

Name: Daramola Damilola Esther

Matric number: 16/law01/060

Level: 400

Course title: Land law II

Course code: LPB 402

Lecturer: Professor Adewale Taiwo

I am from Ekiti state specifically Omuo Ekiti and my local government is Ekiti east.

According to Prof Mqeke, customary law is defined as the custom and usages traditionally observed among the indigenous African peoples and which form part of the culture of those peoples.<sup>1</sup> Customary land tenure system refers to the system of land holding governed by the customary law. In the case of *Owonyin v Omotosho*<sup>2</sup> it was defined as a mirror of accepted usage.

In Ekiti state land can be owned by 3 groups which are

1. The family
2. The community
3. The individual

### **Community land/ communal land**

This is land that belongs to the community this means that no individual or family can come and claim ownership of the land. Every member of the community has equal right to this land. Examples of this type of land are market sites, cemeteries, religious houses, schools and other public utilities. A community land or communal ownership may arise from the initiatives or decisions of the founders of the land. The founders of the land or its original settlers may decide to designate the land to the entire community and if this is the case, the particular land remains a communal land. A community is a political and social concept this means that it needs someone to be in charge of the community land and these people can be the chief or some other traditional ruler who will hold the community land and protect the interest of the people this concept was explained in the case of *Amodu Tijani v Secretary Southern Nigerian*<sup>3</sup>.

### **Family land**

This is a type of land in which everyone in the family has a say. In this type of land

---

<sup>1</sup> Mqeke RB Customary Law and the New Millennium (lovedale press: Alice, 2003)3

<sup>2</sup> (1961) All NLR 304 at 309

<sup>3</sup> (1921) 2 A.C 399 at 404

holding the land cannot be sold without the consent of the remaining members of the family. This is a land whose rights have passed by succession to the descendants of the original owner. The title to the family land is vested in members of the family as a corporate body. In *Okulade v Awosanya, Uwaifo, JSC* defined family as the body of persons who live in one house or under one head, including parents, children, servants The group consisting of parents and their children, whether living together or not; in wider sense all those who are nearly connected by blood or affinity Those descendants claiming descent from a common ancestor; a house; kindred lineage<sup>4</sup>.”

The definite extent of a family is vague as one cannot define exactly from what generation a group changes from a family to another higher grouping like village or town. Family land could change to individual holding when it is sub-divided among the members of the family or a personal land may change to family land at the instance of the death of the holder, hence it is said to be static. In many areas in the state inheritance of land is by the sons of the deceased landowner. Out-right alienation of family land is rarely done without the consent of members of the family. Every member of the family is assigned a portion of the family land upon request and does not have the absolute right on such parcel of land. Ironically on the other hand, after the portion so assigned had been farmed by a member and his descendants for many farming rotations, he gradually establishes the primary right to the use of the particular portion before any member of the family.

### **Individual/personal land**

This is a concept that was not originally part of the Ekiti customary law but has time went by this type of land holding took root. This happens when an individual acquires land and he can choose what he wants to do with the land by himself without the interference of anybody including his family members.

In my town there needs to be something to indicate boundaries especially for the family land and the individual land. This is done to prevent conflict from arriving between

---

<sup>4</sup>( 2002) FWLR( pt 25) 1666 at 1679

people and I think this has been very effective in my village because there is no much land dispute going on because people already know their land and they know what is used to differentiate it from others. This boundaries can be done by using different shrubs like 'peregun', 'Akoko' tree, foot paths, pineapples, kola nut trees and other notable and durable plants, some people adopted natural feature, like rivers and ranges of hills.



The above images show a pictorial representation of some types of boundaries in Ekiti state.

In conclusion the customary land law of Ekiti state has changed since the advent of the land use act but at the end of the day the only thing that is permanent is change. The advent of the land use act did not stop the customary law of Ekiti state it only modernized it and improved it. The communal land is not as common as it used to be and the individuals have more land than they used to have the only constant is the family land which will probably always exist because people will always die and they will most likely give the land to their family members.

#### REFERENCES

1. The Nigerian Land Law Adewale Taiwo
2. Land Tenure System in Ekiti State, Nigeria Ajibade Felix.o.