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**CUSTOMARY LAND TENURE SYSTEM IN ÁYÉDAADÉ, OSUN STATE, NIGERIA**

**ABSTRACT**

This paper intends to briefly explain the customary land tenure system practiced in Áyédaadé, Osun State, Nigeria. It explicates the method of land holding in the area (i.e., communal land holding system) while making reference to the fact that this method of land holding has now been abolished by the Land Use Act. It comes to a conclusion that although there are still Obas who have de facto control over some land in their community, individuals are however very much allowed to own land individually and separately from the community in today’s land tenure system.

**INTRODUCTION**

Customary Land Tenure system is the systems of land holding that evolved from customary Law.[[1]](#footnote-1) Customary Land Tenure System thereby refers to the methods of holding land that has evolved from the customs and practices of people. For example, the people of Áyédaadé, have been known to own land together as a community as opposed to individually. The town square is a place owned exclusively by members of the community. Children would go to play, festivities were held there and the community enjoyed the land as a whole. Where the land was not owned communally, it was owned by a group of people usually known as family.

The Obas or Chiefs would hold land in trust for the people of the community[[2]](#footnote-2). It was extremely rare, if not unseen, that an individual would own land solely and independently of his family or community.[[3]](#footnote-3) This was usually because people settled on a virgin land or area either as a community or as a family, and rarely individually. Ownership thus, evolved as such, especially in the Owóòpe area. It is important to note that although the notion that land could only be held communally has been abolished by the Land Use Act, land that were held prior to the enactment of the Land Use Act by the community or by the family, is bound by customary law and disposed of by same.

**CREATION, OWNERSHIP, MANAGEMENT AND DETERMINATION OF COMMUNAL AND FAMILY LAND IN ÁYÉDAADÉ, OSUN STATE, NIGERIA**

Communal land is usually created by the decisions of the founders and settlers of the land. They may choose to designate a land for the purpose of the community and that land continues to become a communal land. This was held in the case of **Mona & ors. v. Nwalusi &Ors (1962) 1 All NLR 681.**

Family land in my State was usually created by **first settlement**, i.e. a family settles on a land together[[4]](#footnote-4). Also, where **family property was purchased by family money**, and **joint conveyance to the members** of the family was done, family would usually own the land as a family property. Back in the days, it was custom that if a family member dies, the rest of the family would continue to hold the property jointly. They would usually have to agree to together to transfer their rights in the land if the need be. As such, every member of the family has an equal right and claim over the land.

Family land was managed by the head of the family. As such, the powers and rights of ownership of family land are vested in, and are exercisable by him on behalf of the family. In **Amodu Tijani v. Secretary Southern Nigeria[[5]](#footnote-5),** he is sometimes referred to as the owner and trustee of land. Communal Land on the other hand is managed by the Chief who is said to hole the land in trust for the people of the community.

Community land cannot be easily dispersed with. Once a communal land has been formed by agreement, it continues to become a communal land. An example is the market square, where the land has been agreed to be used for the benefit of all the people of the community. It is almost impossible that such land ceases to be a communal land. However, a communal land can be determined upon deliberations by the Chief who holds the land in trust, and in accordance with the laws of the land.

Family land on the other hand can be determined by absolute transfer and partition. Absolute transfer simply means that all the members of the family agree to transfer their rights as a whole to another, and the money derived is equally divided among them or as agreed by the parties. This could also be done by gift, although this is not as common as sale. Another way in which a family land can be determined is by partition, i.e. the land is shared and permanently divided by the members of the family. In other words, portions of the land are clearly divided equally (or as decided by members of the family) and each member is entitled to the use and control of their own divided share of land. This is usually done by agreement particularly in the olden days. Now, it can be done voluntarily and even by court order.

**CONCLUSION**

Although there are still Obas or Chiefs who have de facto control over some land in their community, individuals are allowed to own land individually and separately from the community. This was not the way it used to be prior to the enactment of the Land Use Act. Also, the Act vests all landed property in the Governor, and as such, these methods of land owning is considered impractical in today’s day and age.

**REFERENCES**

**The Nigerian Land Law by Adewale Taiwo Revised Edition 2016.**

1. Mqeke RB Customary Law and the New Millenium (Lovedale Press: Alice, 2003) 3 defines customary law as the custom and usages traditionally observed among the indigenous African peoples and which form part of the cultures of those people [↑](#footnote-ref-1)
2. Archibong v. Archibong (1947) 18 NLR 117 [↑](#footnote-ref-2)
3. Osholdi v. Dakolo (1929) 9 NLR 13 at 25-26 [↑](#footnote-ref-3)
4. Ajala v. Awodele & Ors. (1971) NMLR 127 [↑](#footnote-ref-4)
5. (1921) 2 A.C 399 at 404 [↑](#footnote-ref-5)