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Assignment 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 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. Note that the examiner expects you to write based on your research or knowledge acquired with respect to customary land tenure in your locality.

**INTRODUCTION**

Land tenure has been established to be the system of land holding in a given society. Having established that, it is rational to presume that land tenure systems differ based on the sphere of influence of certain societies that is; they vary from society to society and are only in practice within the confines of influence of said society. This writer will specifically consider the land tenure system practiced in Ara located in Osun state.

Creation

As regards creation of land, this can usually be acquired in a myriad of ways. Limiting the scope to the area in question however, communal land is generally created by acts of the parties specifically first settlement. This often happened as members of one community could simply leave and search for new and untouched land to claim as their own and as a result, create new communities. This is also how Ara community originated. As a result of this means of creation, families exercise acts of ownership over vast periods of time. In Ara community however, although land ownership was created in this manner, the members of the community decided to vest ownership of the land in the community leader as a means of protection as well as to create and maintain order as regards allocation of land as there were situations where individuals would attempt to ‘land grab’.

Ownership

The concept of ownership generally signifies the person who holds the largest interest in land which according to the system practiced in Nigeria, is the government. However, speaking communally, ownership can be said to signify the largest claim to land under customary law. It is usually held either by the community, family or individual. The locality of Ara located in Osun state similarly to most Yoruba communities’ vests ownership of land with the community in the person of the community leader. The leader then allocates the land to members of the community as well as resolves land related disputes. It is important to note however that the land belongs first and foremost to the community and the leader simply serves as a representative of the will of the community and as such, cannot abuse the power of allocation of land that he has. This in turn means that members of the community have rights in the communal land such as exclusive possession.

Management

As regards management, the community practices management of family land. Woodman defines family as a group of persons lineally descended from a common ancestor exclusively through males (in a patriarchal community) or through females (in a matrilineal community). As stated in “The Nigerian Land Law”, the term family as regards family property means a group of persons who are entitled to succeed to the property of a deceased founder of the family. As regards succession of such property, it is usually believed that the land belongs to all members of the family and as such, all members have interest in the land. This makes it difficult in an instance where the land is to be sold as all members have to give their consent before the land can be sold. The same applies for any form of activity that wants to take place on the land. It is important to note however that the land only belongs to direct descendants of the first or original “owner” of the land and does not extend to anyone who marries into the family or joins the family by any means that is not birth.

Also, the community head also manages the community land as regards strangers in the sense that while strangers are not entitled to any portion of the land within the community except by means of commercial activity such as sales, lease or mortgage, he/she may be granted a portion of communal land as a customary tenant for which he pays tributes to the community in return for said grant.

Determination

Determination often occurs via allocation of communal land amongst family members. That is, the land is shared amongst the members of the family. However, unlike the regular manner in which land is partitioned, the members of Ara community only partition their interest in the land. As such ownership is still vested within the family and any major decision concerning the land has to be conducted with all the family members giving their assent. The members who have interests in the still have the right to carry out certain activities within the portion of land they have interests such as farming, construction of homes and other similar activities.