



AFE BABALOLA *UNIVERSITY*

NAME: EWENIKE EBUKA EMMANUEL

MARTRIC NUMBER: 16/LAW01/085

LEVEL: 400

COLLEGE: LAW

COURSE CODE: LPB 402

COURSE TITLE: LAND LAW II

LECTURER: PROFESSOR E. ADEWOLE TAIWO

DATE: 19TH APRIL, 2020.

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 practiced 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.

ABSTRACT

This term paper seeks to discuss the type of customary land tenure system practiced in my locality; Ekwulumili in Nnewi South Local Government Area, Anambra state. The mode of creation, ownership, management and determination of family land tenure would be discussed.

INTRODUCTION

Before delving into the customary land tenure system of my locality, Ekwulumili, it is trite to define the concept of “Land Tenure” and the term” Customary Law “. Land Tenure can be defined as the manner in which a party or group of people occupy or hold land. It is the process of holding land in any society or community. According to World Intellectual Property Organization(WIPO) customary law is, by definition, intrinsic to the life and custom of indigenous peoples and local communities. As such this will depend very much on how indigenous peoples and local communities themselves perceive these questions, and on how they function as indigenous peoples and local communities.

Thus, Customary land tenure system refers to the system of land holding governed by the customary law. Since 1978, the Nigerian customary land tenure has been modified to a large extent, by provisions of the Land Use Act, 1978 as stated by the court in the case of *Otunba Hakeem Sobande v Barrister Andy Igbowkwe* [(2018) ALL FWLR] where the Supreme Court held that the object of the Land Use Act is not intended to destroy incidence of customary law, but it modified its application.

There are basically 3 types of customary land tenure system in Ekwulumili and they are; Communal land tenure system, family land tenure system and individual land tenure system. And this work encompasses the creation, ownership, management and determination of family land in my locality.

CREATION

Communal land and Family land in my locality is created by the founding fathers who settled on a virgin land and exercised acts of ownership over the land for a sufficient period of time so that it

can be reasonably inferred that they own the land. They intended that the property should be passed down from generation to generation through their male sons, as such we are patrilineal.

OWNERSHIP

In Ekwulumili, most especially, Nnewi South Local Government, there are four main divisions of ownership of land;

- ◆ Ana Onwe (Individual land acquired by the holder using personal funds).
- ◆ Ana Obi (Land inherited by the holder from his father).
- ◆ Ana Oha (Communal land owned by members of an extended family or community)
- ◆ Ana Ibe (Land used as collateral securing a loan).

Regarding Ana Onwe, the owner of the land is at liberty to sell the land without having to go ahead from family members because the land is not co-owned. Any person who has quite a large amount of lands is referred to as the “Ezeani” of Ekwulumili.

Under Ana Obi, a father shares his land amongst his children. The first son does not necessarily have to acquire the largest share because size depends on affection and not on age. If the first son is disinherited by the father, any other male child can acquire the land including the “Obi”. The *umunna* must be notified if such action is taken in case of future infringement or disagreement.

In the case of an outcast “*efulefu*” such a person is given a land in the middle of his brothers so it would be difficult for him to dispose the land.

Under Ana Oha, such land is held in trust for members of the extended family or community by the Obi, Head of the Clan or Council of Elders. The co-owned land is divided into portions amongst the owners for farming and other agricultural activities.

In relation to Ana Ibe, land can be used as collateral to secure a loan. People borrow for many different reasons e.g. to marry, to start trade, etc. The lender has the power to acquire the land if the borrower fails to re-pay the loan. The land can easily be redeemable by the children of the borrower only if the money lent to their father was not used to marry their mother.

MANAGEMENT OF FAMILY LAND

The family land is under the management of the head of the family who is called the “Onye isi ezinaulo”. He has several duties, some of which are; preserving the land for the members of the family, protecting the land against external interference, allocating parts of the land to the

family members, etc. The Onye isi ezinaulo cannot sell the land without first consulting the members of the family and this is so because the land is not his personal land.

DETERMINATION OF LAND OWNERSHIP

Normally in Ekwulumili, family land can never be terminated. No matter what the family land has been used for. But in modern times, because of societal and economical changes, people in the family now sell the family land in exchange for money. This is due to the fact that most people now stay in the urban areas and rarely go back home and as such they don't see the need to keep the land. Thus, they rather sell the family land to other families or individuals and obtain the monetary value for the land.

As such now, ownership of family land can be determined by sale of the land after a consensual agreement between the family head and principal members of the family, or gifting of the land to another person or family with the knowledge and acceptance of the family head and principal members of the family.

Also, when the family land is shared equally or between every member of the family and as such transforms the family land holding tenure system into individual land holding tenure system. So it cannot be accessed by members of the family anymore. The severed part is exclusively for whoever acquired it and it cannot be interfered with by the family members.

CONCLUSION

Despite still having the family land holding tenure system in practice in Ekwulumili, because of the changes overtime in the society most family lands are held within the immediate (nuclear) family and not the extended family as a whole. Also, individual land holding system ("Ana onwe") is slowly on the rise with the sales of these family lands.