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**STATE OF ORIGIN:** LAGOS STATE

**LOCAL GOVERNMENT:** IKORODU LOCAL GOVERNMENT

**QUESTION:** Prepare a brief paper on the customary land tenure system as practiced 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.

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**INTRODUCTION**

Land is essential for every human activity on earth as it is the source of all material wealth. As a result of its essentiality to human existence, its management and control is usually regulated and before the advent of the enactment of the Land Use Act 1978, the customary land tenure system was in place. Different ethnic groups or communities had their different customs regulating the control and administration of land in their area. This work focuses on the customary land tenure system applicable in Ikorodu Local Government, Lagos State mirroring the form of land ownership, its creation, management and determination of ownership of land in the area.

**CUSTOMARY LAND TENURE SYSTEM**

Customary land tenure system is the system of land holding governed by customary law. Customary law on the other hand as defined in ***Owonyin v Omotosho[[1]](#footnote-1)*** is “a mirror of accepted usage”. As such, customary land tenure system in Ikorodu is the system of holding land practiced by the indigenous people of Ikorodu in Lagos state, Nigeria.

**OWNERSHIP OF LAND UNDER THE IKORODU CUSTOMARY LAND TENURE SYSTEM**

Ownership as a recognized concept of customary law refers to the largest claim to land under customary law. Under the Nigerian customary law, ownership of land may be held by the family, community or individuals. In Ikorodu, land was owned by the different indigenous families unlike what is presently obtainable.

**FAMILY LAND:**

Under customary law, family is said to mean the direct offshoot of the founder, that is, the children both male and female. In ***Coker v Coker[[2]](#footnote-2),* Carey J** stated that it is well established that the primary meaning of family is children. Though in some cultures like in the Igbo communities, women are not allowed to inherit the property of their father, the Ikorodu land holding system permits both sexes. Family land is usually vested on the family as a corporate entity. As such, no individual member of the family has a separate claim of ownership to a part or whole of it.[[3]](#footnote-3) If a member of the family purportedly transfer title of family land, such a transfer is void ab initio. Thus, in ***Solomon & Ors v Mogaji*,[[4]](#footnote-4)** the Supreme Court held that the purported sale by a family head of a family land as his personal property was void *ab initio* because he had no separate individual interest to transfer to the appellants. It is the consent of the family head and a majority of principal members of the family that is required and not that of every member for the alienation of un-partitioned family land.

**CREATION OF FAMILY LAND IN IKORODU**

Family property in Ikorodu can be created in 4 ways. They include:

* **By way of conveyance**

Here, the settlor by a valid deed confers property on the family and declares that the use and enjoyment of such property shall be named for named members of named family.

* **By way of declaration in a will**

This arises where a deceased landowner declares in his will that a property held personally by him be held jointly by members of the family after his death.

* **By way of Intestacy**

Where a land owner whose estate is governed by customary law dies intestate, such land devolves on his heirs as family property. This form of creation was confirmed in the case of ***Abeje v Ogundairo.***

* **By way of declaration of an intention to create a family property intervivos:**

This arises where a landowner while still alive declares that his property be made a family property to be used and enjoyed by members of the family jointly. It could also arise where land is purchased with money belonging to the family.

**MANAGEMENT OF FAMILY PROPERTY**

Ownership of family land is joint and indivisible since it is vested in the family as a whole. As such, it is impossible for every member of the family to be in control. Therefore, the management and control of the family land is vested in the family head in conjunction with the principal members of the family. His control is however devoid of ownership; it is the day to day management of the property that is vested in him. Thus, in ***Foko v Foko[[5]](#footnote-5)*** where a family head sold family property for the purpose of acquiring chieftaincy title, it was held that such a sale was void. The family head has been referred to as a manager as in ***Akano v Ajuwon[[6]](#footnote-6)*** and a trustee in ***Bassey v Cobham[[7]](#footnote-7)*** amongst other descriptions. However, in any of these capacities, he stands in a fiduciary relationship with other members as long as the property is concerned.

**DETERMINATION OF FAMILY PROPERTY**

In Ikorodu land, family property can be determined in any of the following ways:

* **Absolute Conveyance:** this occurs where the family conveys the totality of its interest in the family land to another person by way of sale or gift.
* **Partition**: this is the permanent division of land for purposes, not of user only, but of ownership as well.[[8]](#footnote-8) It is used to describe a situation where joint possession is disunited so that each former co tenant becomes a separate owner of a specific portion of the land.

**CONCLUSION**

The customary land tenure system of Ikorodu land is now rarely practiced as a result of the introduction of the Land Use Act 1978. However, as in every locality, the customary land tenure system as applicable before the enactment of this legislation still has an atom of influence on how land is managed and controlled in Ikorodu. Upon its enactment, the Land Use Act vests the title of lands in the governor of the state where it is situated to be held in trust and be administered for the benefit of every Nigerian. It however recognizes Customary Right of Occupancy which is the right of a person or community to use or occupy land in accordance with customary law.

1. (1961) ALL NLR 304 at 309 [↑](#footnote-ref-1)
2. (1938) 13 NLR 83 at 85 [↑](#footnote-ref-2)
3. Adewale T, *The Nigerian Land Law* (Princeton Publishers 2011) 177 [↑](#footnote-ref-3)
4. (1982) 11 SC 1. [↑](#footnote-ref-4)
5. (1965) NMLR 3 [↑](#footnote-ref-5)
6. (1982) 11 SC 1 at 72 [↑](#footnote-ref-6)
7. (1924) 5 NLR 92 [↑](#footnote-ref-7)
8. Nwabueze, B.O *Nigerian Land law*, (Nwamife Publishers Ltd, 1972) 40 [↑](#footnote-ref-8)