



**THE VEXED ISSUE OF DOWRY AS A BASIS FOR THE VALIDITY
OF CUSTOMARY MARRIAGE IN SOUTH-WESTERN NIGERIA –
OLAWAYE V. OLAWAYE IN CONTEXT**

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Abstract

Customary marriage is rife in Africa generally, and Nigeria in particular. The essentials of this form of marriage are ethnographically relative in that more emphasis is placed on one or more of the essentials. Dowry, or more appropriately bride price, for instance, is considered a sine qua non in a discussion of what essentially the features of customary marriage are. In some communities in Africa, the words “bride price” is preferably used. The fact that these two concepts – “dowry” and “bride price” - do not mean exactly the same thing is problematic. Again, that a long customary cohabitation between a man and a woman which leads to the birth of children can ripen to customary marriage under African customary law is also a debatable one. In other words, can there be a customary marriage by prescription? This term paper will, therefore, de-emphasise dowry as a customary marriage essential that forms the basis of validity of a customary marriage. The paper will also explain the dichotomy between the expressions “dowry” and “bride price” with a view to justifying sticking to either of them. The paper will draw on the recent court decision of an Ibadan Grade 'A' Customary Court sitting at Mapo, Ibadan, Oyo State. The paper will further rely on relevant provisions of statutes and decided cases. The paper finds that the words or expressions “dowry” and “bride price” are not generally synonymous unless contextually made so. Again, the paper finds that dowry or bride price is not the most important requirement in customary marriage as consent is the basis on which dowry or bride price is built. The paper recommends that prefatory remarks or annotations must contextually precede the use of either of the words or expressions “dowry” and “bride price” in order to avoid textual ambiguity in their usages. The

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paper further recommends that where consent exists between a man and a woman who are cohabiting and who have been living together for a long time or who have given birth to children, the law should prescriptively ascribe the status of a husband and a wife to both of them under customary law, and in case of divorce proceedings, the law should not make the existence of dowry or bride price as a condition precedent to the validity of the “customary marriage”.

Keywords: Dowry, bride price, vexed, customary, divorce, marriage

1.0 INTRODUCTION

In traditional African settings, social co-existence is the order of the day as the natives see themselves as members of the same family. Each is the other's brother's keeper and suspicion of being viciously attacked is hardly entertained. Except for cases of close blood relationship, the mutual co-existence does not see as an anathema a marriage between the men and women in the same community. This not only encourages procreation and perpetuation of family lineages, it also cements the bonds of social co-existence and good neighbourliness.

It is settled that families make up a community or society. Good families, under normal circumstances, will produce a good community or society, and *vice versa*. Under African customary law, the coming together of a man and a woman in a union will lead to the formation of a family. The separation or divorce of these two important *personae* signifies the end of that union. It appears that under native law and custom, the separation of a man and a woman is made difficult by the nature of customary co-existence among the natives. A man marries not only a woman but also the family of such a woman. Thus, even if both *personae* disagree and fight, the two families will still hold the relationship firmly as long as there is no cleavage in families' relationship. However, in the event that things fall apart between the two families, it is easier for both *personae* to call it quits. In this regard, either of the parties may approach the court for a divorce. One of the main ingredients of customary marriage in divorce proceedings which the court will look for is dowry or bride price. Usually, the court will hold that there is no customary marriage in the absence of dowry or bride price. The decision in the case of *Olawaye v Olawaye* eloquently bears testimony to this position.¹

¹ *Mr. Olawaye Thomas Ojo v Mrs. Olawaye Victoria Bosede* [unreported, Suit No. OY/CCGA/MAP/84HD/2023, delivered on the 20th day of March, 2024, by His Honour S.M. Akintayo (Mrs.), sitting as President of the Grade “A” Customary Court, Mapo, Ibadan South East Local Government Area, Ibadan, Oyo State].



This term paper will, therefore, discuss the need to de-emphasise dowry or bride price as the most essential ingredient of customary marriage. The paper will also argue that there could be customary marriage by prescription where the man and the woman have been cohabiting for a period of not less than fifteen (15) years and both they and their parents consent even if no bride price has been paid. To achieve these objectives, the paper is divided to four parts. Part one deals with the introduction; part two sets forth the facts of a decided case that gave rise to sundry issues; part three discusses pertinent issues arising from the facts of the case as they relate to customary marriage and the essentials of same; and part four tackles the conclusion and recommendations.

