



## Application of the Contract Law Principles of “Consideration” in the Payment of Bride Price “Ime Ego Isi Nwanyi” Under the Customs and Traditions of Udunedem Ancient Kingdom, Udenu Local Government Area, Enugu State

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### Citations - APA

Nwodo, A. J. & Onah, H. C. (2023). Application of the Contract Law Principles of “Consideration” in the Payment of Bride Price “Ime Ego Isi Nwanyi” Under the Customs and Traditions of Udunedem Ancient Kingdom, Udenu Local Government Area, Enugu State. *Contemporary Journal of Social Science and Humanities*, 4(3), 1-12. DOI: <https://doi.org/10.5281/zenodo.10003037>

*This work focuses on the payment of bride price, known as "Ime Ego Isi Nwanyi," under the customary marriage customs of Udunedem Ancient Kingdom in Enugu State, Nigeria. The Udunedem Ancient Kingdom comprises five Autonomous Communities, forming a significant portion of the Udenu Local Government Area. The customs and traditions surrounding bride price in this community align with broader Igbo cultural practices. The rules governing bride price payment in Udunedem Ancient Kingdom adhere to the principle of Sufficiency of Consideration, a concept in Contract Law. The customary law does not question the adequacy of the payment or prestation; rather, it emphasizes that something of value must be exchanged. This is in line with legal definitions of consideration, which encompass rights, interests, benefits, forbearance, or responsibilities undertaken by the parties. Marriage, whether within or across cultures, is viewed as an extension of a mutual and harmonious relationship. Bride price payment is seen as a fundamental requirement for a valid marriage in Igbo land, and it is considered a contractual agreement. The payment, which may extend beyond cash, includes various forms of valuable contributions. Once the bride's family accepts anything of value from the groom, it is deemed sufficient, regardless of its size or adequacy. This qualitative research relies on secondary sources, such as existing documents, to support the conclusion that the Contract Law Principle of consideration applies to and regulates the payment of bride price in Udunedem Ancient Kingdom. Despite the influence of Christian and Western civilization, this cultural obligation governing conjugal relationships remains significant and resilient.*

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ABSTRACT

**Keywords:** Contract Law Principles of “Consideration”; Payment of Bride Price; Ime Ego Isi Nwanyi; Udunedem Ancient Kingdom

## Introduction

Marriage is the coming together of male and female adults with a promise to live together as husband and wife till death do them part. It is a sacred tradition instituted by God himself when he stated unequivocally in the Old Testament Biblical account thus

“Therefore, shall a man leave his father and his mother, and shall cleave unto his wife: and they shall be one flesh.” Genesis 2:24.

The same injunction was reinforced the in the New Testament thus;

“He becomes like *one person* with *his wife*. ... For this cause *shall a man leave* father and *mother*, and *shall cleave to his wife*, and *they two shall be in one flesh* ...” Matthew 19:5 Bible Hub.Com.

Every society has its own way and manner of carrying out this God’s injunction and Ndi Igbo is no exception. Customary marriage in Igbo land is replete with ingredients of contract law principle of “Consideration”. Consideration is loosely defined as the benefit that each party gets or expects to get from the contractual deal. In order for any agreement to be deemed legally binding, it must include consideration on the part of every person or company that enters the contract. Capacity is not however a *sine qua non* under the customary marriage customs hence age can be dispensed and agency is permitted to seal marriage contract in Udunedem Ancient kingdom. The contextual question about traditional marriage revolves around was anything paid. if anything, else can be counted as bride price (such as prestation), when is the appropriate time to pay, what if bride price was not paid, entitlement to or for refund upon divorce etc. Unfettered consent or permission of both parents and the ancestors are imperative. They both are expected to bless the marriage to ensure a bountiful marriage as doing otherwise would render it a casual friendship under the eyes of the customs and the tradition of the people. The most essential rite required for a valid customary marriage in Igbo land is the payment of bride price “*ego isi nwanyi*. It is upon the fulfillment of this requirement that the requisite entitlements are conferred by the society. For the fact that it is a *sine qua non*, where no evidence exists to show that it was done and in the prescribed form, there will be nothing to stand the marriage upon, therefore it will fail and fall prostrate. Compulsion to marry a certain person by parent(s) is permissible under traditional Igbo marriage customs as against the statutory laws where such marriage is void and voidable if challenged. However, compulsion is not fashionable as it is usually seen among the adolescents who become pregnant by accident or unprotected sex and marriage is forced on them as a form of reprimand. Generally, it is when the bride’s family collects the bride price herein referred to as consideration by the groom that deals is struck. Bride price must not be sufficient in the eyes of all because bride price transcends cash payment but includes prestation which cannot be heard subsequently that it was small. Claim and proof that pride price was paid rest on any particular party who avers but must be proved and evaluated on the preponderance of evidence. In *Agbeja v. Agbeja*; the Court held in affirmation that: “While the evidence of the head of the family who received the money may be desirable, what is essential is an eye witness account of the transaction”.

