NAME: ADEJIMI-ADU ADEDEPOOLA ADEWOLE

MATRIC NO: 16/LAW01/002

COURSE: LAND LAW II (LPB 402)

LEVEL: 400

DEPARTMENT: 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.

**INTRODUCTION**

 Land is very important, it is the form of law that deals with the right to use, alienate or exclude others from it. Land tenure is the system of landholding in a given society. Customary law 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 customs and usages traditionally observed among the indigenous people that formed part of their culture and religions. In *Owonyin v Omotosho*, customary law was described as ‘a mirror of accepted usage and the common law of Nigerian people.

 It is important to note that the term ‘customary law’ is not implying that there is a single set of uniform rules or customs throughout Nigeria, Nigeria is country with multiple tribes’ customs and cultures therefore, customary law embodies all the various customs which are unique to various people and tribes.

 Customary land tenure system refers to the system of landholding governed by customary law. Nigerian customary law differs from one locality to the other and from one tribal group to the other and for the purpose of this assignment we shall be considering the customary land tenure system of the locality of **ikere – Ekiti state**, a western town of Yoruba land located in Ekiti state. Which would be discussed under four heads; creation, ownership, management and determination.

**CREATION & OWNERSHIP**

The creation of communal and family land in *ikere* can be attributed majorly to five circumstances or operations which are:

1. First settlement – this occurs where a family or a group of people were the first to settle on a particular land which was unoccupied and so occupy such land for a sufficient length of time. From this first settlement it can be inferred that there is exclusive ownership by the people.
2. Disputes of chieftaincy- this arises in situations where there is a struggle for the power in the monarchical traditional system which was common in Yoruba land, the losing party who fails to ascend to the traditional seat of power/throne would gather his supporters and family in search of a new home, this was the story of the people of *ikere* where the leader ‘*ogoga*’ originally a prince of Benin moved down to ikere where he now stands as the paramount ruler of the land.
3. War & conquest- war is as old as man and has been occurring long before the world wars and the Nigerian civil war. In times of war, displacement of people is very common and people and their families leave where they are and have to find arable land. In situation of conquest of war, the victors assume ownership of the land of the losers. This is evident in Yoruba land from the expansions of the old Oyo empire and also in the north during the kanem-borno empire.
4. Banishment- banishment is defined as the punishment of being sent away from a country or a place. Before the colonialism of Nigeria and the installment of uniformed rules that governed the people, there were customs that governed the punishment for crimes. Ikere for example would banish a person who has committed heinous crimes, whereby the person would not be allowed to return to the land, the person would have to leave the land with his/her family and find a new place to settle.
5. Purchase- this is the most common way today of acquiring a form of ownership in land whereby money is paid as a consideration for a piece of land.

**MANAGEMENT**

 The family head personifies the family, as such, the powers and rights of ownership of family land are vested in, and are exercisable by him on behalf of the family. While in communal land the powers and rights of ownership are vested in the village head and are exercisable by him on behalf of the community.

  *Ikere* local government as a case study have their own customs on how the land tenure system is managed. Family land for example is managed by the head of the family who is often referred to as ‘*olori ebi*’, when a man dies without a will, his land would either become family land or this family land could be divided among his wives which are referred to as ‘branches’ or ‘*idi igi*’ by the olori ebi. Whereas in communal land the village head has the right to distribute land to different families back then this distribution was primarily for shelter and farming, this sharing of land was based on your capacity and capability. Capacity refers to the size of the family not all families are equal some are larger than the other, while capability refers to the ability of the family to make the best use of the land. Ownership and management of land evolved from when land was owned majorly for shelter and farming of food crops to when cash crops were introduced. The purpose of family property is to provide for the needs of members of the family; as such members have certain rights in respect of the property.

**DETERMINATION**

 Determination of family land falls under two occurrences which are absolute transfer and partition.

1. Absolute transfer -this occurs where the family transfers the totality of its interest in the family land to another person, where this happens the transferee becomes the absolute owner. In *ikere*, determination of family land occurs in situations where the family might have expenses such as building a family hall, the olori ebi has the right to transfer the totality of the right to a third party in order to acquire the funds for the family’s expenses
2. Partition- this is the act of sharing of family property among the members of the family.

When a man dies without a will it is the duty of the *olori ebi* to divide his property among his branches, so in a situation where he had a large land, the head of the family would divide the along amongst his wives and children. And also, in situations where a particular member of the family needs land for some purpose the olori ebi can apportion a part of the land to that need. It is noteworthy to state that in ikere there is a change in the ownership structure whereas partition is not being practised and the family land reverts back to the family collective after partition, which means ownership of the land remains with the family.

**CONCLUSION**

In conclusion, the customary law tenure system still exists under the present national land tenure system, it has just been modified to large extent by the land use act.

REFRENCES

* The Nigerian land law by Adewale Taiwo
* Interview with an indigene of ikere local government