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COURSE: LAND LAW II

MATRIC NO: 16/LAW01/100

ASSIGNMENT: A BRIEF PAPER ON THE CUSTOMARY TENURE OF SYSTEM AS PRACTICED IN YOUR LOCALITY.

STATE: DELTA STATE

MY LOCALITY: UGBOLOKPOSO

LOCAL GOVERNMENT AREAUVWIE LOCAL GOVERNMENT

INTRODUCTION

Land is one of the greatest assets to the peoples of Nigeria and due to its value from time immemorial; a tenure system is put in place to ensure that it is managed properly. A land tenure system is the system of landholding in a given society.¹ This system defines the ways in which the property rights to land are allocated, transferred, used or managed in a particular society. For the purpose of this assignment, my focus would only be on CUSTOMARY LAND TENURE SYSTEM.

² In the words of 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. Basically, in this context, customary land tenure system refers to the system of land holding governed by the customary laws. It should be noted that customary laws may vary from one place to another. This being said, I will give a brief report on the land tenure system of UGBOLOPOSO, UVWIE LOCALGOVERNMENT, DELTA STATE encompassing its ownership, creation and management.

These areas of land are owned by the community or families.³ According to Merriam Webster, communal ownership is land owned by a community so that

¹ www.land-links.org

² Mqeke RB customary law and the new Millennium (Lovedale Press: Alice, 2003) 3.

³ www.merriamwebster.com

each member has a right to use the property or a portion of it. By definition, communal land is the land vested in the community as a corporate whole and where no individual can claim exclusive ownership to any portion of land. Communal land belongs to a community' s past, present and future.

In Ugbolokposo, there is committee in charge of the allocation of land spear headed by the local government chairman. This committee comes together in the town hall to discuss on such allocations to the indigenes of the community as well as strangers who have come to settle on the land or build business enterprises. The stranger must come to meet the committee with a statement on what he plans to do with the allotted space and how much of the land he would need. The committee would look into his request for a portion of the land. When all is concluded, he would pay customary tributes to the community. However, where he fails to pay these tributes, the Supreme Court may forfeit his rights to the given land. When giving out these portions, it must not be inconsistent with another person' s right to land. For example, where an indigene is given land for farming, and another person is given a portion that creeps into his farmland and disrupts his work, the committee would have to give out another land so to prevent any disputes that may arise from it.

This locality also practices Family land holding, that is, where land is owned by families. . ⁴In *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 (if any). Family land is land vested on family as a corporate entity. That is, an individual member of the family has no separate claim of ownership to any part or whole of the land. He however has a right to sue but only if he has the authority of the family members, that it would be binding. A family land may be created by operation of law or by act of the parties.

Creation by operation of law may arise where the owner of the land dies without a will and his property naturally goes to his children under the given customary laws. ⁵Family property may also arise where he leaves a will, and states that the property would be jointly held by his heirs. Creation may also occur by their act to create a family property by way of first settlement, purchase or even gift of land. ⁶The Supreme Court had stated that settlement is one of the traditional modes of acquisition and it should not be open to question as who made the grant.

⁴ (2002) FWLR (pt. 25) 1666

⁵ *Sogbesan v. Adebiji*

⁶ *Ajala v. Awodele and ors* (1971) NMLR 127

There are very ancient families who have resided here for a very long time and are excluded from the lands that the community may allocate. These lands are in possession of families and for one to purchase these lands, he must go to the family and a meeting would be arranged of which the family head must be present. The family head has the responsibility to keep the property in good state of repairs, to allocate portions to the needing members, to collect rents where such property is rented out (to someone outside the family) and may give a valid title to the transferee.⁷ It is important to note that it is up to the family to decide who the family head would be.

A family land in this locality may be determined by absolute transfer, where the family transfers both ownership and title to another person thereby losing their interests. It may also be determined by partition, where the land's ownership is shared between the family members. This can result from a mutual agreement to do so.

In conclusion, Ugbolokposo in Uvwie local government has a tenure system that can be owned by the community or a family. However, the communal land is more dominant because there are few of these ancient families who still have interest in land.

CITATION:

THE NIGERIAN LAND LAW BY PROF. E.A TAIWO.

⁷ Lewis v. Bankole (1909) 1 NLR 39.