2.0 THE FACTS, FINDINGS AND VERDICT OF THE CASE

The facts of the case are discernible from the claim of the petitioner (Mr. Olawaye Thomas Ojo). The petitioner, a septuagenarian, had been married to the respondent for more than fifty one years as of the time the petition was filed.² The petitioner's suit was based on many allegations, ranging from domestic violence, raining of curses on the petitioner by the respondent, threat to petitioner's life, respondent being a cause of sleeplessness to the petitioner and respondent's non-challant's attitude. The petitioner, therefore, prayed the honourable court for the dissolution of the marriage between the respondent and him, and that the respondent should be restrained from harassing, threatening, disturbing and interfering with the private life of the petitioner.

At trial, the petitioner was the sole witness. He gave evidence in factual and evidential expatiation of his claim before the learned trial President of the court. He also tendered a knife as an exhibit which he alleged was the weapon the respondent once attempted using against him. The court admitted the knife as Exhibit 'A'. The respondent initially appeared in the matter. She later absented herself from the court proceedings despite several hearing notices served on her. The matter was, therefore, partly contested. The petitioner gave evidence that he did not pay dowry on the respondent either before their "marriage" or thereafter, a point that the respondent had raised in the open court when she appeared before the court, not as a witness but as a person debunking the mendacities of his or her interlocutor. Again, the respondent vociferously added that the petitioner metaphysically snatched her from her erstwhile husband/man, a vital point that the petitioner tacitly admitted. The court "overheard" this from the respondent and the petitioner himself confirmed same in the course of his evidence.

The learned trial court found as follows:

It is on record as testified on oath by PW1, that himself and the Respondent had no formal Customary marriage between them and he paid no bride price on the Respondent but rather, he took the respondent from another man and the Respondent moved into his house.³

² The petition was filed on the 7th day of March, 2023.

³ *Olawaye v Olawaye, supra*, at page 3 of the unreported judgment.



As a corollary from the above finding, the court held as follows:

It can be affirm [sic] from the evidence adduced by PW1 that none of the essential requirements of a valid customary marriage had been met and seen present in the union of the parties and it can be conveniently said, there is no valid customary marriage existing between the parties and there is none to be dissolved by the court. It is noted that the mere fact that a man and a woman are living together and having children together alone does not necessarily make the woman the wife of the man under native law and custom. See: *Chief SakaLawalOsula v. Lyda Modupe Lawal-Osula*(1993) 2 NWLR (Part 274) 158.⁴

3.0 SALIENT ISSUES ARISING FROM THE CASE

The facts of the above case and the decision thereon have thrown up some issues that merit explanation. Some of these issues have to do mainly with the essential requirements of a valid customary marriage and whether dowry or bride price is so critical to a valid customary marriage that its non-payment invalidates a customary marriage.

3.1 Components of Validity of Customary Marriage

Generally, there are three essential components of a valid customary law marriage. First, there must be consent between the man and the woman, including their respective families. Since this relationship is essentially contractual, there must be consensus *ad idem* between both. This forms the basis upon which all other requirements are erected. Once consent is absent in the arrangement, there cannot be a marriage because it is impossible that two disagreeing persons will ever tag along. It appears that this consent is not limited to the man and the woman alone. It also extends to the two families from which the man and the woman hail. The second ingredient is the payment of dowry or bride price by the man (bridegroom/husband) to the woman (bride/wife). The third component is that the bride must be handed over to the bridegroom/husband

⁴ *Olawaye's* case, *supra*, at pages 3- 4 of the unreported judgment.



in the presence of witnesses. These essentials have received judicial blessing in the case of *Omosule Omoge v Olafede Badejo*,⁵ where the court held as follows:

The question then is what constitutes a valid marriage under Yoruba customary law? The answer to this question has long been settled by jurists and in judicial decisions. The position in law is that three conditions must be fulfilled. These are that there must be a betrothal, which is consent of the parties to enter into a marriage contract. Second, marriage payments, commonly called the 'dowry', must be paid unless it is waived; and third, there must be a formal joining of the couple in wedlock. This is performed by the formal handing over of the bride to the bridegroom in the presence of members of the two families and witnesses, and the acceptance and taking away of the bride to her husband's house.⁶

3.1.1 Dowry or Bride Price?

There is semantic confusion in synonymously using the expressions “dowry” and “bride price”. Scholars and jurists, therefore, need to agree on a meaning to be attributed to either or both of them. The word “dowry” means “property or money brought by a bride to her husband.”⁷ The word has been explained again as “the property which a woman brings to her husband at marriage, sometimes used for dower, sometimes a gift given to or for a wife at marriage; a natural endowment.”⁸ The word “dowry” has also been described as “The property a wife brings to her husband in marriage...A reward paid for a wife...Any endowment or gift.”⁹ In the phraseology of the *Black's Law Dictionary*, the word “dowry” is “The property which a woman brings to her husband in marriage; also

⁵ *Omosule Omoge v Olafede Badejo* [1985] High Courts of Nigeria Law Reports 1075.

