

NAME: IGE KAYODE SAMUEL

MATRIC NUMBER: 16/LAW01/103

COURSE TITLE: LAND LAW II

COURSE CODE: LPB 402

LECTURER: prof. E.A TAIWO.

QUESTION:

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

INTRODUCTION

The Customary Land Tenure System is an arrangement under which land is owned by Indigenous communities and administered in line with their customs and norms. This system is opposed to statutory tenure brought up during the colonial periods. In *Owonyin v Omotosho*, customary law was described as “a mirror of accepted usage and common law of Nigerian people. Custom and usages traditionally observed among the indigenous African peoples and which form part of the culture of those peoples. 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.

This paper will be based on **Lagos state Ikorodu, Egiri ekun** to be precise, Customary land tenure system in Ikorodu is the land holding system practice by the indigenous people of Ikorodu in Lagos state, Nigeria. The customary land tenure system practiced in **Ikorodu** is **communal land system but all the land is owned by different families**, so I will say we practice both **communal landholding and family land system.** Customary land tenure system in Ikorodu land predates to the time of the creation of Ikorodu. The history of land tenure system in Ikorodu land is not so much different from the customary land tenure system indigenous to Nigeria. However, some minor difference

exists, for example, the issue of family property that is discussed in these work gives clarity to the variation in family property in Yoruba land and Nigeria as a whole.

CREATION OF COMMUAL LANDHOLDING AND FAMILY LAND

Communal landholding has been described as the most remarkable principle of customary land law. By definition, communal land or community land 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. So once a landowner is a member of the community in **Ikorodu** that is your family are members of the community you automatically own a piece of land in the community in which at that time was used to build on and for farming.

Family land Family land is land vested on 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. **First Settlement** this was how my family got the property which arose when my own ancestors were the first to settle on a virgin land and exercised acts of ownership over sufficient length of time, numerous and positive enough to warrant inference of exclusive ownership and also if a landowner whose estate is governed by customary law dies intestate such land devolves on his heirs in perpetuity as family property. The conditions mainly are that the landowner must have died intestate, and that the estate during his lifetime must have been governed by customary law. Once the foregoing conditions are met, the rule simply states that the property be passed to the family members, which is a process called **intestacy**

MANAGEMENT

Since family property is vested in the family as a whole and ownership of the land is joint and indivisible so that is impracticable for every member to be part of the controlling nucleus of the family property, the administrative control and management of the family land is vested in the family head in conjunction with the principal members of the family.

FAMILY HEAD

The family head is the eldest surviving male who is called **OLORI EBI** he attends to the

day to day activities of the family. On the death of the eldest surviving child, the headship devolves on members in turn according to seniority. The general rule is that the head of the family once appointed or recognized assumes full control of the family land. But his control over family property is devoid of ownership, what is vested in him is only the day-to-day management of the property. It is the responsibility of the family head to preserve the property and keep it in good state of repairs. He allocates portions of family land to members or others for use and where the property is let out to tenants, it is his duty to collect rent and pay outgoings from the family funds. Since the question of accountability is inextricably interwoven with the status of trusteeship, the controversy attending the position of the Head of the family as a trustee of his powers under customary law is whether he is generally accountable to the family for the rents and profits derived from family property.

DETERMINATION OF FAMILY PROPERTY

1. **Absolute Conveyance** of the family land Where the totality of the interest of the family is conveyed by way of sale or gift of family property is determined. Usually in modern times, the English method of transfer is adopted but such transfer is not valid unless the deed of transfer is executed sby the family head and the principal members of the family.
2. **Partition as** a legal concept is a method whereby joint possession is disunited so that each former co-tenant becomes a separate owner of a specific portion of land holding a share in severalty as opposed to an undivided share in the whole. Partition may be voluntary resulting from mutual agreement of members and effected by a deed of partition executed by the joint tenants (i.e. by the principal members of the family and the family head).

Conclusion

The concept of ownership and possession of land in Ikorodu have been a source of conflict and war among individuals, families, villages and governments, the settlement of such dispute most of the time have always been governed by the customary tenure

system.

Also customary relationship on land provides the basis of easy transfer of land from one party to another without unnecessary confrontation. Whether it is a customary pledge or customary tenancy, all the party should be aware of their limits to avoid unnecessary disputes

Although customary land tenure system is no longer in vogue because of the growth of industrialization and globalization, its lessons and practice have afforded people the knowledge.