The beauty of traditional marriages is that it provides the richness of unity in diversity and natural mutual continuity of life. Marriage can be intra, inter or cross cultural in character but in all of these, it is an extension of mutual and convivial relationship on the move. No matter the scope, it possesses and respects certain thresholds from which it cannot derogate from. This major threshold is anchored on the payment of bride price and (other rites inherent therein) (Onah, Nwodo & Igwe, 2023) Under Customary Law Practices). Without first completing these traditional rites, the family of the bride will not give permission to wed their daughter and any attempt to violate this comes with heavy spiritual and physical resistance. On the other side, when bride price is paid in prescribed manner, the couple acquires the necessary societal and spiritual attributes of husband and wife. It matters less that the white wedding or statutory marriage was conducted later. According to Aboki, J.C.A

“For a marriage under native law and custom to be valid, there must be on the one side the ceremony of giving of the bride price and on the other side the ceremony of the giving and acceptance of the bride price (some words mine) for a marriage under native law and custom.” Per ABOKI, J.C.A

Today’s idea of dating or courtship is somewhat alien to our culture hence the saying that, “Africans marries first - and then falls in love” and not the other way round. (Okeke 1986) This does not however suggest that there never existed falling in love by youths in our clime. Informal causal relationship which results in pregnancy is an absurdity. Single parent, baby mama etc, is an anathema in Igbo land that can never be tolerated. Such people are regarded as (*efulefu*) loafers since the parties receive severe disapproval from the society.

Every party to a conjugal relationship in Nigeria has the right to resile whenever the situation for that arises. Under our patriarchal custom, women are relegated as weaker and more vulnerable partner – hence the need to pay a rather unusual protective attention to their plights. The woman’s right to walk out on any unworkable marriage is recognize under the three major laws that regulate marriages in Nigeria viz; Statutory, Customary as well as Islamic laws. However, there must be evidence of marriage established before the law can offer protection. In *Obiekwe v. Obiekwe* Palmer J held that

“If the parties had not been validly married under the Ordinance, then either they are married under the custom or they are not married at all.” *Obiekwe v. Obiekwe*

### Statement of the Problem

Sometimes dispute arise questioning sufficiency of bride price. Payment of bride price “*Ime Ego Isi Nwanyi*” under the custom and tradition of Uduneden Ancient Kingdom operates as an *estoppel* to a claimant (usually the bride’s family) from arguing that bride price was insufficient. This created quarrel between estranged party and needs to be interrogated so as to put thing in their correct perspectives.

### Objectives of the Study

In this work the following objectives are hoped to be achieved.

- I. To determine whether a claimant can validly claim that money paid as bride price “*ego isi nwanyi*” was insufficient.
- II. To ascertain if anything else, prestation, performance, forbearance etc other than money qualifies as “bride price” “*ego isi nwanyi*” and therefore also an *estoppel* against a claimant under the customs and traditions of the people.

### Significance of the Study

The significance of this research is that it is going to;

- I. Fill the knowledge deficit in this area of customary law practices of Udunedom people and offer a window into a wider Igbo culture of customary marriages.
- II. It will certainly be beneficial to future researchers who may want to carry out studies in this area of customary marriage law practices of Igbo people at large.

### A Brief Overview of Traditional Marriage Procedures of Udunedom Ancient Kingdom

Traditional marriage procedures under the customs and traditions of Udunedom Ancient Kingdom, Udeni Local Government Area, Enugu State starts with an inquiry known as “*Iku aka n’uzo*” or “*Iju ese*” which means “to knock on the door of the bride’s family or to inquire” - ascertain if there is any encumbrance(s) or hindrances against the bride getting married to any prospective suitor. The journey starts with the groom, accompanied by his father or (any male family member of his family validly delegated) to visits the bride’s family on behalf of the grooms father to announce to the bride’s father officially of his or their son’s intention to marry the bride. The bride’s family would confirm first from their daughter whether she knows the suitor well enough to warrant their acceding to his request. If her response is in the affirmative and all other enquiries and indicators are positive, the process would proceed to the next stage of reverting to the groom’s family to commence action. With a token deposit of money *ego oju ese*, the bride’s family needs to first privately interface amongst themselves, family ancestors and secondly conduct a

private enquiry from known friends who knows relatively much about the groom and his family profile. The *ego oju ese* is meant to be used to consult the bride's ancestor through diviners and soothsayers to elicit their concurrence or otherwise to the marriage. All *trado* – socio cultural thresholds that may provoke the wraths of the ancestors upon the family are always avoided. When all is found to be well, the list of "to do" pursuant to subsequent marriage ceremonies would be officially handed to the groom who is expected to follow the prescription passion and diligence.

