**CUSTOMARY LAND TENURE SYSTEM AS PRACTICED IN EKITI STATE, ADO LOCAL GOVERNMENT**

**BY**

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**INTRODUCTION**

**Land** is the most resource input in Nigeria and so policies affecting it affects the members of a given community. The concept of land tenure has been described as a systematization of the rules which function by specifying what différent classes of persons may or may not must or must not do with reference to the occupancy, use, abuse or disposition of Iand. Such rules define the privilèges and obligations, the rights and duties of persons in relation to each other, with référence to land Although the basis of land-ownership in Nigeria has long been the family from which other interests are carved out, there are essentially other categories of interests recognized in land. **Customary** **Land** **Tenure** varies from one community to the other, and because it is unwritten law, it must be properly proved before the court as the acceptable law governing the particular situation. The proof may be through witnesses and historical Books attesting to the practices of the people. Upon proof, and acceptance by the court, it becomes a judicially noticed custom, because it has become notorious and established. After the judicial notice, the parties need only refer to the judicial notice in further proceeding before the court. In Nigeria, there are substantial numbers of cases where customary land tenure has been judicially noticed. As seen Lordd Haldene judgment in **Amodu** **Tijani** v **Secretary** **of** **Southern** **Nigeria** (**1921**) **A.C 399 at 404.**

Essentially we would be enumerating on the land tenure system as practised in Ado L.G.A, Ekiti State, whereby would briefly be familiar with the following under the Family Land Tenure System which is practiced in Ado Ekiti L.G.A which include:

1. Creation
2. Ownership
3. Management
4. Termination

**CREATION** **OF** **FAMILY** **LAND** **TENURE**

The family is a very important unit in customary law, and land is rarely held individually but collectively. Pertaining to family property under customary law and custom, the family property is that property belonging to the family as a unit, it is in its real form an undivided interest in land; and until it is determined, it would continue to be held jointly by the entire family as a unit. Family land can in essence be created by **Operation** **of** **the** **law** or by **Acts** **of** **the** **parties**.

Family land essentially be created united under the operation of the law through either **will** or **intestacy** in which the latter is explained in a situation where if a landowner who is subject to customary law dies without a will, his acquired property devolves on his children as family property in accordance with the applicable customary law rules. This is the way family property is commonly created as seen in the case of lewis v bankole. Will also involves family property may also arise from a declaration under a will as where a testator devised a property to his heirs only to hold as family property. As in case of **sogbesan v adebiyi**

Under the acts of parties, parties may by their own acts create family property, by any of the following ways:

1. First settlement.
2. Conquest
3. Purchase
4. Gift
5. Declaration
6. Conveyance

**OWNERSHIP**

The concept of customary family land holding is group ownership. Individual ownership is unknown and foreign to the system. Every land held as family land belongs to the family as a whole and no individual can claim sole ownership to the land.

**MANAGEMENT**

The management of the land is essentially controlled managed by the Family Head (olori ebi) and the wishes of the family members are enforced through him. In the case of **Amodu Tijani v Secretary Southern Nigeria** it was opined that n every case, the head of the family, has charge of the land, and in a loose mode of speech is sometimes called the owner. He is to some extent in the position of a trustee, and as such holds the land for the use of the family. Thus, as a trustee of family land, the head of the family has control of family land and administers it for the mutual benefit of all members of the family. He allocates portions of family land to the members of the family for their use and occupation. He may lease out such parts of the family property as he may deem fit and collects rents which are shared or applied for the mutual benefit of all the members.

**TERMINATION**

(i.) Absolute Conveyance of the family land Where the totality of the interest of the family is conveyed by way of sale or gift of family property is determined. Usually in modern times, the English method of transfer is adopted but such transfer is not valid unless the deed of transfer is executed by the family head and the principal members of the family .

(ii.) Partition Partition is a legal concept is a method whereby joint possession is disunited so that each former co-tenant becomes a separate owner of a specific portion of land holding a share in severalty as opposed to an undivided share in the whole. Partition may be voluntary resulting from mutual agreement of members and effected by a deed of partition executed by the joint tenants (i.e. by the principal members of the family and the family head).

**CONCLUSION**

In conclusion, customary law has been described by others to be ‘used rather as a blanket description covering very many different systems.’ **Obaseki**, **J.S.C**. once described it as “the organic or living law of the indigenous people of Nigeria regulating their lives and transactions”. It is organic in that it is not static. It is regulatory in that it controls the lives and transaction of the community subject to it.

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**[[1]](#footnote-0)**

1. Amodu Tijani v Secretary of Southern Nigeria (1921) A.C 399 at 404.

   sogbesan v adebiyi

   Ebosie v Phil-Ebosie.

   Oyewumi v. Ogunsesan

   Obaseki, J.S.C. [↑](#footnote-ref-0)