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QUESTION

Prepare a brief paper not more than 3 pages, 12pt, times new roman, 1.5-line spacing on the customary land tenure system as practices in your locality (state the locality, state, local government or community you are writing about). This should briefly cover the creation, ownership, management and determination of family or communal land in your locality.

A PAPER ON THE CUSTOMARY LAND TENURE SYSTEM IN MY LOCALITY

INTRODUCTION

Land is a vital aspect of man's existence. Its significance is such that it has led to countless disputes and bloodshed, it is essentiality to man cannot be ignored. This paper shall seek to examine landholding system under the customary law; it shall explore the intricacies of the land law system under the Nigerian customary law. The paper is further divided into 4 sections. Section one deals the creation, section two deals with the ownership, section 3 deals with management and section 4 deals determination of family or communal land in my locality. I hail from the **eastern part of Nigeria, Anambra state** to be precise. The name of my locality is Oraifite in Ekwisigo local government area.

Customary law is that law that was handed from time immemorial from ancestors and as such represents a collection of precedents and decisions of the by-gone chiefs. The case of *Owonyin v Omotosho*, customary law is a mirror of accepted usage and common law of Nigerian people. Customary law in Nigeria embraces both the ethnic laws and the Muslim law. Customary land tenure system can be defined as the system of landholding indigenous to Nigeria relating to family land inheritance systems based on the concept of group ownership of absolute right in the land.

1. CREATION

Oraifite is a town in Ekwusigo Local Government Area of Anambra State of Nigeria, located about 15 km south of Onitsha on the Onitsha – Owerri highway. It is bounded on the east by Nnewi, on the west by the creeks of the River Niger and Atani, on the north by Ichi, Ojoto, Oba and Akwukwu, on the south by Ozubulu. Oraifite shares a common ancestry with Nnewi and Ichi towns that make up the Ana-Edo clan. According to oral traditions, the authentic history of Ana-Edo has it that Nnewi is the eldest son of Ikenga, followed by Oraifite and Ichi is the youngest son of their father. Oraifite people were traditionally farmers and wine tappers, and are a happy, peace loving, accommodating and hardworking people of above average intelligence with a dynamic culture and enduring traditions. The culmination of this is a town blessed with sons and daughters who have made indelible marks in the sand of progress of various chosen professions notably the academia.

2. OWNERSHIP

The term ownership has been used to denote absolute ownership while at times, it is used to refer to right of occupation. Ownership signifies the largest claim to land under customary law and it is therefore a recognized concept of customary law. Under the customary law in Nigeria, ownership may be held by;

- a. The community
- b. The family
- c. The individual

FAMILY LAND HOLDING

Family is defined as the body of persons who live in one house or under one head, including parents, children, servant. **Woodman** defines family as a group of persons lineally descended from a common ancestor exclusively through males or exclusively through females starting from the mother of such ancestor and which group succession to office and property is based on this relationship. 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. In Oraifite, family land is created by acts of parties;

a. First settlement

A family property may arise where a family, through their own ancestors who were the first to settle on a virgin land became the owners of the land.

b. Purchase

Family property may arise where family is used to purchase a family land with the consent of every member of the family.

3. MANAGEMENT

In my locality, Oraifite, the eldest man in the family takes charge of the management and control of the land. He has the duty to preserve the land from strangers and unlawful interference and to keep it in good condition at all times. Women have no business in land matters talk less of managing the land. Also, the eldest person in that family has a privilege to being the sole owner of small portion of the family land. The is privilege is exclusive to only the eldest son in the family.

4. DETERMINATION OF FAMILY LAND

Family land in Oraifite is determined through absolute transfer. **Absolute transfer** of the family property occurs where the family transfers the totality of its interest in the family land to another person. The transfer must be in consensus with every member of the family. The transfer takes place like this; A person shows interest in buying a particular family land or a portion of the family land and entered into agreement to the price of the land in question. 5% of the money made will go to the community purse or account. a deed of conveyance is created in the presence of one witness for each parties. The buyer is required to bring;

- A Goat of any size
- 4 Kolanuts
- 2 Gallons of palm wine

The buyer is entitled to a leg of the goat.

In conclusion, if the family land is sold without the consent of the family members most especially the eldest person in the family, such transaction will be void and such a person will have to refund the money to the alleged buyer.