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**ASSIGNMENT: PREPARE A BRIEF PAPER ON THE CUSTOMARY LAND TENURE SYSTEM AS PRACTISED IN MY LOCALITY, THIS SHOULD BRIEFLY COVER THE CREATION, OWNERSHIP, MANAGEMENT AND DETERMINATION OF FAMILY OR COMMUNAL LAND IN YOUR LOCALITY**

**INTRODUCTION**

Land tenure system is a system of landholding practiced in any society. Customs are “mirror of accepted usage” as stated in the case of **owonyin v omotosho**, therefore customary land tenure system is, a system of landholding known to and practiced by people the people in a particular community. Its various concepts are discussed below with great emphasis on the Benin people land tenure system, in Ordeo local government area, Edo state, Nigeria.

**VARIOUS CONCEPTS OF CUSTOMARY LAND TENURE SYSTEM**

The concept of **ownership** under customary land tenure system, has various argument as some say that ownership is unknown to customary land concept and others are of the view that it has since been a part of our customary law. Sometimes the term is used in customary law to mean **“right of occupation**” and some other times to mean **“absolute** **ownership**. In the customary view of ownership land maybe held by the community (communal land holding) or by the family.

**COMMUNAL LANDHOLDING**

This type of communal landholding is common to customary land tenure system. This type of land holding involves the community, the community hold the land for all individual members of the community. In the case of **Amoju Tijani v. secretary southern Nigeria**, the court held that land belongs to the community, village and never to the individual same was stated in the case of **Eze v. Igiliegbe & ors.**

**CREATION, MANAGEMENT, DETREMINATION OF COMMUNAL LAND HOLDING**

It is created from the decisions of the original founders or settlers of the land. The community therefore acts through human agents such as chiefs, elders etc. The management of communal land is in the hand of the chiefs, traditional rulers who exercise the management and control of the land. The principle for corporate management of communal land was stated in **Tijani v. secretary of southern Nigeria**. The one in charge of the communal land is sometimes referred to as the trustee.

**FAMILY OWNERSHIP LAND TENURE SYSTEM**

The family is a remarkable unit in every society, it consists of a group of individuals connected by blood. These group of people are entitled to the property of the deceased founder. Family land is vested on the family as a corporate entity. Thus in **Solomon v Mogaji** it was stated that where a member of a family sells the family land as its personal property that sale is **void ab initio**.

**CREATION, MANAGEMENT AND DETERMINATION OF FAMILY LAND**

Creation of family land in **Oluwosago v Adebanjo** was stated to be by operation of law( when the land owner who is subject to customary law dies without a will his property is devolves to his children), also by creation of acts of the parties(by way of first settlement, conquest, purchase or a gift). The management of family land can be done by the family head as every family. Every family has a head that personifies it, he may be referred to as the trustee of the land, and he preserves the land. The head can either be the eldest son or daughter in the family or a head chosen by the discretion or nomination of the family members. As stated in the case of **Inyang v Ita.** The determination of a family land tenure system can be by absolute transfer or by partition.

**THE LAND TENURE SYSTEM OF THE BENIN PEOPLE EMPHAISING ON THE OWNERSHIP, CREATION AND MANAGEMENT** **AND DERTERMINATION OF THESE TENURE SYSTEMS**

This work is specifically on the **Benin people of Edo state, Oredo local government** **area in Nigeria**. It forms of ownership is based on communal landholding and also family landholding system. The communal land holding system is prevalent in the Benin kingdom. Before the advent of the British government in 1861, the Benin people accepted their custom as a mirror of accepted usage and much importance was made to the practice of these customs. The land is vested in **the Oba of Benin** who holds it in trust, for the members of the community as strangers cannot hold land. It was stated in the case of **Arase v Arase** that the principle of the Benin custom says that, all land in Benin is owned by the community of which the Oba of Benin holds in trust for the people. The Oba of Benin can transfer to any individual the “ownership” of land. The Oba of Benin could allocate the land to any individual as a gift or favour by virtue of his prerogative. Individuals or family heads interested in owning land go through the allocation committee who makes recommendations and inspects the land making sure it is free from any dispute. The persons given the land do not become absolute owners but beneficial owners. Where there is a dispute the person who shows a better title gets the land that is the person who followed the procedures laid by the Oba. It should be noted that, family land tenure system was not as prevalent as the communal land tenure system in the Benin kingdom. But some distinguished families owned lands, like cabinet chiefs, families favoured by the king and families connected to royalty.

**OWNERSHIP, CREATION, MANAGEMENT AND DETERMINATION OF THE COMMUAL AND FAMILY LAND TENURE SYSTEM**

The ownership of communal land in the Benin land tenure system was by the Oba of Benin, the family heads were the heads of family lands. Communal lands were created from the initiatives of founders of the land and family lands were created by operation of law and creation by acts of the parties as explained above. The management of communal land was by the Oba of Benin through his allocation committee and family land by the family head. The determination of communal rights to a land can be by revocation of the Oba of Benin and family land can be by absolute transfer on partition by family members.

**CONCLUSION**

This write up dwells on customary land tenure system and its concepts with emphasis on the Benin people from Edo state. Its creation, management and determination or termination are stated in the above write up. It should be noted that, since the **Land Use Act** came in 1978, it made uniform the land tenure system.