### Review of Related Literatures

Western influence of Western cultures can be best described as overwhelming and have unleashed its negative consequences on African culture, but some have refused to yield to such forces. One of such is the customs and traditions surrounding marriage rites in Igbo land. At the epicenter of the customs and tradition of Ndi Igbo (Igbo People) is the payment of bride price otherwise called "*ime ego n' isi nwanyi*". Traditional activities towards marriage start firstly with the declaration to marry the bride. The groom is accompanied by his father or any responsible adult member of his family to the groom's immediate family. If things progress as expected, it is followed by visit to the larger family of the bride otherwise called "*Umunna*". The groom takes with him some wine and kola nuts to his prospective in-laws. Under the culture of Ndi Igbo, whoever was visiting another person would procure at least a few sizeable kola nuts and a keg of palm wine for presentation as a mark of mutual respect and good will as a reciprocal gesture among the Igbo people. This marks them out as one of the most hospitable tribes in black Africa.

The enquiry money and kola nuts are required to be deposited to the bride's father as "*ego oju ese*" – a fee is meant to consult a fortune teller to enquire from the ancestors if the bride's journey to the family of the groom would be fruitful. If the approval of the ancestors is secured and other social baseline investigation such as lineal *osu* cast system, endemic premature deaths, diseases such as leprosy, epilepsy or other weird diseases are ruled out other steps commences. Familial Taboos, hereditary diseases, history of any abomination within memory recall in both families, propensity for divorce, infidelity and infertility attracts concern and can be a cause to refuse the marriage. The groom-to-be must be a courageous man who would "be man enough" to take care of their daughter as well as their children.

The importance of investigation on both sides cannot be overstressed because marriage is a serious business in Igbo land and both families are meeting officially for the first time with this visit. It is often said that marriage is one journey that does not need to be repeated. Divorce brings shame to the families concerned under the culture; hence all stones must be turned and seen to have been turned before the bride's father collects bride price from any man. The involvement of the two families (the bride and groom's family) in the payment of bride-price is seen by all and sundry as the concrete foundation that cements the marriage rites, provides legitimacy as well as fostering true and lasting marriage without which there was no marriage (Anderson, 2007). Nowadays, there are different ways of paying bride price - dependent on both parents' preferences. They may agree on private "*Ime Ego N'isi Nwanyi*" (the payment of bride price) or otherwise. Generally, the amount of money paid as bride price is not regulated by custom but ostensibly dependent on a number of factors on both sides such as academic or vocational attainments may apply. Bride price is usually relatively a small amount of money, and can be as little as one Naira (N001.00) or as much as Thousands or Millions of Naira. Some bride's father may simply ask the groom to pay as much as it pleases him usually remarking that his bride is not a chattel that is up for sale to the highest bidder. Where such happens, the bride's father may take whole or a part thereof and hand back the rest to the groom. He would ask the groom to take the money handed back to him (in lieu) to continuing to take good care of his daughter and to also keep close eyes on him (bride's family) and the rest of the in-laws.

In some other situations, bride price may be by negotiation through haggling between the two families, with the bride's father in the lead until a deal is made. Ultimately, once bride price is paid, both parties are estopped from contesting its sufficiency thereof. The import of this tradition is that the rights and privileges enjoyed by someone who paid one Naira (as bride price) over the head of his wife is the same with the other who paid millions of Naira elsewhere. Once bride price is paid in cash, prostration or anything else of value, any child born by the bride belongs to the groom. If (God forbid) the bride dies, she will be entitled to burial in the home of the husband and other rites under the customs and culture.

The question of sufficiency or insufficiency of bride price will be discussed with elucidation citing the case of Agbo Bartholomew and Omeje Roseline that happened in Ozalla Ezimo in 1972. Consideration is the benefit that each party gets or expects to get from a contractual deal. It is a trite law that only a party to a contract can bring an action to enforce its performance, hence a party who has not furnished consideration cannot strictly be regarded as a party to the contract. *Gbadamosi v. Mbadiwe*.