⁶ *Omosule Omoge v Olafede Badejo*, *supra*, at page 1080, per Akintan (Dr.) J. (as he then was, sitting at the High Court of Ondo State).

⁷ A.S. Hornby A.P. Cowie (ed), *Oxford Advanced Learner's Dictionary of Current English* [A.P. Cowie (ed)] 4th Edition (Oxford University Press, Oxford, 1989) page 364.

⁸ Elaine Higgleton, *The Chambers English Dictionary*, 1st Edition (Chambers Harrap Publishers Ltd., Great Britain, 1988) page 488.

⁹ Allen Walker Read et al (eds), *The New International Webster's Comprehensive Dictionary of the English Language*, Encyclopedic Edition (Typhoon Media Corporation, USA, 2010) page 382.



sometimes called a 'portion'."¹⁰ On the other hand, the expression “bride price” has been explained as “... a price paid (usually in kind) to a bride's family by the bridegroom”, which are usually observed or practiced in tribal societies; it may even be termed “bride wealth”.¹¹

It is luculent from the above that the meaning generally attributed to the word “dowry” by Africans is linguistically incorrect in that it is the bridegroom that should give or donate to the bride, and not the reverse. But the dictionary meanings are to the effect that “dowry” is what a wife brings to her husband. This is preposterous under the Nigerian native law and custom. It sounds more logical and socially acceptable within the African milieu to assert that “dowry” is an item of property that a wife or bride receives from a husband or bridegroom. It is in this sense that the expression “bride price” as defined or explained above aptly captures the syntactic quintessence of the word “dowry”. It is, therefore, correct to opine that “bride price” is more appropriate to describe the “dowry” that a bride groom gives to his bride during a marriage solemnization under the Nigerian native law and custom.

The expression “bride price” employed by the learned trial court in *Olawaye Olawaye*¹² is the most appropriate, apposite and apt expression that captured what the petitioner in the case failed to do that invalidated the purported customary marriage. Characteristically, bride price need not be bogus but it must be culturally symbolic. It varies from one community to the other. It may be in form of money or a valuable commodity, but where it is in kind, it usually must be backed with money, no matter how small¹³. To resolve the semantic problem in the meanings of “dowry” and “bride price”, scholars and jurists must concur that the two should contextually be used synonymously.

It must be reverberatingly emphasized that bride price is key to the validity or competence of divorce proceedings under native law and custom because once a wife sues for divorce and same is granted by the court, the wife as petitioner must return the bride price. This appears to be cosmetic because what the bride usually receives from the bridegroom is more than money. Under the Nigerian native law and custom, it is commonplace that the family of the bride collects tubers of yam,

¹⁰ Henry Campbell Black et al, *Black's Law Dictionary*, 6th Edition (St. Paul, Minn. West Publishing Co., 1990) page 493.

¹¹ Elaine Higgleton, *The Chambers Dictionary*, supra, at page 199. *Supra*.

¹³ KehindeAdegbite, *What the Law Says about Marriage and Divorce – Answers to All Questions*, 1st Edition (Global Image Books & Publisher, Ibadan) pages 136 -139.



bottles or containers of oil, varying amounts of money for the house wives, old women, and the like, apart from the bride price itself. While the refund of bride price upon the grant of a divorce relief is salutary, it is not an absolute cure for the husband who has been denied normal conjugality with his wife. Again, the wife's family should return all accompaniments of the bride price¹⁴ to indicate their intention of the wife's total separation with the husband. Moreover, the monetary value and the purchasing power of the symbolic amount that will be refunded or returned by the bride or her family or her new suitor will raise serious questions – at what exchange rate will the refund be made and how does a person monetarily quantify the dowry given in kind in the face of galloping exchange rates?

