



THE CATHOLIC UNIVERSITY OF EASTERN AFRICA

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MAIN EXAMINATION

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JANUARY – APRIL 2022

Ext 1022/23/25

FACULTY OF LAW

REGULAR PROGRAMME

DCLS 067: ELEMENTS OF PROPERTY LAW

Date: APRIL 2022

Duration: 2 Hours

INSTRUCTIONS: Answer Question ONE and any Other TWO Questions

Q1. Timberland has recently moved into a bungalow in Rongai. He has signed a document establishing that he will be living on the property. He decides that he wants to rent out his second room as he is not using it. He also wants to establish a kiosk for printing and photocopying in his SQ.

He approached you to advise him on the following:

a) What is the Kenyan statutory definition of the term 'lease'? what are the duties and obligations of a tenant? **(5 marks)**

b) Can he rent out his second bedroom and charge rent? **(5 marks)**

c) Can he run a business out of his SQ? **(10 marks)**

d) The landlord discovers that Timberland has rented out his room to another person, he also discovers that there is a business being run out of the SQ. All this has been done without his knowledge. Does the landlord have any remedies in law? Use case law to justify your answer **(10 marks)**

Q2. Your friend Mr. Wright, celebrated his marriage last year. He and his wife Mrs. Wright are now in the process of purchasing an interest in a half-acre parcel of land on which to build their matrimonial home. They intend to pay for the land by each

contributing whatever they can towards the purchase price, which may not necessarily be in equal measure. At the time of filling in the documents for transfer of the property in their names, they notice a section that asks “type of proprietorship?”. They ask you to advise them on the importance of, and appropriate answer to, this question.

- 1) What interest would they be registering? **(5 marks)**
- 2) After 3 years, the Wrights welcome a child. Mrs. Wright wants to ensure that her daughter can inherit her portion of interest in the land. How can she ensure this? **(5 marks)**
- 3) 5 years into the marriage, Mr. Wright wants a divorce. How will they share the interest in land? Use case law to justify your answer **(10 marks)**

Q3. a) What are the types of land tenure as set out in The Land Act, 2012 (Acts No. 6, Laws of Kenya). **(6 marks)**

b) Enumerate and explain the types of leasehold estates contemplated in Kenya statutory law. **(14 marks)**

Q4. Discuss the historical development of land law in Kenya from 1889 to date by setting out the key legislation promulgated during that period. **(20 marks)**

Q5. Mr. Kiasi has acquired a parcel of land situated in Nairobi County. He has been issued with a Title Deed, which indicates that the land is a freehold property registered in his name as absolute owner. Mr. Kiasi, who is your relative, asks you for your opinion as to whether as an absolute owner of a property there would be any constitutional or legislative limitations to his enjoying his ownership rights. Identify and discuss the general legal limitations envisaged by Kenyan law to one’s absolute proprietorship of an interest in land, and the principles upon which these limitations are founded. **(20 marks)**

END