In order for any agreement to be deemed legally binding, it must include consideration on the part of every person or company that enters the contract, each party must make a change in their "position, sometimes referred to as "bargained-for detriment." Consideration is more often either the result of

1. a promise to do something you're not legally obligated to do, or
2. a promise *not* to do something you have the right to do ( eg a promise not to file a lawsuit).

One of the most comprehensive definitions of consideration is that done by Lush, J. in *Currie v. Misa*.

"A valuable consideration in the eye of the law either in some rights, interests, profits or benefits accruing to the one party, or some forbearance, detriment, loss or responsibility, given, suffered or undertaken by the other. Thus, consideration does not only consist of profit by one party but also exists where the other party abandons some legal right.....So, it is irrelevant whether one party benefits but enough that he accepts the consideration and that the party giving it does thereby undertake some burden, or lose something which in contemplation of law may be of value".

To be able to sustain an action in consideration, the plaintiff must prove either a benefit conferred by him on the defendant or on someone else at the instance of the defendant. A moral obligation does not constitute consideration *Eastwood v. Kenyon*

nor does natural love and affection be equated to consideration. *Faloughi v. Faloughi*.

#### **Need Not Be Adequate as Long as It Is Not Illusory**

In the absence of fraud, duress or misrepresentation, the courts will not question the adequacy of consideration but an illusory undertaking cannot be good consideration. *Chappel v. Nestle*.

#### **Consideration must move from the Promisee**

In Bartholomew Agbo v Omeje Roseline, the groom after having completed the preliminary marriage rites under the customs and traditions of Ezimo people, a date was fixed for the payment of the bride price. Two days to the agreed date, the groom lost his mother to the cold hands of death. It is a taboo for the groom to engage in any such ceremony as *ime ego isi nwanyi* when he was still "carrying tears on his eyes" (as such is described). For the love he had for the bride and the fear that another man may indicate interest in the bride and possibly sways her mind, he conferred with his father and agreed to privately visit the father of his bride to deposit "something" as bride price pending when they would be done with her mother's burial ceremony. Upon the visit to the bride's father by Bartholomew accompanied by one member of his family member, named Jonas Ugwu Igboke, the sum of two shillings (\$2.00) was given to the bride's father to keep as the bride price with a promise to return after burying his mother for the fun fare. One thing led to another and Bartholomew could not revert as soon as he was expected to do after the mother's burial. Rose got into the warm embrace of another love bird and they scheduled wedding. When the news got to Bartholomew, he moved to stop the wedding – claiming that Roseline was his wife, sparking controversy that attracted the custodians of custom and traditions of the town and later that of the elders kingdom (Ndi Oha"). The bride's father (a school teacher) bragged to Bartholomew's family that they "merely dropped" two Shilling (\$2.00) as "the so-called bride price" for her daughter who was as at that time a Primary six Certificate holder and that if they wanted, they should take back their money and allow his daughter to enjoy her new and a more prosperous husband. A battle line was drawn between the two families. After a long explosive and exhaustive debate and presentation of evidences, Ndi Oha ruled unanimously ruled against the proposed wedding. The argument of the bride's father that mere 2 shillings was unthinkable for his daughter was thrown away by the elders insisting that in so far as he received such money in lieu of bride price, he cannot be heard to say that it was insufficient for his daughter. The *Ndi Oha* described it as an aberration and an anathema under the customs and traditions of the people

and that the custom holding Bartholomew and Rose in conjugal fetters could only be untied through a formal divorce or death of one of them. Bride price paid and received acts not only as a shackle but also confers security, peace of mind and respect under the customs and tradition because she cannot ordinarily be driven out of her husband's home wantonly. The ruling by the elders "Ndi Oha" is in agreement with the ruling in *Ugwu Sandra v Ugwu Solomon*, delivered by Luke Onah Esq. (Chairman) Customary Court of Agbamere/Umabor, Holden at Agbamere Eha Alumona in Nsukka Local Government Area of Enugu State on 30<sup>th</sup> January 2020 where failure of the groom (Ugwu Solomon) to prove that he went beyond (*Idobe Ego Oju Ese*) (money for enquiry) to pay bride price - rendering his claim that he was validly married to Sandra under the custom and traditions of her people nugatory and untenable. The petitioner through her counsel Dr. Chinweuba Onah Esq. filed a petition against the respondent for the following reliefs after the respondent repeatedly interfered in the private life of the petitioner under a false claim that he was married to her

