

Name: EDE CHUKWUEMEKA ANDREW

Matric No: 16/LAW01/063

Course Code: LPB 402

Course Name: Land Law II

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 practised 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.

State of Origin: Enugu state

Local Government Area: Isi-Uzo

Locality: Neke

INTRODUCTION

Land tenure is the system of landholding in a given society. Tenure systems define who can hold and use resources, for what length of time, and under what conditions.

Customary law is the law that captures the norms, traditions and rules of behaviour of the people. It is the law that was handed down from time immemorial from ancestors and as such, it represents a collection of precedents and decisions of the by-gone chiefs.

customary land tenure system refers to the system of land holding governed by the customary law.

By definition, communal land or community land is the land vested in the community as a corporate whole and in which no individual member of the community could claim exclusive ownership to any portion of such land.

Family land is land vested on family as a corporate entity.

Individual landholding is the land vested on a person.

These definitions will be of great importance in answering the question.

ANSWERS

In my community, three systems of customary landownership are evident. These are communal, family, and individual systems of land ownership. In former times, the greatest area of land was held by the community as communal land, but with increasing population and allotment of communal land to families, there has taken place a gradual transformation of land from communal into family landholding. Communal holding in my community still exists in such places as farmlands, community squares/playgrounds and markets. These community lands, members and indigenes of the community are freely allowed to visit these places as its their right as members.

The most common way in which the family land ownership was created in the community was through *First Settlement*. Various family ancestors were the first to settle down on the lands and performed acts of ownership/possession over sufficient period of time, numerous and positive enough to warrant inference of exclusive ownership. Another way Family ownership was created, even though not common was through *Conquest*. Here, the *Umegwu* family conquered the *Umugwu* family and claimed some part of their land as theirs. The last way family ownership was created in my Community was through *Gifts*. Here, where the *Nkwo* family unconditionally gifted the *Uzo Ohu* family a part of their land.

Family land ownership was further passed on to other generations when the head of the family dies, land is subsequently passed on to his male children as his heirs.

In my community, family land is usually managed by family head who is normally the father, but, where the father is dead it becomes the eldest son. It is seen in the community that the management and control of that family land is under his control. In essence, he can be called the owner or trustee. This means that any matter concerning the land should be brought up to him. As a trustee to the land, he has some responsibilities to perform to make sure things are in order. Some of the duties are: To preserve family property from any unlawful interference; which means he is to protect it to avoid trespassers, to keep it in a good state of repair, to allocate portions to the needing members; where the property is rented out, to collect the rent; and take part in the transfer or alienation of family property to give a valid title to the transferee.

Where the family head has neglected his duties and it is believed that he is using the land for the wrong purposes or for his personal and selfish benefits, other members of that family can in unity agree to withdraw his right as the owner and pass it on to the second oldest man in the family. This can be seen in the case of *Bassey v Cobham*.

In recent times, families with a lot of male heirs began to partition the family land. This where the family property is shared amongst the respective heirs and they are left to decide what they want to do with their partition. The head of the family who partitions the family land is to ensure that he does that properly by using things like markings, beacons, trees etc. This will go a long way in preventing or reducing the possibilities of land dispute problems amongst family members.

CONCLUSION

The ownership of land in my community has evolved over the years, from predominantly a communal system, it gradually transited into a family system which is still in practice although most of the families partitioned their lands amongst themselves. It is rare to see a family land that is still under the control of one person. The system practiced now seems to suit everyone.

REFERENCES

- *Taiwo, Adewale, The Nigerian Land Law, 2nd ed. (Princeton & Associates Publishing Co. Ltd, Lagos, 2016).*
- *The Impact of Customary Landholding on Emerging Land Markets in Enugu, Nigeria Dr. Cosmas Uchenna Ikejiofor © 2007 Lincoln Institute of Land Policy*