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Matric Number: 16/law01/077

Course Code: LPB 402

Course: Land Law II

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Question

A brief paper on the customary land tenure system as practiced in my locality.

Introduction

Before discussing the concept; customary land tenure system in my community, it is important to identify and explain the various terms surrounding this concept.

First, land tenure is a system of holding land in a given society. The Nigerian customary land tenure system has been greatly modified to a large extent by *the Land Use Act, 1978*.

Customary law has been defined as the custom and usages traditionally observed among the indigenous African peoples and which form part of the culture of those peoples. Nigeria is a heterogeneous society with diverse customs and cultures. Therefore, the term; customary law, is used as a blanket description covering the diverse customs and cultures.

An Analysis of the Igbo Traditional Land Tenure System in Mgbowo Town

Mgbowo is a small town in Agwu local government area in Enugu state; the eastern part of Nigeria. In this research paper Mgbowo town will be used as a case study to explain customary land tenure system and this will be done under the following subheadings:

A. Ownership

Sometimes the term ownership has been used to denote “absolute ownership” while at times, it is used to refer to “rights of occupation”. However, the term signifies the largest claim to land under customary law.

In my town, land may be held communally or as a family or individually but after an extensive research, the communal land holding system is no longer popular in my community. The account of communal land holding system in this paper will be what was obtainable in the past but the family and individual system of holding land is still practiced in my community till date. We will be focusing more on communal and family systems of holding land.

B. Creation

The communal lands in my community were gotten either as a result of conquest or first settlement.

- Conquest: entails defeat, conquering, vanishing, annihilation, overthrowing etc. Acquisition of land by conquest is no longer a legitimate form of acquiring land. In the late 70's, my town and a neighboring town called “Nnewe” had a serious dispute over a particular land. This dispute led to series of killings, destruction of homes and farmland. After series of deaths my town had a larger claim to the land. The Nnewe people left the land because of the fear instilled in them.
- First settlement: acquisition of land by first settlement includes where the ancestors of a community were the first to settle on a virgin land and exercised acts of ownership over sufficient length of time, numerous and positive enough to warrant inference of exclusive ownership.

The history of my town is a funny one. It goes that the first man left Arochukwu in Abia state (which is believed ancestral home of the Igbo people) looking for a plain land he would settle in. He found a land at the foot of a hill and consider it to be suitable. When invaders came to the land, he told them *“I bia nso mgbowo”*, which means *if you come closer I will kill you*. The invaders thought he was repeating the name of the place called the town Mgbowo and the word was spread.

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Family lands in my community were owned as a result of first settlement and inheritance. Inheritance were from the father to the male children. Daughters do not inherit lands from their fathers because it is believed that the female child will be married out to another family and will have no business with her father’s house. Another way a family land tenure system is created is by the sale of a land to a family.

C. Management

- Communal land:

The communal land in my community is managed by the Igwe’s (king) cabinet-in-chief members. A special committee made up by the cabinet members called *“Committee on Land Matters”* is carved out to manage these communal land.

The unique thing about communal land management in the Mgbowo community is the *“Ballot System”*. The communal lands are divided up to the numbers of the families in the town. If the families are up to a thousand, then a ballot box containing a thousand numbers is brought to market square for the families to pick. Whatever number a family head picks is the plot that will be allocated to the family for the planting season. The only fees paid during this period is the *“Iwa Ohia”* meaning *bush partitioning*, which is paid to the committee for planning the balloting. Money for security at night to protect the people’s corps is paid too. Other than this decision such as the sale or leasing of a communal land is done by the cabinet.

- Family land:

Management of family land in my community is done by the eldest male. He is in charge of ensuring the land remains in a good state, allocate portions to members of the family for farming or collecting rent when family land is under lease.

A family head in the Mgbowo community allocates portions of land to his wives every planting season whether she has a child or not. Where the wife is dead and the sons that are of age the portions are allocated to them instead but never to the female child for reasons already stated above.

Determination of Ownership in Land

Determination of communal land in the Mgbowo land is as follows:

1. Abomination: where an individual has committed an act considered as “*aru*” which means an *abomination*, he is stripped of his right to the communal land. Such abominations include: Murder, Stealing etc. But not all act of stealing qualifies as an abomination, if a person steals cassava from another person’s farm because he was hungry and had no means of getting food, he will be punished and then pardoned. But if another steals his neighbor’s goat he will lose his entitlement to the land.
2. Failure to pay *Iwa ohia* (as mentioned before) and the security fee. But one’s right to land can redeemed upon payment of these fees.
3. By sales of communal land
4. Gift: a portion of the communal land can be gifted to reputable members of the community as a token of gratitude for their contribution to the growth of the community.

NB: it is important to note that most of the communal lands if not all are already sold out to individuals to build homes or for industrialization, that is why I earlier stated that the communal system of holding land is no longer popular in my community.

Determination of Family Land is as follows:

1. By sales of family land: a conveyance purporting to transfer family property without the consent of the family head and the principal members is void ab initio. The head of the family must also obtain consent from the reasonable matured males in their family before a land is sold. An individual who buys a family land without the consent of the whole family has not acquired a legitimate title to that land and the family will not be forced to return the purchase money.
2. Where members of a family transfers their interests in the land to one member of the family. The land becomes an individual land.
3. Partition: partition means the permanent division of land for purposes not of user only but of ownership as well. When a family land is partitioned to different family members it becomes an individual land.

Determination of Individual Land is as follows:

I will be briefly discussing two modes of determination of ownership in individual land which is unique to the Mgbowo community.

1. Nsuwa ali: this simply means pledging of land as a security until a debt is discharged. The creditor enjoys exclusive possession of the land.
2. Mgbaronwe: this simply means exchange of land. For example, if an indigene of the community needed a land near a water body may be for rearing pig, he can exchange a land of his with someone who has a land that suits his needs. This form of determination of ownership of land is recognized in our customary law.

Reference: Nigerian Land Law by Prof. E.A Taiwo

