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**MATRIC NUMBER: 16/LAW01/127**

**LEVEL: 400**

**COURSE TITLE: LAND LAW II**

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

**ABSTRACT**

 ***This paper is a brief but detailed exposé on customary land tenure system in a particular locality in Nigeria, known as the Igala community. The creation, ownership, management and determination of land as pertaining to the Igala community which has been obtained by an extensive research would be discussed.***

**INTRODUCTION**

Igala land in Idah Local Government Area, Kogi State is richly blessed with fertile soil. This makes the people predominantly farmers. Igala people are the majority tribe in Kogi State. In the past the Igalas did not place much importance to their land despite the fact that it is the sustenance of life. However due to the fact that the economic value of land has been recognized recently, the Igalas engage themselves in fighting for the ownership. Some villages in Igala land fight each other for ownership of land.

**CUSTOMARY LAND TENURE SYSTEM AMONGST THE IGALA COMMUNITY**

 Traditionally, the “Attah Igala” is the absolute land trustee[[1]](#footnote-1). He maintains this position not so much by conquest but by divine right and custom of the Igala people. Although, it has been said that the Attah is the traditional owner of the land in the Igala Kingdom, the term ‘ownership has been applied in a rather loose sense. Absolute ownership of land by an individual comparable with the English system of fee simple is quite alien in Igala land. The position of Attah is that the land yielded crops in abundance because of his sacrificial rites, a service for which he received tribute from his subjects.

* **CREATION OF TITLE TO LAND IN IGALA COMMUNITY**

 The Attah of Igala who is the absolute land trustee of Igala land divides up land into fiefs and the fief holders were conferred title by the Attah. the fief holders invariable fell into five broad classes; the **Igala-mela class** which comprised of nine kingmakers *Achadu Attah* (the traditional ‘husband’ of the Attah) as the president, the **Ani Omala (Royal Descendants)** which is the royal advisory council, the **Royal Titled Women** which is headed by the *Iya-Attah* (mother of Attah), **Honorary Chieftains** and the **Original Founders** *(Om’onu ane Akpatakpa)*. There is an alienable right to use land by all members of the community. The village chief or in case of the family head, has the ultimate charge of the land. It is therefore right to say that Igala land belongs to the community and the family.

* **COMMUNITY OWNERSHIP AND MANAGEMENT OF LAND IN IGALA COMMUNITY**

Under customary land law, land is owned by communities or villages [[2]](#footnote-2)and the title to the communal land is vested in the community or village as a whole. In some cases, the management of the communal land is vested on the village head or chief as the case may be. He is referred to in loose terms as the ‘owner’ of the land. He allocates and collects tributes and all proceeds arising from the management of the communal land. In ***Amodu Tijani v Secretary Southern Nigeria***[[3]](#footnote-3), the court held that land belongs to the community, village or the family, and never to the individual. It was also held that in every case the chief or the headman of the village or community has charge of the land and…is sometimes referred to as the owner.

 In Igala land, land belongs to the community or family. The traditional chief is said to be the ‘owner’ or the original founder or the successor to the original founder (**O’onu ane Akpalakpa**) or the Attah’s title man (**oni’ajata**) who is usually from the royal blood. In certain cases however, the original founder is given a title by the Attah but at other times, the original founder and the Attah’s titled man act side by side in exercising control over the land.

In the Igala community there are parcels of land known as ‘**Oko eruru**’ or ‘**Egbili**’ which means nobody has ever touched or has ever exercised the right of usage. This type of land is reserved for future use and any member of the community whether a stranger or a settled member has the right of use over it. palm trees and other useful fruit trees on such land belongs to the community but are controlled or harvestable by the village heads where it is customary to pay tributes. Usually a ban (**enaba ekpe**) is place on cutting or the harvest of such trees.

* **FAMILY OWNERSHIP AND MANAGEMMENT OF LAND IN IGALA COMMUNITY**

 Family means the descendants of a common ancestor. In the Igala community, land is said to be owned by a family jointly and not by individual members. It is the responsibility of the family had to see to the management of the family land. He acts in consultation with the principal members of the family just like the village head or the chief, the family head also allocates land and collects tributes that might arise from the management of the family land. Land that has been given to any of the fief holders by the Attah Igala may be passed on to descendants as family land. In the Igala community, land may also be acquired by the family by sale, pledge, outright or absolute gift, conquest and even reclaimed land. Under the native law and custom of the Igalas, a family comprises of father, mother, brothers and sisters. When a man talks about a land belonging to him, the original ownership is traced to his great grandfather down to his father. The head of the family is the caretaker of the land. Title to family land vests in the members of the family as a corporate group.[[4]](#footnote-4)

* **DETERMINATION OF FAMILY PROPERTY IN IGALA COMMUNITY**

This is similar to what obtains in other communities; land may be determined when there is an absolute transfer or a partition.

 **Absolute Transfer** of family property occurs where the family transfers the totality of its interest in the family land to another person. This may be by way of sale or gift. Where this happens, the transferee becomes the absolute owner. A transfer of family property is proper and valid where the transfer is sanctioned by the family head and principal members of the family. A conveyance purporting to transfer family property without the consent of the family head and the principal members is void ab initio.

 **Partition** is the act of sharing of family property among the members of the family. By a partitioning, individual ownership of and may be created.

**CONCLUSION**

 This paper examined the customary land tenure system amongst the Igala community of Idah Local Government Area, Kogi state, Nigeria. The creation, ownership, management and determination of land have also been examined and briefly explained.[[5]](#endnote-1)

1. ***Musa Iyaji v Sule Eyiegbe*** (1987) 3 NWLR pt. 61.523 [↑](#footnote-ref-1)
2. Eze v Igiliegbe & Ors (1952) 14 WACA 61. [↑](#footnote-ref-2)
3. (1921) 2 A.C. 399 at 404. [↑](#footnote-ref-3)
4. Ogunmefun v Ogunmefun (1931) 10 NLR 13. [↑](#footnote-ref-4)
5. Taiwo, E. A The Nigerian Land Law (2011) Ababa Press Ltd Sango, Ibadan

Aboki, Y. (1985) *Title and Management of Land Under Native Law and Custom of the People of Middle-Belt of Nigeria* (unpublished) A.B.U Zaria.

Yakubu M.C. (1980) *the Law of Land Ownership and Succession in Northern States of Nigeria* (unpublished) University of Birmingham Vol.1

Elias T.O. (1960) *Nigerian Land Law and Custom*, Routledge and Kegan Paul Ltd, London. [↑](#endnote-ref-1)