**NAME : AMADI DUCHESS**

**MATRIC NO : 16/LAW01 /031**

**LEVEL : 400**

**COURSE CODE : LPB 402**

**COURSE TITLE : LAND LAW II**

**ASSIGNMENT**

**PREPARE A BRIEF PAPER ON THE CUSTOMARY LAND TENURE SYSTEM AS PRACTICED IN YOUR LOCALITY (STATE, LOCAL GOVERNMENT OR COMMUNITY).**

**INTRODUCTION**

Land tenure is the system of holding land in a given society. It is also the relationship which people and groups hold with respect to land and land related resources. According to **Prof. Mqeke,** customary law is defined as the **“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.

Thus, Customary land tenure is the system of holding land or property according to the Customary laws in a given society. The Customary laws vary from society to society in Nigeria which could be Native laws or Islamic / Sharia laws. There are certain concepts that exist and are recognized under Customary land tenure system including :

* **Creation of Land**
* **Determination of Land**
* **Management of Land**
* **Ownership of Land :**

The term **“ownership”** signifies the largest claim to land under customary law. Under the Nigerian Customary law, ownership may be held by **(a) the community ;(b) family** and **(c) the individuals.**

These concepts will be treated in this work with respect to my locality. My local government is **Etche L. G. A** in **Rivers State** and our land is largely **Family-owned.**

**FAMILY LAND**

A **“family”** is defined as a group of persons lineally descended from a common ancestor exclusively through males (**patrilineal**) or exclusively through females starting from the mother of such ancestor (**matrilineal**) and which group succession to office and property is based on this relationship. In this context, **“family”** in relation to a family property means a **group of persons who are entitled to succeed to the property of a deceased founder of a family.**

**Ownership :** In my locality in **Rivers State**, it is mostly the male children that inherit the land when the father dies but the daughters can lay claim or inherit the land if all the male children have passed or if there is no son to inherit. A member of the family can sue to protect or defend the interest of the family in respect of any family property. Also, no family member can sell, lease or allot any parcel of Land except with the consent of the head of the family or majority of principal members of the family. Generally, a widow is not seen as a member of her late husband’s family so she does not have the right to inherit her husband’s share in the family land. Rather, the land goes to her first son or first daughter (in the absence of a male child).

**Creation of Family Land**

Family property may arise by **operation of law or by acts of the parties.** My family land was created by **acts of the parties** by way of **First Settlement.**

This is because our ancestors were the first to settle on the virgin land and we exercised acts of ownership over sufficient length of time, numerous and positive enough to warrant inference of exclusive ownership. In ***Ajala v. Awodele & Ors (1971) NMLR 127,*** the **Supreme Court** held that **settlement is one of the traditional modes of Land acquisition.**

**Management of Land**

The family leaders are the ones that manage and personify the family and as such the powers and rights of ownership of family land are vested in and exercisable by them on behalf of the family.

Their responsibility is to preserve the family property from any unlawful interference and to keep it in a good state of repair ; to allocate portions to the needing 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.

**Determination of Family Land**

In my locality, land is **partitioned every two years** and it is voluntary resulting from mutual agreement amongst members of the family to partition the family property. **Partition** is an act of sharing the family property among the members of the family and each member has his own exclusive portion and is an absolute owner. However, this turns a family land or property to a slight individual ownership.

**Partition** was ordered by the court as there was usually persistent refusal by some members of the family to allow others to enjoy their rights under the Customary law.

The **Partition** is carried out by principal members of the family who also act as family leaders who share the land amongst them to farm mostly. This is because the **Etche people** in **Rivers State** mostly rely on farming as their means of livelihood. They plant garri, plantains, waterleaf and other leafy vegetables. The harvest is transported to Port Harcourt and other parts of Rivers State where it is sold to market traders and vendors as a source of income. The profit from the sale is then shared among the first sons in the family.

In conclusion, land is largely Family-owned in my locality and this is done in order to ensure other family members enjoy benefits from the family land and **Partition** of the land every two years seeks to ensure that.

**Bibiliography**

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* **www.land-links.org**