- a. An order declaring that there was no marriage on account that the presentation of the sum of One Thousand Naira (N1.000.00) only as "Idobe Ego Oju Ese" or "Idobe Ego Iku Aka" by the respondent does not constitute marriage under the customs and traditions of Ogbodu Olu, Agbamere, Eha Alumona ancient kingdom in Nsukka Local Government Area of Enugu State.
- b. An order for the Respondent to collect the sum of One Thousand Naira (N1.000.00) only being the money he presented before the father of the petitioner, Mr. Ugwu Brendan for the purpose of "Iju Ese" or "Iku Aka" which constitutes a mere prelude towards the conduct of traditional marriage under the customs and tradition if the people.
- c. An order for the custody of the child of the relationship Master Ugwu Jimeto be given to the petitioner for proper care, welfare, training till the child attains maturity.
- d. An order that the Respondent gives to the petitioner the sum of Fifty Thousand Naira (50.000.00) only monthly for the upkeep of Master Ugwu Jimeto till maturity, he being a child born by them.
- e. An order of court restraining the Respondent, his parents, siblings or anybody by whatever name or aliases so called from harassing or intimidating the Petitioner, her parents, siblings, friends or anybody by whatever name or aliases or Master Ugwu Jimeto, her sitter, care giver, teacher, guardian or anybody by whatever name or aliases for whatever reason.
- f. Any such further or other orders as the honourable court may deem fit to make in the circumstance.

Delivering his judgment, the learned trial Chairman Luke Onah Esq. most respectfully approved the two major reliefs sought to wit as follows

1. That there was no marriage between the petitioner and the respondent on account that the respondent only presented to the petitioner's father the sum of One Thousand Naira (N1.000.00) only as "Idobe Ego Oju Ese" or "Idobe Ego Oju Ese" which does not constitute valid marriage under the customs and traditions of Ogbodu Olu, Agbamere Eha Alumona ancient kingdom in Nsukka Local Government Area of Enugu State.
2. That the respondent, his parents, siblings, or anybody by whatever name or aliases so called are hereby restrained from harassing, intimidating or further harassing, or intimidating the petitioner, her parents, siblings, friends or anybody by whatever name or aliases or Master Ugwu Jimeto, her sitter, care giver, teacher, guardian or anybody by whatever name or aliases for whatever reason.

The learned trial Chairman noted that he deduced from the evidence before the court that the respondent never came back after depositing the One Thousand Naira (N1.000.00) only as "*Idobe Ego Oju Ese*". In view of the above, I want to say that what was done by the respondent fall short of a valid customary marriage. The mere deposit of One Thousand Naira (N1.000.00) on itself by the respondent does not constitute a valid marriage and as rightly submitted by the petitioners Counsel in his final written address.

Agbo Bartholomew and Omeje Roseline cited above is not entirely in *pari materie* with that of *Ugwu Sandra v Ugwu Solomon* but the two illustrates the same issue of customary marriage and how the culture and traditions hold payment of bride price in our clime.

The Customary Court of Appeal in the case of Columbus Chukwu & Anor v Kelvin & Anor Per Nnamani E. N. upheld that payment of bride price and hand over of the bride to the groom creates legal bond and fusion”.

Children born out of traditional marriage does not contemplate paternity DNA investigations as children of such circumstances adopt the name of the bride’s father. The culture look at children first as “Nwa Chukwu” (Gods Child) hence children cannot be fatherless. Similar to English marriage system a woman cannot legally marry another man until she is fully divorced. (Ryznar, 2010).

### The Concept of Marriage in Igbo Land

The concept of marriage in Igbo Land has been presented in diverse morphs. Nwabude (2022). The idea of marriage in Igbo tradition is a process whereby a man proposes to a girl of intention to spend the rest of his life with her. If the girl finds value and love in him, she accepts or otherwise decline. It can never be in reverse order because it is a taboo for a girl to propose to a man no matter how deep in love she may be. Where this happens, the girl is adjudged a rascal, flirt or nymphomaniac and if it leaks to the public, the girl attracts severe stigmatization. Under the Western culture a girl can make the first move and it will be understood as a right based issue. A man knelling before the lady to propose marriage is also absurd under Igbo custom because it is seen as a sign of an individual “not being man enough” as Igbo society is a “men’s world”. It is not also cast on stone that once a man proposes to a girl that she must accede.