The law is that bride price should be paid on spinsters or unmarried women who, by accident of promiscuity or botched relationships, have given birth to a child or children and on whom no one has paid any bride price, or divorced women on whose behalf the initial bride price has been returned¹⁵. According to Akintan (Dr.) J. in the case of *Omoge v Badejo*:

The position in respect of a woman who has once been married seems to be that the new suitor would have to pay off the 'dowry' previously paid on the woman before taking her away as wife, with of course, the necessary consent of the parents...Applying the above principle of law to this case, it is clear from the facts established at the court below that Mary Awasu, the woman in this case, was probably not a spinster because she claimed in her evidence that her first child was for one Olu who was formerly her husband before she married the defendant/appellant. If her contention that there was in existence a marriage between the woman and Olu was correct, then the onus would be on the plaintiff/respondent

¹⁴ *Ochoche v Onojo*[1985] High Courts of Nigeria Law Reports page 311, per Ogebe, J.

¹⁵ See *Omoge v Badejo, supra*, at page 1080.



to establish that while in the process of marrying the woman he refunded the dowry which Olu paid on the woman before taking her as wife with the necessary consent of her parents¹⁶.

One other pertinent point on the issue of payment of bride price is a common phenomenon among Nigerians during customary engagement ceremonies is the common practice of bride price rejection by the parents of the bride under the pretext that they are not merchants of their own biological child. Is this *in tandem* with the essentials of customary marriage under native law and custom? Can that kind of rejection be treated as a waiver of the right to receive the bride price? Can it be a ground for invalidating any ensuing marriage in the future? These are questions that can further be interrogated on the rejection by the bride's parents of the bride price offered by the family of the bridegroom. It is only safe to submit that in order to meet the essential requirements of customary marriage, the bride price must not be rejected or if it is going to be rejected, it must be rejected behind the scene and with the consent of both families.

Proper Persons to Raise Want of Dowry or Bride Price during Divorce Proceedings

There are many parties that can raise this all-important issue to the validity of customary marriage – the wife, the husband, family members from either side or even the court that is sitting over the matter.

The wife can give evidence to the effect that the purported husband did not pay bride price on her in order to show to the court that he ought not to have approached the court for an order dissolving the marriage as the court would lack the power to adjudicate over a matter that is not properly constituted. Under the circumstances, there is nothing to dissolve as the essentials of a valid customary marriage are incomplete. Again, the husband may elicit evidence to the effect that he paid dowry on the wife and that he is entitled to the wife's pregnancy or child unless the dowry is refunded. Where this is the case, the court can adjudicate over the matter because the essentials of a valid customary marriage were complete. Besides, the witnesses called by either of the parties may equally give evidence on the payment or non-payment of bride price by either of the husband and wife. In cases where the parties are illiterate and just approach the court for a dissolution of their marriage, the court may raise the issue, especially where there is evidence on record that the husband did not pay bride price. The court will then render a verdict on the legal implication of such a fundamental "omission". In

¹⁶ *Omoge's case*, per Akintan (Dr.) J., at page 1080.



Olawaye v Olawaye,¹⁷ the trial Grade “A” Customary Court found from the evidence that the petitioner did not pay any bride price. The court did not dawdle before holding that there was no marriage before her that merited an order of dissolution. Even though she ought, in the author's view, to have declined jurisdiction and struck out the matter on the basis of want of jurisdiction,¹⁸ she was magnanimous to have granted the second relief prayed by the petitioner.

Prescription as a Cure for Non-Payment of Dowry/Bride Price

The law should presume the existence of a customary marriage where the man and the woman have lived together for a long time, for example for a period of not less than fifteen (15) years despite the fact that dowry was not paid at the beginning or even in the course of the relationship. This position is the current reality in many communities in Nigeria. A man and a woman just decide to “marry” each other without any opposition from their respective parents. They procreate and continue to live together without acrimony. Is this not a reflection of an accepted lifestyle in those communities? Is this not one of the characteristics of customary law that it is a mirror of accepted usage in a community? If “consensual cohabitation” ripens to procreation and harmonious living between a man and a woman and this has lasted for not less than fifteen years without any tacit or active opposition of the parents, it is submitted that a “customary marriage” has emerged. This view finds support in the case of *Ogunyemi v. Ogunyemi*¹⁹ where the court held as follows:

It is a misconception to make non-payment of Dowry an issue in Yoruba Customary marriage after both husband and wife had lived together for 15 years, had four children between them and the parents of the woman had never at any time complained of non-payment of Dowry to them. I regard appellant's complaint as invalid and her ground of appeal on the issue must fail.²⁰

4.0 CONCLUSION AND RECOMMENDATIONS

The paper seeks to de-emphasise the fact that bride price is the most important

¹⁷ *Supra*.

