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College: Law

Course: Land Law II

Course code: LPB 402

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Assignment

Customary Land Tenure System

Question

Instructions:

-Read through the course material on Customary Land Tenure System as prepared by Prof E.A Taiwo

-Prepare a brief paper (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.

Customary Land Tenure System in my Locality

Customary law

Customary law is defined as the custom and usage traditionally observed among the indigenous African people and which form part of the culture of the people.

Land Tenure System; basically refers to the holding of land. In common law systems, land tenure is the legal regime in which land is owned by an individual, who is said to "hold" the land. It determines who can use land, for how long and under what conditions.

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 absolute rights in land with individuals acquiring proprietary rights. The Nigeria customary land tenure has been modified to a large extent, by the **Land Use Act, 1978**

Locality; in the question refers to a city, town, or county created by or pursuant to state law. Locality means a county or city. Therefore it can be said that my locality is based in Lagos state, Nigeria and my local government is the Eti-Osa local Government, Lekki, Ajah.

Land Tenure Systems in my Locality

In accordance with the question given we would have to cover the creation, ownership, management and determination of family or communal land in my locality.

In Respect to Ownership of Land in my Locality

In Nigeria, there are various land tenure systems that vary from the villages, towns or cities. The idea behind land tenure system in Nigeria is to regulate land ownership behaviors in the country. Under customary law, there are three types of landholding systems also known as land tenure systems. Each of which, are dealt with differently under customary law;

1. Communal landholding
2. Family landholding
3. Individual landholding

COMMUNAL LANDHOLDING

This is the land vested in the community as a corporate whole and in which no individual member of the community could claim exclusive ownership

INDIVIDUAL LANDHOLDING

This occurs when an individual retains full ownership of a land by himself with no other trustees. He further has the right to deal with the land as he wishes as he has full ownership. Niki Tobi is of the opinion that the question of individual ownership of land was known to customary law in the country before the arrival of the British

FAMILY LANDHOLDING

A family can be defined as a group of people related by blood, and marriage or a unit consisting of parents and children. However, in terms of family property under native law and custom, the family property is that property belonging to the family as a unit with undivided interest in land; and until it is determined, continues to be held jointly by the entire family as a unit.

In regards to its Creation

A family land may be created by either operation of law or by acts of the parties. These types will be discussed below.

1. Creation by Operation of Law

a. Intestacy: If a landowner who is subject to customary law dies without a will, his acquired property devolves on his children as family property in accordance with the applicable customary law rules. This is the way family property is commonly created.

b. Will: Family property may also arise from a declaration under a will as where a testator devised a property to his heirs jointly to hold as family property.

2. Creation by Acts of the Parties

Parties may by their own acts create family property, by any of the following way

1. By purchasing the property

2. Through First Settlement

3. Through the declaration of a land owner

In Respect to the Management of the Family Property

The family head personifies the family. As such, the powers and rights of ownership of family land are vested in, and are exercisable by him on behalf of the family. It is the responsibility of the family head to preserve family property from any unlawful interference and to keep it in a good state of repair; to allocate portions to the needing members and so on.

In Respect to the Determination of Family Property

(i) Absolute Transfer

Absolute transfer of family property occurs where the family transfers the totality of its interest in the family land to another person by way of sale or gift where the transfer is sanctioned by the family head and principal members of the family.

(ii) Partition

Partition is the act of sharing of family property among the members of the family. In *Alhaja Barakat Alafia & Gbode Ventures Nig. Ltd*, it was held that partition means the permanent division of land for purposes, not of user only, but of ownership as well.

Conclusion

In conclusion, it could be said that the customary land tenure system that is being practiced in my community is the family land holding system or land tenure system. In my family, my father is the head of the family and therefore he takes up the responsibility of managing the property.

So to conclude, in my family land holding system the head of the family is in charge and responsible for the management and determination of the property.

Reference

- Law dictionary >Law Reports >Adewale Taiwo Land Law >[Nkiruka Chidia "The land tenure system under the customary law"](#) >Wikipedia Land Tenure System