by operation of law. The family property in my locality Badore Ajah was created by the act of the party which is by oldest method of acquiring land the first settlement of the Badore family.

**MANAGEMENT OF THE FAMILY LAND**

The management of family property involves the act of controlling, process of decision making and controlling of every incident relating to the family property and the management of the family property is fundamentally the duty of the family head, as such the powers and the rights of ownership of family property are vested on the family head. The family head in Yoruba land the family head is known as ***Mogaji, Baale or Dawodu*** the family head is known as the ***Baale*** in my locality.

The Baale takes charge of the management and control of all the land in the locality and before any decision concerning the land can be made, the Baale is consulted. The **Omo Onilie** are the members of the family, how this work is that in Badore the Baale allot each land to **Omo Onilie** having the Baale taken the largest potion to oversee. The Baale can make decision regarding the land without consulting any family member which is as seen in the case of ***Sapo V. Sunmonu*** where the court held the at a family head can take action in respect of the family land even without prior authority of other members of the family, however the Baale cannot sell the family land for his own personal gain or do anything with land for his own personal gain in the case of ***Foko V. Foko*** the family head who sold the land for the purpose of acquiring chieftaincy title for himself the court held that he could not deal with family property as such. The Baale is appointed by election within the family members.

**OWNERSHIP**

There is no much emphasis here but upon the death of the Baale, a new Baale is appointed amongst the family member, either that or upon the death of the Baale the property is shared amongst the children of the Baale equally which is known as ***Ori- Ojori. Ori Ojori*** is a direct distribution of the land among the children equally upon the death of the previous owner.

**Determination of the family land**

What determines a family property follows the occurrence of:

1. **Absolute transfer**: this occurs where the family transfers the all the interest in property in the family land to another person, which may be by sale or gift. In situation where it happens the transferee becomes the absolute owner. This transfer would be valid when if it is decided by the family head and other important members of that family. If it was decided by just the member of the family, the transfer would be void.
2. **Partition:**  this is a method whereby the family property is divided among the members of the family and it’s a permanent division not only for the purpose but for ownership as well.

**CONCLUSION**

To close the curtain regarding this topic, the family land in Badore is being overseen by the Baale however there are some land that is not overseen by the baale.

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