Nwabude (2022) opined that marriage in Igbo tradition involves a whole series of thing - prestation inclusive. Prestation according to Dictionary.com is *a payment in money or in services*. A duty to do or not do something in fulfillment of an obligation, or the performance of such a duty while the Oxford English Dictionary defined prestation as “the act of paying, in money or service, what is due by law or custom”. *Prestation* is an uncommon legal term that encompasses all forms of payment that were agreed upon or stated in a contract of marriage. While a *prestation* is normally a payment in the form of currency, it can also be the performance of a service. A *prestation* can also be a duty to do something or not do something as part of a larger obligation. *Under the culture and tradition of Udundem people, ones daughter is not sold out, instead, she is married out to another family to maintain a continued lineage and so it is to the Igbo tribe in general. Without the notion of prestation (which sometimes may be a continuing act), marriage would seem to bear the garb of commercial transaction and the bride a chattel hence the Igbo adage, “A man’s debt to his in-laws can never be fully discharged”. This is a subtle reminder to the fact that once marriage relationship is established between two families, a symbiotic fashion of living and fusion subsists ad infinitum so say His Majesty, HRH, Igwe Vigo Aninefuogwu, the Traditional Ruler of Akpugo Ezedike Community in Uzo-Uwani LGA of Enugu State. He remarked thus*

The general belief amongst Ndi Nsukka is that marriage is a continuous process - which the in-law becomes a member of the family after the marriage ceremony, which is why he should not be encumbered with so many financial burdens during the traditional rites”.

He further opined that

“Marriage is an unending process. Your in-law should know that you welcomed him well and you did not make things difficult for him. The benefits from in-lawship are much bigger than the money you get from the marriage rites because he (the groom) will remember that he is a part of the family,”

This distinguishes African marriage system with that of the Western world where marriage is seen and regarded as pure contract and nothing more. In the Western tradition, act of emotion and mutual involvement scarcely play a major role due largely to their perception of marriage as pure contractual deal which starts with proposing to a girl, giving of engagement ring, (sometimes lacking in passion or commitment). Nwabude (2022) noted that giving the ring was adopted from the Romans as a pledge to marry. Under the customary practices of the Ndi Udundem, and

the larger Igbos, there is this aphorism that marriage is viewed as a proverbial play by two dogs “where one falls for another not as of weakness but of mutual understanding which the other will reciprocate someday”. No one family is viewed or presumed superior or inferior. They are equal stakeholders mutually being held together in perpetual unity by providence of marriage. None is abandoned in times of difficulty and vice versa and “injury to one is injury to all”. The concept of marriage envisages a convivial relationship from “start to finish” From the first move of the groom to the bride’s family to the time of payment of bride-price - the whole process is suffused with humorous spirit devoid of harshness or any kind or idea of transactional adventurism.

### Getting Married in Igbo Land

In contemporary traditional African culture especially the Igbos custom, when a boy considers himself ripe for marriage, he sets out looking for a girl after his heart. When he finds one, he confides in his father firstly and to his nuclear family. A father could also marry for his son for various reasons. Note therefore that there are two fashions of marriage in Igbo land as above highlighted. It is either on the prompting of the groom or that of the father/family. If the boy on his volition thinks he ought to get married, he first confides in his father of his intention. Then the father puts across some questions to him to access his emotional intelligence and capabilities to determine if actually he has acquired sufficient temperament necessary to have a good home. Additionally, the father would inquire into his financial capacity – whether he has acquired enough that can support the venture. The father is would find out from him if he has any girl in mind or whether he would need help as to a good girl that is a “wife material” and the arrangement goes on. If on the other side it is the father who is initiating the proposal, the boy would be invited by his father and intimated of his thoughts about him. For reasons of dearth of male children or being an only son of the parents constitutes some of the reasons why a father may initiate an idea of getting his son to marry or as it is often said marrying “for” his son. It can also occur if his son is an “*ofeke or efulefu*” (one whose maturity is not contemporaneous with his age mates – a loafer of sort). Such sons are unlikely to keep pace with his age mates in form of achievements and exploits attracting disrespect or loathness to the family due to his deficit character. Once his contemporaries begin to marry, the parents will be obligated to marry for him also to cover his inadequacies.

Today’s contemporary idea of dating or courtship is somewhat alien to our culture. Once a boy indicates his readiness to marry and the father has conducted his basic findings as explained above, and the situation is vetted by the family to make sure he can support a wife and family hood, the process is commenced and concluded according to the custom and traditions of the bride’s people.

