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Introduction

My locality which I would be writing on in this paper is Ibadan in Oyo State. Ibadan is the capital city of Oyo state of which its customary land tenure system has evolved over time.

Family land holding is the most prevalent of all the types of land tenure in South Western Nigeria of which Oyo state is part. The entire family has exclusive possession and user of the family property. The family head popularly known as “**Olori Ebi**” distributes the right on patriarchal lineage basis. For example, if all the members of the family are farmers, each male family member receives a portion of the total land in relation to the total number of family members in the household. The reason for referring to just “male members” is because in most societies, the female children have been held not entitled to inherit the property of their late father. However, Individual land holding can be acquired through inheritance and partition of family land or purchase. Individual land holding tenure system is the most common form of land tenure in urban areas in the south west.

In this piece of work, this writer would consider how the customary land tenure system in Ibadan started as family holding and evolved into individual land holding due to modern conditions, economic activities and economic emancipation. Also to be considered is the creation, ownership, and management and Determination of Family land tenure system in Ibadan.

Evolution of Land Tenure in South Western Nigeria¹

Before the promulgation to the Land Use Act in 1978, both urban and rural land was owned, controlled and administered by the “**Obas**” or “**Baales**”, and by the families as social units.

¹ https://www.academia.edu/10092646/land_tenure_in_southern_nigeria

Within the family, the eldest male, referred to as the **"Mogaji"**, is to administer the land on behalf of the other members of his family. According to the customary system, an individual who receives a piece of land from the family for residential purposes obtains freehold tenure, which will remain so in perpetuity except for cases in which the government expropriates land. The female child under this system has limited access and rights over the land. Land transactions by individual families are subject to royalty payments to the **"Kabiyesi"**. In Ibadan the traditional head is called the **Olu'badan of Ibadan**, in Oyo town he is the **Alaafin of Oyo**. The promulgation of the Land Use Act in 1978 abandoned the former landholding structure. Prevalent of all these is the private property regime. The property rights are held and controlled by families who are the original settlers, however individual ownership exists within families. Strangers or non-family members are also granted rights to use land for a specified period of time through the **"Ishakole"** land tenure system. Strangers are allowed the right of possession and use in perpetuity provided they perform the obligation of the lease contract. Land owners require benefit in kind which can be drinks, kola-nuts, and bags of salt or goats as payment to obtain land rights.

Ownership

Has stated by the erudite **Professor of Law, Adewale Taiwo** in his book *"The Nigerian Land Law"* that sometimes the term "ownership" has been used to denote "absolute ownership" while at times, it is used to refer to "right of occupation". In this context, ownership in my locality (Ibadan) was held initially by the family and over time, the lands have been sold to individuals and due to modern conditions especially in the urban areas, it has evolved to the **individual land holding**. However, there are some family land children referred to as **"Omo onile"**. These are the people who claim land that belongs to their family and in most cases are the ones who sell these lands to prospective buyers (individuals). Communal land holding does not operate here because the community heads cannot unduly exercise power over the family lands. For instance, in Ibadan, the Olu'badan cannot exercise his power over a particular family land because the land strictly belongs to that family.

Creation of family land

Family land is created either by operation of law or by acts of the parties. Where a land owner dies intestate, his property automatically devolves on his children based on the customary law guiding it. And it is by this process that family land is created. Also, family land can also be created by several acts of the parties; either by First settlement, conquest, purchase or inter vivos(gift). However, the most common way of creating a family land in ibadan is by operation of law, whereby the property of the deceased devolves on his heirs where he dies intestate

Management of Family Land

The family head who is the “**Olori Ebi**” is in charge of the managerial function of the family. He does this on behalf of the whole family and in most cases, he is the one that allocates portions of land to each member. However, the family head does not have any right to sell family land without the consent of the family members or as his personal property as seen in the case of *Solomon & Ors v Mogaji*² where the Supreme Court held that the purported sale was void *ab initio*.

Determination of Family land

As stated above, when family land is sold to an individual, it doesn't belong to that family again, the individual it is sold to becomes the owner, thereby terminating the family ownership of that land. The **Omo oniles** for example once they sell the family land to a prospective buyer, it absolutely belongs to the individual automatically. Another way family land can be determined is where the family members who own the property decide to divide the land equally among themselves.

Conclusion

The most common land tenure system that is practiced in Ibadan (like in almost all south western states) is the Family land holding. However, there have been changes overtime whereby individuals have started to own lands which might have been sold to them by families that owned the land. Ibadan is developing fast and has become commercially and industrially inclined and due to this, individual now purchase lands and become its owners.

² (1982) 11 SC 1