¹⁸ The issue is that of jurisdiction. The court should have declined jurisdiction on the basis that the suit was not properly constituted. See the case of *Ebhodaghe v Okoye* [2005] ALL FWLR (Pt.241) 200 at 213-214.

¹⁹ *Ogunyemi v Ogunyemi* [1985] High Courts of Nigeria Law Reports 121.

²⁰ *Ogunyemi's case, Supra*, at page 124.



fulcrum upon which customary marriage is built in Nigeria. It contends that the words “dowry” and “bride price” are not coterminous in every context unless made to be so by the writer. They, therefore, gender confusion when discussing the importance of valuable consideration that passes from the bridegroom to the bride during customary marriage. In spite of the thrust of the paper, it is trite that bride price or its payment by the bridegroom or his family is a marriage symbol or marriage token that legitimizes the new relationship and resultant union between the husband and the wife.²¹ Bride price is also seen as a form of compensation to the father and mother of, or guardian to, the bride for their efforts, sweat and trouble for taking care of her;²² it is also a form of consideration for the loss of the bride's domestic services, chores and domestic relevance which would result from her being married;²³ the payment of bride price by the bridegroom additionally denotes the bridegroom's readiness and desire to enter into a contract of marriage with the bride;²⁴ and the payment of bride price by the man is an outward desire to satisfy the bride and her family.²⁵ Apart from all these advantages of bride price or payment of same, it has an invalidating effect on court proceedings for dissolution of a customary marriage despite the presence of grounds for divorce, which range from adultery on the part of either party, lack of maintenance by the husband, laziness, dishonesty, robbery, evil conspiracy, stealing, barrenness, witchcraft, stinginess and cruelty, among others.²⁶ Summing up the benefits of payment of bride price, a learned author has opined as follows:

The gift elevates the value attached to her, both as a person and as a wife. The gift legalizes her value and the marriage contract. The institution of this practice is the most concrete symbol of the marriage covenant and security. Under no circumstances is this custom a form of 'payment' as outsiders have often mistakenly said.²⁷

²¹ Margaret C. Onokah, *Family Law*, (1st Edn Spectrum Books Ltd., Ibadan, 2003) page 92.

²² *Ibid.*, at page 93.

²³ *Ibid.*

²⁴ *Ibid.*

²⁵ *Ibid.*

²⁶ Ajuzie C. Osondu, *Modern Family Law & Practice*, 1st Edition (Printabl Publishing Company, Lagos, 2012) page 98.

²⁷ Akintunde Emiola, *Emiola's African Customary Law*, 3rd Edition (Emiola [Publishers] Limited, Ogbomoso, 2011) page 138, where the erudite author referred to, and quoted, another work: Mbiti, J.S., *African Religions and Philosophy* (Heinemann, 1969) page 8 at 140.



However, in line with the thrust of the paper, the payment of bride price should not be the most decisive factor in reckoning with the requirements of a valid customary marriage because the payment itself could be waived by the family of the bride in the spirit of non-merchantability of their girl. If it could be waived, is it an absolute necessity in customary marriage? The author's answer is in the negative. Once parties are *ad idem* and mature, and they know what they are doing, coupled with the fact that they have been living together for a long time without the disapproval of their parents, the existence of a customary marriage could safely be presumed.²⁸

Again, one other factor that detracts from the imperativeness of the payment of bride price is the concession that the family of the bridegroom could choose to do part-payment of the bride price. The issue arising from this stance is the *quantum* of the part-payment.²⁹ This means that the issue of bride price is not as serious as people think it is, particularly in the Eastern part of Nigeria.³⁰ Besides, mention must be made of an old and discarded practice of “marriage by exchange” which also shows the vagaries of bride price in relative milieus. A learned author has described this practice in the following terms:

In a few isolated pockets in rural places a curious practice, which is now obsolescent if not obsolete, is for the head of the girl's household to require the prospective son-in-law to furnish him with one or sometimes two young female members of the latter's family in exchange for the bride-to-be. The reasons for this monstrous give-and-take, particularly where two children are exchanged with one grown-up girl, are said to be two: (1) to compensate the girl's mother for the loss of her girl's services and *solatium*, and (2) to ensure good treatment of the new wife by the husband, who could thus be made to behave himself for fear of reprisal against his own relatives now part and parcel of

²⁸ See Ifeoma P. Enemo, *Basic Principles of Family Law in Nigeria*, 1st Edition (Spectrum Books Ltd., 2008) page 75.

²⁹ E.I. Nwogugu, *Family Law in Nigeria*, Revised Edition (Heinemann Educational Books (Nigeria) PLC, Ibadan, 1999) page 55.

