

NIGERIAN LAW SCHOOL  
BAR PART 1 EXAMINATION

NIGERIAN LAND LAW

MONDAY, OCTOBER 17, 2011

TIME: 3 HOURS

ANSWER FIVE (5) QUESTIONS IN ALL  
ALL QUESTIONS CARRY EQUAL MARKS

QUESTION 1

(a) The promulgation of the Land Use Decree (Now Act) in 1978 was necessitated by a number of compelling factors. Discuss four (4) of these factors known to you.

(b) Discuss the provisions of the Land Use Act which proffered solution to the four (4) factors identified by you in 1(a) above.

QUESTION 2:

With the aid of the Court of Appeal's decision in Joseph Ona & Other v. Atanda (2000) 5 NWLR (Pt. 656) 244, critically examine the propriety of classifying land within the Federal Capital Territory as urban and non-urban.

QUESTION 3:

Discuss the procedure for the devolution of the following rights of occupancy:

- i. Chief Agba Akin was granted a Customary Right of Occupancy over a farmland by the Chairman of Ife L.G.A., Osun State in 1998. He died intestate in 2005.
- ii. Mr. & Mrs. Dunze Ikyo (married under the Act) were granted Plot 55, High Level, Makurdi, Benue State Capital by the Military Administrator of the State in 1995. Mr. Dunze Ikyo died in October 2010. His relations insists that since their brother left no Will, the plot of land becomes that of the extended family under the Tiv native law and custom. Advise Mrs. Dunze Ikyo.

- iii. Mr. Ikpe Okon was granted a statutory right of occupancy over Plot 444, Mary Slessor Road, Calabar, Cross River State in 1979. He died intestate in March 2011.

#### QUESTION 4:

Okesha Ogundele approached the Okemesi family for a plot of land for farming. The Okemesi family obliged him on the condition that he shall always recognize their title over the land by words or deeds. Okesha Ogundele intends to venture into commercial farming of cassava for export and requires loan to actualize this dream. He applied for and was granted a Customary right of Occupancy over the land, in order to enable him obtain a bank loan. After he was issued the certificate, he put a sign post on the land reading "Okesha Ogundele Land: The home of Cassava".

The Okemesi's are aggrieved and have asked Okesha Ogundele to leave the land immediately or face forceful ejection.

The following contention was made by Okesha:

- (a) That he has a better title to the land than the Okemesi's since he has been issued a certificate of occupancy over the land. — *Abioye v. U. N. 1971*
- (b) That he was not a customary tenant to the Okemesi's as he does not pay any customary tribute to them. — *Okemesi v. Okesha*
- (c) That they cannot eject him forcefully from the land except a court of law gives the order. — *U. N. v. Okesha*
- Citing relevant authorities, address the success or otherwise of these contentions.

#### QUESTION 5:

Uche Onwuka is a Kola tenant with the Nwabueze family since 1930. In 2010, he leased a part of the land to Hi Tech Computers for N200,000.00 per annum. The Nwabueze family got wind of the fact of this sub-lease and approached Uche for a share of the profits. Uche Onwuka refused, stating that the Nwabueze family wants to reap where they did not sow. He alleged that the land they gave him was an unattractive bush land which by his industry, is now transformed into an attractive land. He also alleges that the Customary Law of Onitsha where the land is situated does not allow for such sharing.



Answer the following questions:-

- (a) Discuss the issues raised by Uche Onwuka.
- (b) As Counsel to the Nwabueze family, advise them on the appropriate steps to take to protect their interest.

**QUESTION 6:**

It is the custom of Owodojana community that any member could farm on fallow land. The Etim family have farmed on the land in dispute for more than fifty years without interference by any member of the community. They sold that land to a company for mechanized farming. The company, Rex Nig. Plc obtained a certificate of occupancy over the land and cleared it preparatory to commencement of farming.

The elders of the community are aggrieved and filed an action in court seeking the following reliefs:-

- (a) A declaration that the land in question is communal land.
- (b) A declaration that the Certificate of Occupancy is void and did not extinguish the customary or deemed title of the community to the land.
- (c) A declaration that no member of the community can sell the land without the elders. — *the land is communal land and the company cannot acquire title without the consent of the elders.*

Advise the company on its chances in court with particular reference to the above reliefs

**QUESTION 7:**

Examine the ratio of the case of Kyari v. Alkali (2001) 5 S.C. (Part II) 192 as it relates to title to land and the issuance of a certificate of occupancy.

*BT*