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Land Law LPB 402

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Question

Prepare a brief paper on the customary land tenure system as practiced in your locality. This should briefly cover the creation, ownership, management and determination of family or communal land in your locality.

**Introduction**

Land tenure is the system of landholding in a given society, the law which was passed down from time immemorial from ancestors and as such, it represents a collection of precedents and decisions of the by-gone chiefs.

Customary law on the other hand is a mirror of accepted usage and common law of Nigerian people. Customary land is land which is owned by indigenous communities and administered in accordance with their customs.

Some Customary law concepts include;

1. Ownership

Ownership generally has been used to denote absolute ownership or at times it is used to refer to rights of occupation. It also signifies the largest claim to land under customary law.

Ownership can be held by the family, the community or individuals;

* Communal landholding is the land vested in the community as a corporate whole and in which no individual member of the community could claim exclusive ownership to any portion of such land, this may arise from the initiatives or decisions of the founders of the land.
* Family land on the other hand is land that is vested on the family as a corporate entity. The term family in relation to family property means a group of persons who are entitled to succeed to the property of a deceased founder of a family
* Individual landholding was very rare in the olden days; it has however become very prevalent in the world today as many individuals own properties in sophisticated urban areas.

**CUSTOMARY LAND TENURE SYSTEM IN NGURU, ABOH-MBAISE LOCAL GOVERNMENT AREA, MBAISE, IMO STATE, NIGERIA**

Under the customary law in my locality, land is owned by families and as such land devolves from ancestors to heirs in perpetuity.

However in my locality Wills are not recognized as such there are other ways of dividing ones property amongst his descendants. When it comes to landed properties, after the death of the father the land devolves to the eldest son of the family.

**Creation of Family land in Nguru**

Family land in my locality can also be created by conveyance that is where the family transfers the totality of its interest in the family land to another family.

Family land in my locality can also be created through First Settlement, which is when a family through their ancestors were the first to settle on a virgin land and exercised acts of ownership over a sufficient length of time, numerous enough to warrant interference of exclusive ownership as seen in ***Ajala v. Awodele& Ors***[[1]](#footnote-1)

Another way in which family land is created in my locality is through purchase. A family can decide to sell their land to another family, once the sale goes through the totality of their interests in the land has been transferred.

**Management of Family Land in Nguru**

The father is the head of the family as such; powers and rights of ownership of family land are vested in and are exercisable by him on behalf of the family.

In the event of death of the father, management and ownership of the family land is vested on his eldest son who has the power to transfer or alienate the family land

**Determination of Family land**

In Nguru, ownership of family property can be terminated through an absolute transfer of the interests of the property to another family. This is normally done through purchase or gift.

**In conclusion**, in my locality land is owned by families as opposed to communities and individual ownership. This family land can be acquired through first settlement of ones ancestors over a long period of time; it can also be acquired through purchase that is when one sells their land to another family. In my locality however, family land doesn’t devolve through wills or intestacy because it is not recognized as there are stipulated ways of transferring property as such, the land passes on to the eldest son of the family.

A family’s right to their land is extinguished once there has been an absolute transfer of their land to another family and this can be done through purchase and gifts.

1. (1971) NMLR 127 [↑](#footnote-ref-1)