### Consideration

Every valid contract must have consideration; each party must make a change in their "position, sometimes referred to as "bargained-for detriment." Lord Somervell stated that a contracting party can stipulate for what consideration he chooses. A peppercorn does not cease to be good consideration if it is established that the promisee does not like pepper and will throw away the corn. *Chappell & Co Ltd. v Nestle Co Ltd.* The same principle was used in arriving to a conclusion in *Lewis Opara v. Dowel. Schlumberger. Nig. Ltd & A. G. Rivers State. S.C. 231/1994.* (1995) 4 N. W. L. R. (Pt. 390) 440 at 463

Per Onalaja J. C. A. at the Court of Appeal

...inadequacy of consideration does not ordinarily vitiate the essentials of a contract once there is valuable or sufficient consideration. It is for this reason that the court from time immemorial does not inquire into the adequacy of consideration.

The case of *Thomas v. Thomas* illustrates this point clearly. Here, a testator, before his death expressed the desire that his wife should continue to live in his house for the rest of her life. After his death, his executor wrote to the wife confirming her late husband’s wish and stated that the widow could pay one pound for the use of the house for the rest of her life. When the executor tried to rescind his position, he was stopped and according to the court, it was not because of her husband’s wish but because the one pound paid by the widow was enough consideration.



### Sufficiency of Consideration

Sufficient consideration is a consideration deemed by law to be of sufficient value to support an ordinary contract between parties. It is also defined as a consideration that is sufficient to support a particular transaction.

### Consideration Must Move from the Promisee

Consideration must move from the promisee. That is, it must be provided by one party, but it need not travel to the other party. The legal implication is that only a person who has furnished a consideration in a contract can bring an action to enforce a promise given by the defendant in that contract. In the case of joint promises, it is sufficient if consideration moves from one of the parties. Again, a party who has not furnished any consideration in a contract cannot bring an action to enforce that contract. Absence of consideration on the part of the promisee (plaintiff) may manifest in these forms

- I. total failure of consideration – in form of gratuitous promise by defendant. Like where the promisor's act does not constitute a single act but involves a continuing commitment, like promise to pay for the promisee's school fees or guarantee a bank loan. The promisor can withdraw his promise at any time without liability. *L. A. Cardoso v. The Executors of the Late J. A. Dorherty*
- II. Total failure of consideration – non-performance by plaintiff. This arises in a situation in which the second party's liability can only arise after such performance by the first party. In such a situation, any action brought by the first party to enforce the promise of the second party will fail for want of consideration
- I. Where consideration is furnished by a third party and not the plaintiff.

In this case, the plaintiff sued the defendant in his own name for the recovery of a debt. Evidence revealed that the money was actually given to the defendant and his party by the Action Group Party for electioneering purposes. The plaintiff had taken part in the transaction in his capacity as the treasurer of Action Group. Held, that in the circumstances, the claim must fail since the plaintiff did not furnish any consideration towards the loan agreement.

Claim in excess of benefit provided for in an agreement. Any contract must indicate the benefit or consideration each party is to furnish. What are the consequences of a promise by one of the parties to confer an extra reward or benefit on the party after the main contract itself has been concluded. Such promise is bound to fail for lack of consideration. *Egware v. Shell BP Petrol Development Company of Nigeria.*

*In Tweddle v. Atkinson*, A couple was getting married. The father of the bride entered an agreement with the father of the groom that they would each pay the couple a sum of money. The father of the bride died without having paid. The father of the son also died so was unable to sue on the agreement. The groom made a claim against the executor of the will. Held:

The claim failed on the ground that the groom was not party to the agreement and the consideration did not move from him. Therefore, he was not entitled to enforce the contract.

### Requirements and Essentials of a Valid Customary Law Marriage

There are indispensable or imperative requirements to making customary marriage valid generally under Igbo people – and particularly among Udunedom people. However, there are permitted peculiarities that may be noticed among one locality to another but there are essentially common principles which are pertinent and runs through thus

(a) Firstly, the parties to a customary marriage must possess the capacity under the law to marry each other. Here capacity speaks to maturity in terms of age. Igbo Customary laws do not abide to the statutory requirement that the parties must be at least aged 18 years of age. Previously, and to some extent now, age is not a requirement under the customary laws of the people. The most important thing being that the marriage must be conducted between a male and a female gender. To that extent, a father to a male child of as young as one week could (bet rode) a girl

child of same age or less and that qualifies for a minimum requirement of marriage under the culture of Udunedom kingdom. This is especially so where there are dearths of male folks in the lineage of the male family. It could also be done by parents (family) who finds a quintessential trait running in another family. This is called “*izuete akuku*” translated to English to mean (acquiring seedling) from the other family. The quintessential traits in this sense may be the family’s track records and enduring attributes such as beauty, fidelity, uprightness, exploits in agriculture and warfare including extraordinary skills in wealth acquisition and the list in by no means restricted to thus far enumerated.

