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QUESTION.

Prepare a brief paper 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.

The land tenure system written here is that of Rivers State, local government is that of Obio Akpor, the community is Rumuomasi.

Land tenure is the system of landholding in a given society. According to Prof. Mqeke, customary law is defined as the “customs and usages traditionally observed among the indigenous African peoples and which form part of the culture of those peoples”. It is the law handed down from ancestors as such it represents a collection of precedents and decisions of the bygone chiefs. It is traditionally observed by the indigenes of that part of their culture. In *OWONYIN VS OMOTOSHO*, customary law was described as a mirror o accepted usage and common law of Nigerian people.

Customary land tenure system here, refers to the system of landholding governed by the customary law. It should be noted that since 1978, the Nigerian customary land tenure has been modified to a large extent, by the provisions of the Land Use Act, 1978. The Act provides for a uniform land tenure system in Nigeria. In *OTUNDA HAKEEM SOBANDE VS. BARRISTER ANDY IGBOKWE*, the Supreme Court held that the object of the Land Use Act is not intended to destroy incidence of customary law, but it modified its application.

The creation of the land tenure system in Rumuomasi was created and founded by our ancestors, the ones who lived before us, they brought about ways of division of land for the inheritance and survival of the indigenes in the community.

The ownership of land in land tenure system had a view as being unknown to customary ideas, but another view was the contrary to this as the concept of ownership has long been part of the Nigerian customary law, therefore the concept is not strange to the Nigerian customary law. Ownership may be held by the community, family or individuals.

Communal landholding is that where the land is vested in the community as a cooperate body, in which no member o the community can claim exclusive ownership to any portion of such land. Communal land belongs to the community past, present, future.in *AMODU TIJANI VS.*

SECRETARY SOUTHERN NIGERIAN, the court held that land belongs to the community, village, or the family and never to the individual.

Family land is land vested in descendants of a common ancestor exclusively through males for patrilineal communities or females for the matrilineal communities. According to Woodman family is a group of persons lineally descended from a common ancestor through the males called patrilineal communities and through the females called matrilineal communities. The term family in relation to family property means a group of people who are entitled to succeed to the property of a deceased founder of a family, such persons are usually the children of the deceased founder of the family.

Individual land is that owned by an individual either given as a gift or through a will.

In the Rumuomasi community, land is shared to the community, this is to the elders in the community who now share equally to the heads of the different kindred's in the community, who now share it among the families in the kindred being represented by the eldest sons. That is how the ownership of land is shared in my community.

The management of the land is in the hands of the persons who the land was vested in. The persons who in them powers and rights are vested are the ones responsible for the maintenance and proper care of the land, they are to protect the land from unlawful interference, to make sure to repair it when there is a problem, if property is rented out then the rent should be collected. A certain family member can be chosen as the head, in *INYANG VS. ITA*, it was held that the family has the discretion to choose any family member to be the head of the family.

Same as in the Rumuomasi community, the head off the family who is the first son is first hand responsible for the management of the property as well as the other members of the family. Any decision here being made has to be an agreement between all the members of the family or the majority at most.

The determination of land as seen in the course material on Customary Land Tenure System provided by Prof. E.A Taiwo provides the;

- I. Absolute transfer; which occurs when the family in agreement transfers the totality of its interest to another person, where the person becomes the absolute owner of the property.
- II. Partition; which is the sharing of the family property among the members of the family. It may be as a result of the mutual agreement between the family members.

In my community, the land or family property is given to the family as a whole to do with it as they deem fit, here decisions are made together leaving no one behind and in a case were not everyone in the family is in a mutual agreement the majority gets to win and have a say on what happens on the land.

In the conclusion of my knowledge, customary law varies as there are different ethnic groups, communities and they all have their different common laws that they live by, laws that govern them all. The land tenure system in my community, Rumuomasi is very well different from other communities as there is variety. In my community we have a process of sharing land which was passed down to us from our ancestors which is the land being given to the community and then elders of the community sharing the land to the heads of the different kindred's in the community and then the heads of the kindred's sharing the land to the heads of each head of every family, in most families the women don't have a say when it comes to land unless the deceased ancestor or individual provokes for their benefit also with all these, so do other communities have their different processes, this way everyone in the family, kindred and community gets to have a portion of land in which they will maintain and take proper care in any way they see fit as far as it is legal and acceptable in the community and society.