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INTRODUCTION

Customary land tenure system in simple terms could be described as a traditional system of landholding peculiar to any indigenous people practised over a long period and perhaps such has evolved to be identified as part of the cultural heritage of the people.

The people of Gbagyi found in jikwoyi village of FCT. The Gbagyi people whose major occupation include farming, fishing and trading identify with Nupe ethnic origin. This work focuses on the customary land tenure system of the Gbagyi indigenous extraction. In so doing and to make for better clarification our major focus will be on creation, ownership, management and determination of family or communal land as it is applicable to the people of Gbagyi.

LAND CREATION OR OWNERSHIP

Land holding by the people of Gbagyi land is basically family based in nature. In other words landholding is particularly through family creation rather than communal.

What is considered to constitute a family among the people here in review in respect of land holding including the body of persons living together under one head including parents, children and perhaps servants if any. This arrangement seem to be in perfect agreement with the definition of Uwaifo JSC in Okulade v Awosanya where the definition of a family was given as “the body of persons who live in one house under one head, including parents, children and servants.

By at of parties;

Family property amongst the people arise basically by acts of the parties which include;

1. First settlement; This is determined where a family through their ancestors had been identified as the first settlers on a virgin land and exercise acts of ownership over sufficient length of time.
2. Purchase; Family may acquire ownership of a land through purchase particularly where the family had contributed for such purchase.
3. Gift; Land handed as a gift to the family sometimes as part of marriage gift subsequently become part of the family property.

It is important to note at this point that though female children who are married out are not expected to share in the family land of their biological parents as it is believed that where their right of inheritance lies is in her husband’s property; Nothing stops a father from including his female child already married out to take a share of the family land. Such gift remain in perpetuity as the legitimate inheritance of the female child even after the death of the father.

Similarly, a widow is allowed an unhindered ownership of her late husband. As a matter of fact, a man before his death is expected to partition his land giving parts of it to his wife (ves) while part of it is shared to his children. Where a man had died before such sharing, the family is invited to meet for the purpose of such partitioning of the family land where no member of the family including the widow is discriminated upon.

In general sense such sharing of the family land does not take in consideration of brothers, sisters, cousins or uncles of the deceased family head. However, where the deceased in a declaration such as will, had included such members of his extended family, the wish of the deceased family head will be upheld. A member of the family is at his liberty to do as he wishes with his own part of the family land.

In other words, a family member may dispose his interest in the land through gift, lease or even outright sale. However, this become possible after such family has been partitioned as a family land ceases to be family upon partition.

CREATION UPON OPERATION OF LAW.

Family inheritance of customary land may be acquired through operation of law. Amongst the people of Gbagyi, a man who dies intested I.e without a written will, will have his devolves upon his children in line with the tradition of the people.

MANAGEMENT OF FAMILY LAND

Unpartitioned land in Gbagyi locality is strictly held in trust by the family head on behalf of the family members. The family head has the responsibility to protect and preserve such family property against any unlawful interference. However, a family head is forbidden from selling, leasing or alienating suo moto any part of the family property.

Every dealing with the family land must be in consultation with every member of the family who will directly or indirectly affect one way or the other.

DETERMINATION OF FAMILY PROPERTY

Family landholding in Gbagyi locality maybe determined through;

I. Partitioning

ii. Absolute transfer

PARTITIONING

At some point, members of the family may unanimously agree to have the family land partitioned and the interest therein transferred directly to each family member. This usually happens when the head of the family ceases to exist. As earlier stated, where a family land is partitioned, such land ceases to be a family land but becomes an absolute property of the individual family members.

ABSOLUTE TRANSFER

The purpose of the family property is to provide for the needs of the members of the family. Thus it might become necessary for the family to deal with the property in any particular way necessary to meet the need of the family.

One of such way will include outright sale of the family land to raise funding for necessary projects. Another common way of determining family landholding is through exchange. Land belonging to families are exchange with each other for some peculiar reasons.

CONCLUSION

Family landholding among the Gbagyi tribe is basically related to the family landholding concept of most Nigerian ethnic communities. Family land are held in trust by family head on behalf of family members.