NAME: AUGUSTINE-D’ISRAEL EHBU

MATRIC NUMBER: 16/LAW01/042

COURSE: LAND LAW

LEVEL: 40O LEVEL

COLLEGE: LAW

DATE:22ND April, 2020.

ASSIGNMENT:

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.

**Note that the deadline for submission (April 24, 2020) will be adhered to strictly. There will be no extensions.**

**Abstract:**

 **Nigeria is a multi-ethnic and culturally diverse society with varying customary land tenure systems. Most of this customary and tenure systems have been in existence before the enactment of various land tenure laws. This paper seeks to analyze the customary land tenure systems practiced in Baen community, Khana l.G.A, Rivers state which was instituted to benefit all members of the community .It provides a detailed analysis of the creation, ownership, management and the factors that determine the various land tenure in Baen community.**

Introduction:

 Land is a common denominator where the lives of people lies on. Its tenure ship differs as a result of Nigeria being a culturally diverse society. Customary land tenure system is dependent on the customary law of an ethnic group, village or culture. According to Prof Mqeke customary law are “customs and usages traditionally observed among the indigenous African peoples and which form part of the culture of those people’.Thus customary land tenure system is a system of land holding governed by the customary law. In Owonyin v Omotosho customary law was described as ‘a mirror of accepted usage and common law of the Nigerian people.’’

 Irrespective of the varying customary land tenure system in Nigeria certain features and principles are similar like ownership. Ownership means the rights of occupation, in the Nigerian customary law ownership might be held by the community, family and individual. A communal land is land belonging to a vast family of which many are dead,few are living and it belongs to the community present, past and future. A family land is land belonging to a particular family and family refers to all descendants of a common ancestor.

**Land Tenure System in Baen Community:**

 In Baen community land which is refered to as ‘’Kere Nwe’’ is created through ancestral lineage under the Ogoni custom and it is seen as a gift from God (Bari).Many Ogoni traditions revolve around honoring the land which is considered to be a god according to their systems of beliefs. In Baen ownership of land is held by the family and individuals, ownership of land is not held in the community as it is predominant in other communities in Ogoni .The forefathers of the family must have been the person that cleared the virgin land and it was partitioned on his death to his children.

The powers and rights of ownership of family land are vested in the family head and the family head is usually the eldest male in the family. However in a situation where the eldest member of the family is a female and she has chosen to ‘’BIA KE’’ (to be unmarried for the rest of her life) she can be the head of the family. Family land is inherited it is passed on from one generation to another. If a family head should die the eldest male in the family takes over.

 A member of the family cannot claim sole ownership of the land and as such he cannot dispose of a family land in his will or during his lifetime as it will be considered void. It is only the family that can transfer title to any person.

**Management of the Family Land:**

 The family head manages and controls the land. He ensures that the land is in a good state and there is no unlawful interference and in a case where a member of the family is in need then a portion of the land will be allocated to him. Also, where a family land has been rented out the family head shares the money gotten from the rent to members of the family. The family head holds the land in trust and he is accountable to members of the family in respect of the family property. Thus if a family land is to be sold the elders and the principal members of the family must give their consent if not that conveyance will be void ab initio. In Baen community if a land is not partitioned the elders and the head of the family can alienate it.

**Determination of Family Property:**

Family land is Baen is determined by the following:

**Absolute transfer:** The family land can be transferred to another individual by way of sale. Such a sale will only be valid if it was done with the consent of the family head and principal members of the family. A family head cannot convey land to another person without the consent of members of the family. In a situation where the family head transfers family property on behalf of the family and there is a non-consenting family member it may be set aside. A member of the family that is aggrieved may lose his right to challenge the transfer if there is an unreasonable lapse of time.

**Partition:** Partition is the act of sharing a family property among the members of the family. In Baen community land can be partitioned in certain circumstances. In a case where the family head has consistently refused and denied other members of the family from enjoying certain rights attached to the land, in the interest of peace the land may be partitioned and once a land is partitioned in Baen it means that the land has been permanently conveyed to that family member. The family member will now exclusive benefits and rights over the land. As a result of sale of family land non-indigenes can now own a land in Baen.

**Individual Land tenure in Baen Community:**

 This form of land ownership is very predominant today in Baen. Where a family sells its family land to a stranger the stranger automatically has absolute ownership over that land. Some families in Baen community have sold their family land due to reasons like financial problems. Outright sale of land to individuals is now becoming a very lucrative business as the demand for land by individuals who desire to use it mainly for agricultural purpose is on the increase

**Conclusion:**

Conclusively the kind of Land tenure system practiced in Baen is basically family land holding and individual land tenures system. This land systems were carefully drawn and instituted to benefit all members of the community including women.

**Reference:**

Adewale Taiwo ,The Nigerian Land Law ,2016.

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