OBODOECHI CHIDERA PRECIOUS

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LAND LAW II ASSIGNMENT

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**ABSTRACT**

Land, a major factor of production has so many definitions and by different scholars. While an economists sees it as a factor of production, a Lawyer and an Estate surveyor sees it from the point of legal the maxim; *quic quid plantateur solo solo cedit*. Land plays an important role in agricultural production. This paper analyses the tenure practices in traditional Uli community, Ihiala L.G.A., Anambra State comprising several villages. This paper contains a brief analysis on the creation, ownership, management and determination of family and communal land in my locality.

**CREATION OF FAMILY LAND**

In Uli community, Ihiala L.G.A., land can be created in two ways; (a) By law and (b) by the act of the parties.

 • **Creation by Operation of Law**

When a landowner who is subject to customary law dies without a Will, his acquired property devolves on his children as a family property in accordance with the applicable customary law rules. Family property may additionally arise from a declaration under a Will as where a testator devised a property to his heirs jointly to carry as family property.

• **Creation by acts of the Parties** Parties may decide on their own to create a family property by mutual agreement, by way of first settlement, purchase, conquest or absolute gift of land.

**OWNERSHIP**

This can be acquired various ways in the Igbo community. The following ways were applied in my community (Uli) in Ihiala Local Government:

 • HISTORICAL ANTECEDENT: In every Igbo society there are and there have been cases of borrowing in the past. One coming up may be asking question why a person that is not from their family or clan should have a portion land close to their family or land without knowing that his fore fathers may have used the same land to borrow money from another different from their family or clan. Also there has been this history that the people of Uli migrated to their current location and they are presently a small village there, they farm there and have houses there. There is no way this people would have settled in such place if they have no land to reside in.

 • RELIGIOUS/SPIRITUAL OBLIGATION/VOCATION: In a traditional society just like Uli, certain lands were devoted for worship by the traditionalist and these people have chief priest and whose hands, the management of the entire land is entrusted to. These chief by virtue of their position may partition or plot these land and even go to the extent of selling them. No one can question their authority hence the popular adage in the community let the gods speak for itself (Alusi kwuelu onweya).

 • BIRTH RIGHT: One by virtue of being a male member of the family is entitled to the share of the family land.

 • CITIZENSHIP AND NATURALISATION: One by virtue of being male born of the Uli community is entitled to access to family land. Also there have been cases of families who naturalised in Uli and they were given parcel of land to build or occupy.

**MANAGEMENT OF FAMILY LAND**

Family land is owned by a family in a certain prescribed manner by the head of the family which is usually the oldest member of the family. He holds the same in trust for the rest members of the family. Despite the fact that the headman possesses the right to family land, he does have the right to take decision pertaining to the land, alienate, lease or dispose of land without the consent of the principal members of the family. He must seek the opinion of the principal members of the family before taking decision on land.

 Land here is shared according to the male born with age as reference “NA NNA NA NNA” the male son will in turn share with their children their own portion of the land. This is their right to ownership of a freehold land (birthright). Where any portion family or other communal land is allocated to a member of other of land-owning group for a time, the right of other members to use that portion is suspended until returns back to the family or community.

In an extended family set up, if a grandfather is involved and he is polygamous, the first son irrespective of the fact that the mother is last to be married into the family has the NGWULU to himself and the other sons (last sons) from different mothers will also have access to the OGBOLODO, that is, Access to family land.

 ***ANA IRU EZI***: Ana Iru Ezi is an elder son’s birthright to an extra piece of land which is distinct from lands shared by the virtue of his position as the eldest son. This privilege is not extended to others sons, whether extended or from nuclear family.

 **NGWULU:** This explains the fact that the eldest son (*DIOKPALA*) has the exclusive right to some over the main compound the father left behind he will and continue to accommodate others until they build their own houses elsewhere.

**DETERMINATION/TERMINATION OF FAMILY LAND**

 Family land on communal land can be terminated by various means. The ways which are practiced in my community are:

 • **Abandonment**: A customary tenant is said to have abandoned the land if he vacates the land without the intention of returning to it.

 • **Forfeiture**: Forfeiture is a determination of the customary tenancy by a court order upon a proven allegation on the complaint of the overlord of act(s) of misbehaviour constituting denial of his title by the customary tenant. Acts of misbehaviour include persistent refusal to pay customary tributes

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