³⁰ *Ibid.*



his parents-in-law's family. This system is called marriage by exchange.³¹

The paper recommends that authors and jurists should make efforts to distinguish between “dowry” and “bride price” while consistently sticking to one. Where the two are synonymously used, the authors and jurists must so indicate and affirm it in the context. This is because what the expressions mean are diametrically different. Moreover, customary law is the law of the people whose affairs it regulates. The law emanates from them. It is accepted to, and by, them. If the incidence of mere cohabitation that eventually dovetails to marriage has become a way of life in a community, and the members of the community are not averse to it, then the practice or way of life has demonstrated the acceptance of that way of life. Once a usage is accepted by the members of the community and it is not repugnant or offensive in any sense, it is fit as an item of customary practice. The word “usage” has been defined as “a repetition of acts and differs ordinarily from customary law in the sense that the latter is the law which arises from such repetition. While one can talk about usage without a customary law ordinarily, there cannot be a customary law without the element of usage accompanying or preceding it.”³² Accordingly:

The customary law of a community is a body of customs and traditions which regulate the various kinds of relationships between members of the community in their traditional setting. One important characteristic of customary law is that it derives its strength from its acceptance by members of the community as obligatory on themselves. Consequently any custom or tradition which does not command such acceptance lacks the character of law, but is a mere social observance and the individual can afford to be indifferent about it. Customary law has a dynamic character and any custom which does not accord with the current social conditions is jettisoned.³³

³¹ Teslim Olawale Elias, *The Nigerian Legal System*, 2nd Edition (Routledge & Kegan Paul Ltd., London, 1963) pp. 291-292.

³² Niki Tobi, *Sources of Nigerian Law*, 1st Edition (MIJ Professional Publishers Ltd., Lagos, 1996) page 107.

³³ G. Ezejiofor, “Sources of Nigerian Law” in C.O. Okonkwo (ed) *Introduction to Nigerian Law*, 1st Edition (Sweet & Maxwell, London, 1980) page 41.



The emphasis in this regard is not the form but the substance of the relationship. The hallmark of customary law is its flexibility.³⁴ Once consent is established between the man and the woman, including their respective families, it is presumed that the existence of customary marriage can conveniently be presumed. Consent, it is argued, is the most important factor in customary marriage. It is the bedrock of customary marriage. On it are built the other essentials of customary marriage. Once a court seised of a dissolution of customary marriage has received evidence of consent, coupled with a long period of cohabitation, the court should act on the presumption, albeit rebuttable, that a customary marriage is in existence. Characteristically, customary law has further been described as follows:

Customary law, unlike statutes, does not owe its existence to the positive enactment of a sovereign parliament or the declaration of a court. But for a rule of customary law to be applicable, it is required to meet some basic criteria necessary for its validity and acceptance. It may be argued, and rightly so too, that this requirement is merely to facilitate its application while the law itself derives its existence and authority from the attitude for the very people whose affairs it seeks to regulate.³⁵

In *Olawaye v Olawaye*,³⁶ the learned trial President of the Mapo Grade “A” Customary Court held that because there was ample evidence before it to the effect that the petitioner did not pay bride price/dowry on the respondent, there was no marriage in existence that could be dissolved. The finding(s) arising from the facts of the case seem(s) to justify the conclusion of the court. The petitioner admitted that he did not pay bride price on her. He did not deny that he “snatched” the respondent from the respondent's first man (husband). He did not also deny that he metaphysically “married” her. These and other inferences “forced” the court to reach the conclusion that the prayer for dissolution could not be granted as the petitioner did not pay bride price on the respondent. Two factors that would have swung the pendulum in favour of the petitioner were (1) the fact that the

³⁴ AkintundeOlusegunObilade, *The Nigerian Legal System*, Reprinted Edition (Spectrum Books Limited, Ibadan, 1996) page 84.

³⁵ John OhireimeAsein, *Introduction to Nigerian Legal System*, 1st Edition (Sam Bookman Publishers, Ibadan, 1998) page 111.

³⁶ *Supra*.



“marriage” had lasted for more than fifty-one (51) years and (2) the fact that there were already five children of the “marriage”, the last born being above forty years (40) of age.

It is safe to recommend that where the man and the woman (not a boy and a girl) freely consent to their relationship, coupled with the immediate or subsequent consent of their respective parents, and with a long cohabitation of not less than fifteen (15) years, the law should presume the existence of a customary marriage.