

NAME: BUCHI O'NEIL OFULUE

MATRIC NUMBER: 17/LAW01/300

LEVEL: 400

COURSE: NIGERIAN LAND LAW II

LECTURER: PROFESSOR E. A. TAIWO

DATE: 24TH APRIL 2020

The creation, ownership, management and determination of family or communal land in Ugbedu Town in the Aniocha-North Local Government Area of Delta State where ownership under the customary land tenure is mostly communal and by family.

This essay discourses the creation, ownership, management and determination of family and communal land in Ugbodu.

1. COMMUNAL LAND

a. Creation- by settlement

My community was said to have been displaced by war in Owo Kingdom many years ago and while looking for a new settlement there was another war in the Delta North region however, they believe that they were “saved by the bush”; hence, the name *Ugbodumi* which means “the bush saved me”. Afterwards, they settled and named the king the *Oloza* and he held all land in the community in trust for the indigenes of the community.

b. Ownership

Communal land is called “*Uno Ani*” which means the “town’s land”. The *Uno Ani* is divided by the *Ozuale* which means “eye land” and nobody has the right to sell land from that portion of land. However, the *Oloza* may allocate *Uno Ani* (communal land) to individuals for purposes beneficial to the entire community, market purposes or commercial farming albeit, the land remaining property of the community.

c. Management

The *Oloza*, and his chiefs in council, manage communal land and this is why he is called “*Eze nwani*” meaning “King of the Land”. They may allocate communal land to individuals for public purposes and the community reserves reversionary rights in that land. Thus, where the communal land is used for a purpose other than the purpose for which it was given, it reverts back to the community.

d. Determination

Communal land is believed to always be communal land and it cannot be determined.

2. FAMILY LAND

a. Creation (i.) by operation of law

If the landowner dies without a Will, his acquired property, devolves on his children as family property. Initially, only the male children were entitled to inheritance of land but this changed in 2018 when the *Oloza* made a declaration that female children are allowed to inherit landed property from their deceased parents.

However, there are cases where the deceased died without having a child and he also did not leave a will. In this case, his siblings (now male and female siblings) become heirs of the property and shall possess all rights over the property that the deceased owner once exercised over it. It is pertinent to note that if the deceased neither had children nor siblings, it is not considered that he did not have an heir to his property.

If the deceased landowner neither had children nor siblings, his “*nwa agu*” (or godson) will inherit all the rights, benefits and liabilities accompanying the estate. However, such a *nwa agu* must bear the cost of burying the deceased, and if the deceased insisted before his death, the *nwa agu* must also adopt the name of the deceased for the purpose of continuation of the deceased’s family name.

ii. Creation by acts of the parties

• First settlement

Ownership of land behind the *Ozuala* in Ugboodu community was by first settlement of the ancestors or patriarch of that family. That is, the family or person that first settles on a piece of land either for housing or farming purpose and exercises exclusive possession on that land over a period of time has ownership rights over that land and the *Oloza* has no rights over such land.

• Purchase

Family property under purchase may arise in two circumstances:

- i. where family money is used to purchase land or
- ii. where the landowner used his personal money to purchase land and he dies intestate, the land automatically becomes family land to his children.

b. Ownership

Family land is owned by the head of the family and he holds it in trust for all members of the family. Members of the family include male children of the ancestor land owner and not the ancestor’s brothers and sisters. However, the eldest surviving son of the common ancestor is seen as a continuation of the deceased father and, as such, the father’s house becomes his personal property while unused land of the deceased father is to be

administered by the eldest son. He may also claim larger portion of the unused land and the other siblings, if aggrieved, may send their complaint to the *Oloza*.

c. Management of Family Land

The first surviving son of the deceased is the head of the family and he holds the family land in trust for the surviving sons of his deceased father. He may allocate or partition portions of the land to the benefactors. If there is no surviving son, the eldest unmarried daughter of the deceased becomes the family head.

In cases where the deceased has no surviving children, the immediate younger brother of the deceased takes charge of the management and control of the land. He is not to allocate any property of the deceased to an elder sibling of the deceased because, according to the custom, it is a taboo for a young person to experience what his elders have not experienced (including death). This goes to say that their custom assumes that the older person in the family must die before the younger person and if the younger person dies first, the older person (or sibling) is neither allowed to attend the burial of the younger sibling, nor to inherit any of his property.

d. Determination of Family Land

Absolute Transfer

Here the head of the family in exercise of his duty as administrator of the land may transfer all rights and interest in the family land to the beneficiary. A transfer of property without the consent of the eldest son or head of the family is voidable. However, absolute transfer by the head of the family is valid but such transfer may be contended by aggrieved members of the family on allegations of self-enrichment or unreasonableness in the transfer process.

Partition

Family land may also be determined by partition. Partition must be with the agreement of the principal members of the family. This partition vests ownership right on that person and he may sell or lease out the land without the consent of the other members of the family. It is important to note however a sale by such a person after partitioning must be with the consent of the *Oloza* and members of the immediate community. This serves the doctrine of notice to subsequent buyers.