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**MATRIC NO: 16/LAW01/197**

**COURSE TITLE: LAND LAW 11 (LPB 402)**

**LEVEL: 400**

**ASSIGNMENT TITLE: CUSTOMARY LAND TENURE SYSTEM**

Customary land tenure refers to the systems that most rural African communities operate to express and order ownership, possession and access, and to regulate use and transfer. The norms of customary tenure derive from and are sustained by the community itself rather than the state or state law (statutory land tenure).

It is to be noted that under the Nigerian Customary Law, ownership may be held by:

1. The community
2. Family
3. The individual

There are also various ways in which an individual can prove ownership of land in Customary Land Tenure. They are:

1. Production of title documents
2. Evidence of traditional history
3. Act of ownership such as selling, leasing or farming all or part of the land extending over sufficient period of time, numerous and positive enough to warrant the inference of ownership.
4. Acts of long possession and enjoyment of land.
5. Proof of possession of connected or adjacent lands in circumstances rendering it probable that the owner of such connected land would in addition be the owner of the land in dispute.

My locality which is **Ughelli South Local Government, Delta State** practice communal ownership is based on family membership. A family normally consist of the man, his wife, or wives and the children born to him by such wife or wives. Under customary law of the community however, such children will also include those born outside the family.

A communal land has been characterised as land belonging to a vast family of which many are dead, few are living and countless members are unborn, communal land belongs to a community, past, present and future.

In the case of **Amodu Tijani v Secretary Southern Nigeria**, the court held that land belongs to the community, village or the family, and never to the individual.

**LAND MANAGEMENT UNDER CUSTOMARY LAW**

Land management under customary law was smooth, devoid of quarrels among the family members for one thing land was abundant.

The ideology of that time tested system was socialistic and collectivistic in nature and egalitarian as a philosophy which means that:

1. Land belonged to all members of the family or community and therefore all the members were co-owners and therefore all were entitled to at least a portion, which meant that no family could be landless in any community.
2. Land belonged to the whole community and was never to be alienated for any reason. Although customary tenancy and even a pledge could be granted to a stranger, the land always remained the property of the community or family since both customary tenancy and pledges were terminable on the occurrence of determining events.
3. No family needed to labor to access it as it was seen as a gift of natural providence to all families to which each family member was entitled.

Land under customary land tenure is managed by the community head or the village head who acts as a kind of trustees for the people. He protects family land in all possible ways. The community head allocate land to members and strangers based on need.

**DETERMINATION OF COMMUNAL LAND IN UGHELLI SOUTH LOCAL GOVERNMENT DELTA STATE**

A customary tenancy may be determined in any of the following ways:

1. **Abandonment** - A customary tenant is said to have abandoned the land if he vacates the land without intention of returning to it.
2. **Forfeiture -** Forfeiture is a determination of the customary tenancy by a court order upon a proven allegation on the complaint of the overload of acts of misbehaviour constituting denial of his title by the customary tenant. Acts of misbehaviour include persistent refusal to pay customary tributes’
3. **Accomplishment of Purpose -** Where the customary tenancy is granted for a specific purpose or for a period of time, the accomplishment of the purpose or the effluxion of the time terminates it.

In the case of **Asani Taiwo v Akinwumi & Ors**, the Supreme Court forfeited the right of customary tenant for their repetitive breaches of their customary tenancy through acts of unlawful alienation of portion of land, destruction of palm trees and economic trees and encroaching on parts of land outside the grant.