

NAME: UZOWURU ADANNA CHIKANAELEANYA

MATRICULATION NUMBER: 16/LAW01/209

COURSE TITLE: LAND LAW II

LECTURER: PROF. ADEWALE TAIWO

1. ABSTRACT

The aim of this paper is to discuss the Customary Land Tenure System practiced in my locality. For the purpose of this study, my locality is Umuele, Ugiri Nna autonomous community, Isi-ala Mbano Local Government area in Imo State, Nigeria. **It should be noted that this study is peculiar to my locality.**

The Customary Land Tenure System in practice, is the Family Land and the Communal Land. It should be noted that for the purpose of this study, the patriarchal (property is shared across the male lineage) system is practiced. I will therefore proceed to discuss the mode of creation, ownership, management and determination of the family land tenure as well as the communal landholding system.

2. INTRODUCTION

The land tenure system is the system of land holding in a given society which is governed by customary law¹. These laws are largely unwritten and serve as a precedent for the people. In *Owonyin v Omotosho*², customary law was described as a mirror of accepted usage and common law of the Nigerian people. These laws differ from one locality to the other.

3. CUSTOMARY LAND TENURE SYSTEM (A REVIEW OF MY LOCALITY)

3.1 CREATION

The creation of land mainly arose by the **act of the parties**; namely first settlement. Land in general came to be owned as a result of the migration and settlement of the founding fathers and other times, through conquest. The founding father(s) would leave the land to his immediate family (lineage), who would form his/ their own families, and then subsequently, portions of the land would be allotted to sons in the family for sundry purposes, who would leave their portions of the land to their immediate families, while still maintaining a singular family land in the same kindred, and that is how it has been

¹ Taiwo Adewale, *The Nigerian Land Law*, (Princeton & Associates Publishing Co. Ltd, 2016) 170

² (1961) ALL NLR 304 at 309

up till this day. The continuous inheritance of land forms immediate families while the larger group becomes the Kindred.

3.2 OWNERSHIP

The ownership is held by the family, while certain lands are held by the community (communal). As regards **family land**, it is owned by the members of the family in whom the land is vested. It is important to note that women (married or unmarried) in the family are not entitled to the land.

The communal land however, refers to land that is communally owned and used by every member of the community. Such lands include; the village square, town hall and the village stream. The head of the village known as the “**Onye Isi – Ala**” holds and controls the land for the benefit of the entire community. The head of the village is not the owner of the land. The members of the community are free to use their land. However, when any higher authority seeks to acquire the land for any particular purpose, the **Onye Isi – Ala** will be the decisive authority.

3.2 MANAGEMENT

Before the advent of colonialism, land was held in trust for the community by the Amala and the Nzes. Hence, no one person owned land exclusively. As a result of all these changes, land ownership reverted to the family.

The family land is usually managed and controlled by the **eldest son** known as the **Opara as a trustee for the rest of the family**. He organizes and chairs all family activities including land. This does not in any way confer upon him the ownership of the land. Members of the family (Umunna) have certain rights in connection to the land; amongst this is the right to manage, farm or to build. In the case of farming, at the end of the farming season, the land returns to the family.

The Opara cannot unilaterally sell the land as his personal property. He must obtain the consent of every member of the family who has a claim to the land. Where every member of the family consents to the sale of the land, it ceases to be owned by the family and becomes the property of the purchasers.

It is not acceptable for any single member of the family to claim exclusive ownership of any part of the land. There have been instances where a single member of the family attempted to sell the family land and this resulted in dispute. In the event of this, the **Amala** and the **Nze** title holders in the family will be

invited to settle the matter. At this stage, they may not be able to achieve a settlement, and the matter will be referred to the **kindred** (made up of the family heads), where there is no settlement, it goes to the **village** (made of the head of each kindred), where the matter is still not resolved, it goes to the **town** (made up of the heads of each village) and finally the **Clan** (made up of the heads of each town).

Communal Land is managed by the **Onye Isi –ala** in conjunction with his Council of Chiefs (Ndi – Nze)

3.4 DETERMINATION

Customary land tenure; family land, may be determined in the following circumstances;

3.4.1 Non repayment of loan

In case of failure to repay a loan as agreed, such lands where they had been used as a collateral, will be taken away and it becomes the property of the lender.

3.4.2 Death without a survivor

Where a person dies without a male survivor, the land devolves to the nearest relation, or members of the family who financed his burial.

3.4.3 Sacrilege/Taboo

Where a member of a family or a family as a whole commits a taboo, they will be banished from the community and the land will devolve to the community, thus making it a communal land.

3.4.4 Sale

Individuals or family may have the need for money and resort to sell land to finance it, hence the land ceases to belong to them.

4. CONCLUSION

It can be rightly concluded that the established Customary Land Tenure System which is practiced by means of unwritten laws in my locality is that of the Family land and Communal landholding.

5. REFERENCES

. Taiwo, EA., The Nigerian Land Law, (Princeton & Associates Publishing Co. Ltd, 2016) 170.

