**NAME: OGHENEYOMA ONOKPACHERE**

**MATRIC NUMBER: 14/LAW01/176**

**COURSE TITLE: LAND LAW II**

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**QUESTION:**

**PREPARE A BRIEF PAPER (NOT MORE THAN 3 PAGES, 12PT, TIMES NEW ROMAN, 1.5 LINE SPACING) ON THE CUSTOMARY LAND TENURE SYSTEM AS PRACTISED 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. NOTE THAT THE EXAMINER EXPECTS YOU TO WRITE BASED ON YOUR RESEARCH OR KNOWLEDGE ACQUIRED WITH RESPECT TO LAND TENURE IN YOUR LOCALITY.**

**INTRODUCTION**

Land tenure is referred to as holding of land in a given society. It is defined as the relationship, whether legally or customarily among people as individuals or groups that define the means through which access is granted to rights to use, control and transfer land; it determines who can use land for how long and under what conditions. The Nigerian customary land tenure has been modified to a large extent by the Land Use Act 1978. Although the Act provides for a new uniform tenure system in Nigeria, nevertheless, knowledge of the previous tenures is necessary for the proper understanding of the scheme of things before the Act came into operation. Customary law is defined as the custom and usages traditionally observed among the indigenous African peoples and which form part of the culture and religion of those peoples.

Customary land tenure system has been defined as the system of landholding indigenous to Nigeria, relating to family and inheritance systems based on the concept of group ownership of absolute rights in land, with individuals acquiring usufructuary rights. These rights establish the basis for access to land resources and the opportunity to use land for productive purposes.

Though the Nigerian customary law differs from one locality to the other and from one tribal group to the other, I will be discussing the customary land tenure system as practiced in the Urhobo land,Warri, Delta State as that is my locality

**LAND TENURE SYSTEM AS PRACTISED IN THE URHOBO LAND, WARRI, DELTA STATE.**

The Urhobos are people located in Southern Nigeria, near the northwestern Niger Delta. The Urhobo are the major ethnic group in Delta State, one of the 36 states of the Federal Republic of Nigeria. The Urhobos speak the Urhobo language.

The Urhobo people are principally farmers by occupation and depend largely on their farm products for their livelihood. The question of land therefore is of prime importance to them.

As it was done in those days, the King called Ovie owned the people and their properties within his kingdom, including land. But that does not mean he owned them by right but by traditional respect accorded him by the people as their Head of state. Simply put, the king is the overlord over his people and their land. However, the traditional courtesy for the king does not confer on him the right of ownership over any particular land in the state, except the land which belongs to his family of acquired by him. The Urhobo land tenure system is not as feudal as in Benin Kingdom. The natural ruler or traditional Head of the clan does not own land. Nevertheless, the Ovie may hold communal land in Trust for the people. But in all matters of alienation, the people have to be consulted through their representatives and their consent duly obtained by the king. Ironically, those days of probity and integrity are now history. To our generation it is all folklore and moonlight stories. Self-centeredness and greed have taken the center stage of the minds of kings and self-acclaimed nobles. The Ovie no longer holds communal land in Trust for the people. Instead the Ovie forces the people to relinquish such land to them by all crooked means. Natural rulers or traditional heads now own parcels of land and even more for their children. Thereby truncating the trust, peace and harmony our forefathers enjoyed in the Urhobo land tenure system.

There are three categories of land tenure in the Urhobo community which are;

1. Land held by the family
2. Land held by the community
3. Land held by the Ovie or Clan head

Urhobo town or community is made up of family units. Family is by descent or inheritance. According to Urhobo native law and custom, the oldest man in the several branches of a family is the head of the family.

**FAMILY LAND**

The ownership of family land is acquired by settlement, accretion, inheritance, purchase or gift. The occupation and possession by the family may be by way of physical possession and enjoyment being vested in members of the family. It is an acceptable fact that is possession by members of the family that vests the family with the right of ownership and control. Such right includes the right to sell, lease and receive compensation on acquisition of any part of the land.

Any member of the family which owns the land has a legal right of occupation of family land but the occupation by such member does not change the title of the family to that particular piece of land. By Urhobo custom, once a family has acqured absolute right to a piece of land either by settlement or sale or by any other means, it may never lose that right except it is sold by the family or by compulsory acquisition by the Government. The Head of the family takes charge of all family lands. He is however assisted by other elders or principal members of the family representing Sub-branches of the family. They take collective decisions affecting the entire family lands and give account of their dealings to members of the family. The right to administer and manage family land by the Head of the family is passed on to his successor by native law and custom. When therefore a piece of land has been allocated to a member of the family or valid alienation to a stranger by the Head and other Elders of the family, that parcel of land can not be re-allocated or granted to another person by the succeeding family Head on the death of the original grantor of the land.

 **COMMUNAL LAND**

 In Urhobo there are many towns and villages where the land belongs to the community. The members of the community farm by the system of shifting cultivation. In such communities, there is free access to land for cultivation but title to the land remains with the community. Every member of the community has a legal right to occupation and use of vacant portion of communal land. No member of the community can sell or alienate any portion of the communal land in his possession without the consent and authority of the elders of the community.

The notion of individual Ownership of land is quite foreign to Urhobo people. Land belongs to the community, the village or family. All alienations of communal land therefore, require the consensus of all the members of the community through their elders or representatives of the families or quarters. The conveyance has to be done at a meeting of persons nominated for that purpose by the community. The conveyance has to be executed for and on behalf of and in the name by which the community is known. Like other communities in Nigeria, membership of the family or community in Urhobo is not confined strictly to persons of blood descent. To a great extent, family refers to a group of people who claim descent from one common ancestor and are united by that belief. They may be male or female. The right to hold and use family land is therefore enjoyed by all members whether they are or not direct blood descendants of the original founders of the land.

**OVIE LAND**

As was indicated earlier, the King (Ovie) owned all the people and property within his Kingdom, including land. This is not by right but by the traditional respect which the people have for him as their Head of State. Simply put, the Ovie is the Overlord over his people and their land.

That traditional courtesy for the Ovie does not confer on him the right of Ownership over any particular land in the State, except the land which belongs to his family or acquired by him. Urhobo land tenure system is not feudal as in the Benin Kingdom. The natural ruler or traditional Head of the clan does not own land. However, the Ovie may hold communal land in trust for the people. But in all matters of alienation the people have to be consulted through their representatives and their consent obtained by the Ovie.

**CONCLUSION**

In conclusion, prior to the commencement of the Land Use Act of 1978, Land was controlled by the communities and families. The head of the family acting in the position of trust is always presumed to be the owner of the land. The Land Use Act in Section 2 provides that as from the commencement of the Act, all lands in the urban areas were to be under the control and management of the State Governor, and the other lands shall be under the control of the Local Government. Despite the invasion of the Land Use Act, the customary right of Use and control of the land has not been totally swept away as the Land Use Act only divested any claimant of radical title and limited its claims to a right of occupancy, taking away freehold title vested in individuals or communities as established in the case of Salami v Oke.