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Customary land tenure system as practiced in Odo-Owa in kwara State.

Introduction

Land tenure is the system of landholding in a given society. Customary law is defined as the custom and usages traditionally observed among the indigenous African people and which form part of the culture of those people. It 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. It entails the custom and usages traditionally observed among the indigenous people that formed part of their culture and religion.

Creation

Odo-Owa is a town in Oke-Ero local government area in kwara state of Nigeria. It is bounded in the south by Orimope town in Moba local government of Ekiti state, in the west by Iloffa headquarters of Oke-Ero local government area, in the north by Idofin of Oke-Ero local government area and in the east by Osi town in Ekiti local government area of kwara state. According to history, the original settlors migrated from Ilesha, led by Owa Obokun Atakumosa in the twelfth century and discovered a vast virgin land several miles in length and breadth,” ifa oracle’’ which was piloting them on the journey commanded them to settle there as the land had not been occupied by anybody. If a landowner 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. Family property may also arise from a declaration under a will as where a testator devised a property to his heirs jointly to hold as family property. Parties may also by their own act create family property by first settlement, purchase, conquest or absolute gift.

Ownership

The land was said to be surveyed and divided among the families and clans that were there as their possessions. Later on other settlors which were being displaced by inter-tribal wars ravaging small communities came to join them. These late arrivers were settled far out towards the end of the lands as tenants with restricted boundaries. Request for compensation may be made. Normally the government always pays compensation for land acquired but may not be as lucrative as outright sale. The family can decide to dispose any portion of their land without recourse to the government approval. If from the onset an area is set aside for community projects, the ‘’Oba-in-council’’ has the right to release or acquire the land for essential projects. The Oba or the government cannot lay hands on a privately owned land on compulsory acquisition without negotiation, consent or agreement with the owner in Odo-Owa. Since then each family and clan held to his hand for farming, building houses etc. The boundaries of each family land were marked and identified and were told from generation to generation so that their children’s children may be conversant with their family’s land possession.

Management

The family head personifies the family. The powers and rights of ownership of family land are vested in and exercisable by him on behalf of the family. The family head takes charge of the management and control of the land and he is referred to as the trustee of the land. It is the duty of the family head to preserve and protect family property from any unlawful interference and to keep it in a good state of repair, to allocate portions to the needing family members, where the property is rented out, to collect the rent and take part in the transfer or alienation of family property to give a valid title to the transferee. In modern times when a modern member of the clan/family wants to use any available piece of land for any project e.g building a house, business, he approaches the head of the community, clan or family for permission. If such land is available in the area he wanted, he would be granted free or may be asked to bring a carton of beer and cola for family entertainment. If demand was more than available land in a particular area, it is often suggested that it be rationed or some withdraws for others. These days many choose to buy land from other families without counting on the cost.

Community and government projects

Where the town or government want to cite a project in a particular place, the head of nthe family or clan would be approached by the ‘’Oba-in-council’’ to plead for the release of such land. The head of the family would consult with the family members giving specific dimension required.

Determination of family property

Family property can be determined by absolute transfer where the family transfers the totality of its interest in the family land to another person by way of sale of gift. The transfer of family property is valid where the transfer is sanctioned by the family head and principal members of the family. A transfer by family members alone is void absolutely but a transfer by the family head is voidable. Family property can also be determined by partition. Partition is the act of sharing of family property among the members of the family. Partition may be voluntary if it is resulting from mutual agreement amongst members of the family to partition the family property.