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LAND LAW II

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ASSIGNMENT QUESTION:

**PREPARE A BRIEF PAPER ON THE CUSTOMARY LAND TENURE SYSTEM AS
PRACTICED IN YOUR LOCALITY**

LECTURER FOR THE ASSIGNMENT:

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THE PRACTICE OF CUSTOMARY LAND TENURE SYSTEM IN IFA ATAI VILLAGE

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The objectives of this paper are:

- to give a working definition of land tenure and customary land tenure system
- to lightly educate the reader on customary land tenure system in Nigeria and to unmask same as practiced in Ifa Atai village; the unmasking covering the CREATION, OWNERSHIP, MANAGEMENT, and DETERMINATION of land tenure therein
- to commend Nigeria in its development in land tenure system.

PART A: INTRODUCTION

Every Nigerian society or locality, be it tribal (Ibibio, Ijaw) or regional (Eastern and Southern region) has its way of holding land; its established way of owning, managing, occupying, transfer, and gifting land, nevertheless, these societies share common broad principles of landholding which are subsumed under CREATION, OWNERSHIP, MANAGEMENT, AND DETERMINATION of land holding¹, and this will be explained using Ifa Atai village and a family in that village as an example. This way of holding, managing or controlling the exploitation of land to prevent confusion and conflict in a society is known as LAND TENURE SYSTEM². Since a customary law is defined as the custom and usages of African people in a society³, then, CUSTOMARY LAND TENURE SYSTEM can be defined as the system of land holding established by the custom and usages of an African or Nigerian society as handed down from time immemorial to guard against confusion.⁴

¹ THE NIGERIAN LAND LAW Adewale Taiwo

² The writer's working definition of Land Tenure System

³ THE NIGERIAN LAND LAW Adewale Taiwo

⁴ The writer's working definition of Customary Land Tenure System

PART B: CUSTOMARY LAND TENURE SYSTEM AS PRACTICED IN IFA ATAI VILLAGE

As previously said, there are certain landholding principles common to all localities and societies in Nigeria. IFA ATAI VILLAGE, ETOI CLAN, UYO LOCAL GOVERNMENT AREA, AKWA IBOM STATE⁵, a locality of the Ibibio tribe is not an exception. This will be discussed under the categories given in the introduction.

CREATION: In Ifa Atai, land holding as in the ancient days was created thus: In those days, a few people migrated to an area with a large expanse of land and named it Ifa Atai. So, as a people, they started harvesting the crops on that land, eating, planting, and clearing. Since no other claimed it, the large expanse belonged to the people as a whole, making it a communal land.⁶

OWNERSHIP: As the people increased in population with more families, and conflict arose as family heads started marking out an area meant for their families to the exclusion of others, the leader of the people in consultation with the family heads apportioned the land to these family heads for the welfare of their families.⁷

MANAGEMENT: The land apportioned to each family is managed by the head of the family. The head of the family is usually a man as common in Africa. When the family head dies, his eldest son took the place of the family head and held the land not in absolute ownership, but in trust for the members of the family, that is, for the welfare and benefit of the family members. A woman is not allowed such right even if she is the eldest in the family. Such is the African and Nigerian culture. Even after constitutional reform, this practice still stands in Ifa Atai. The family head with the consent of the principal members of the family decide: how long the land will be fallowed; and on the planting and harvesting season of the family, etc, however, nothing can be done on the land except the family head gives consent, not even sale of farm produce.⁸

⁵ Full citation of the writer's locality

⁶ Explanation gotten via interview with the writer's parents

⁷ Ibid

⁸ Ibid

DETERMINATION OF FAMILY LAND IN IFA ATAI VILLAGE: Amongst the indigenes of Ifa Atai is a very popular family called EKPUK NNUNG ENAM⁹. This name originated from the progenitor of the family who had three children (branches) namely: UDODONG, OKON, and BEN. Time has passed and EKPUK NNUNG ENAM has become a great and extended family. In those days, the family had a family land, until the great grand-children decided that they wanted their own share of the land. So that a child of his will not take all the land to himself by force, the family head, as at the time of the conflict decided to give each son his own share, for peace sake. This division is called PARTITIONING. As time went on, the members bought lands, and each share was so DIVIDED and DIVIDED even amongst the females for EQUALITY sake, and today, EKPUK NNUNG ENAM family has no family land. However, land could only be divided by no other member except the head of the family after majority of the principal members (usually the oldest sons of the numerous families under the great umbrella of EKPUK NNUNG ENAM) have consented. Using this family as an example, this is how land holding is determined in Ifa Atai village.¹⁰

PART C: CONCLUSION

In conclusion, the management and determination of land holding in Ifa Atai has been explained using the EKPUK NNUNG ENAM family and this, together with the creation and ownership as explained also shows how land tenure in Nigeria works. It is controlled by the village head, family heads, and eldest males of each family. This is so in every locality in Nigeria. However, with constitutional reform, women are now allowed to buy lands, build houses and shops, become landlords and receive rents. The same reform via the Constitution and the Land Use Act¹¹ has vested Village and State lands in Village Heads and Governors respectively to hold in trust for the indigenes of the village and state. This is obviously a good leap in the development of Customary Land Tenure System in Nigeria.¹²

⁹ The umbrella family name of the writer's father

¹⁰ Ibid explanation of determination gotten via interview with the writer's parents

¹¹ 1999 Constitution of the Federal Republic of Nigeria (CFRN) as amended and Land Use Act 1978

¹² Conclusion drawn from explanation gotten via interview with the writer's parents.