(b) there must be payment of bride price which may be tangible or intangible in nature (gift or payment) “prestation” according to the tradition and customs of the bride. *Section 15(2) (a) Section 15(2)(a) Customary Courts Law, Cap. 32, Laws of Enugu State 2004 (as amended in 2011)*. states that

“Customary law shall be deemed to be binding upon a person where that person;(a) is an indigene of a place in which the customary law is in force.

Bride price may be in money, natural produce or any other kind of property but this must be paid to the parent or guardian of the bride for the specific purpose which must be known and witnessed to all. It must be paid in respect of a marriage of a female person and it must be for a marriage which is intended or has taken place; and finally.

(c) there must be a ceremony to commemorate the marriage and the handing over of the woman to the man's family. *Agbeja v. Agbeja*.

This was reinforced by E. N. Nnamani, J where he laid bare the exact meaning, connotation and implication of marriage in a case that came on appeal from Customary Court Ogiu Nike, Enugu to the Appeal Court of Enugu. Mrs Felicia Ani (Nee Ajaoku), Mr. Ifeanyi Ajaoku v Mr. Benedict Ani

”Marriage entails legal severance of the married woman from her maiden roots and fusion with her husband and his people in a legal bond that is only broken upon divorce. Payment of bride price and handover of he bride to the groom and his people creates this legal bond”

### **Non-judicial Method or Dissolution by Agreement of the Parties**

The law in Nigeria guarantees both man and woman the right of ingress and egress to marriage under the three different forms of marriage laws (customary, Islamic and statutory). Termination of a traditional marriage without an order of a court or through a non-judicial procedure involves an agreement between the parties to the marriage and their families to so do. Under the customary practices of Uduneden Ancient Kingdom, any party may first indicate the desire to dissolve marriage and the following step which is not cast on stone may be followed.

1. The wife/husband conveys and discusses position with the parents/family on the need to end the marriage;
2. The family informs or invites the middlemen, to deliberate on the situation of things (divorce).
3. The middleman will be required to deliver the message to the appropriate family.
4. A meeting of both sides will be conveyed to decide how much of the bride price and marriage expenses will be returned to the groom’s family. This will essentially be determined by a number of issues which may be determined on peculiarities prevailing.
5. Upon an agreement being reached by the parties on bride price to be repaid, the wife’s family will repay the husband’s family through the middleman.
6. When this process is completed, it signifies a valid dissolution of the Customary Marriage and the woman is free to marry any other person without hindrance.

From the foregoing, it is discernible that the requirements for the dissolution of a customary marriage are not as stringent as that under the Statutory/Marriage Act.

## Conclusion

This research explored the application of the Contract Law principle of "Consideration" in the payment of bride price, known as "Ime Ego Isi Nwanyi," under the customs and traditions of Udunedem Ancient Kingdom in Enugu State, Nigeria. The study has demonstrated that the rules governing bride price payment in this community adhere to the principle of Sufficiency of Consideration, emphasizing that something of value must be exchanged for a valid marriage to occur. The research has highlighted that bride price payment is not solely limited to cash but can also include various forms of valuable contributions, known as prestation. It was established that once the bride's family accepts anything of value from the groom, regardless of its size or adequacy, it is deemed sufficient. This aligns with legal definitions of consideration, which encompass rights, interests, benefits, forbearance, or responsibilities undertaken by the parties. Furthermore, the study has emphasized the significance and resilience of the cultural obligation governing bride price in Udunedem Ancient Kingdom, despite the influence of Christian and Western civilization. It has been established that the payment of bride price is considered a fundamental requirement for a valid marriage in Igbo land and is viewed as a contractual agreement. By relying on secondary sources and existing documents, this qualitative research has provided support for the conclusion that the Contract Law principle of consideration applies to and regulates the payment of bride price in Udunedem Ancient Kingdom. The research has filled a knowledge deficit in the area of customary law practices of Udunedem people and offers insights into the wider Igbo culture of customary marriages. This study will not only contribute to the understanding of customary marriage practices in Udunedem Ancient Kingdom but also serve as a valuable resource for future researchers interested in exploring this area of customary marriage law practices among the Igbo people at large. Overall, this research has shed light on the significance and intricacies of bride price payment in the context of traditional marriages, showcasing the richness of unity in diversity and the enduring nature of cultural traditions.

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