



# THE CATHOLIC UNIVERSITY OF EASTERN AFRICA

**A. M. E. C. E. A**

**MAIN EXAMINATION**

**JANUARY – APRIL 2015 TRIMESTER**

**FACULTY OF LAW**

**REGULAR PROGRAMME**

**CLS 300: LAND LAW I**

P.O. Box 62157  
00200 Nairobi - KENYA  
Telephone: 891601-6  
Fax: 254-20-891084  
E-mail: academics@cuea.edu

**Date: April 2015**

**Duration: 2 Hours**

**INSTRUCTIONS: Answer Question ONE and ANY OTHER TWO Questions**

Q1. In the year, 1990 Abel Baya bought a 30-acres parcel of land in what is now Nairobi County. Mr. Baya proceeded to have the land duly conveyed and registered in his name. He received a certificate of title pursuant to the Registered Land Act, Cap. 300 Laws of Kenya (now repealed) that acknowledged him to be the absolute proprietor of the land. He, thereafter, took possession of the property, put up very basic infrastructure, and set up an open air roast-meat and entertainment facility on one third (10 acres) of the land. He left the other portion of the land (20 acres) idle, hoping to develop it in future.

However, over the years, because the land was not fenced, part of the idle land (10 acres) was used by the children of the neighboring public school for their sports activities. The remaining part (10 acres) was used by the residents in the village that borders Mr. Baya's land for small-scale subsistence farming.

As the years progressed, so did Mr. Baya's fortunes, thus in January 2014 he decided to put up a more permanent development in the way of a full-blown hotel covering the entire acreage of the said land.

Upon meeting the necessary requirements for putting up the hotel, and upon obtaining the necessary approvals for the project from the various governmental agencies, departments and authorities, in January 2015 Mr. Baya begins preparation for constructing a stone wall around the entire boundary of the land and for excavating the land for purposes of starting the construction of the hotel. Three matters, however, impede Mr. Baya's intentions unexpectedly. As follows:-

- a) During the excavation, there is a discovery of a rich vein of gold in the 10 acres where he had been conducting the meat-roasting and entertainment business that is of immense commercial value. What is the legal position with regard to this finding of gold as far as regards Abel Baya, the National Government of Kenya, and the County Government of Nairobi.  
**(10 marks)**
- b) The neighbouring public high school with which he shares a boundary claims that the 10 acres of land that it has been using for sports was in fact originally their playground, and the school indeed produces government urban planning documents dating back to 1964 (after Kenya's independence) that indicate that the land indeed had been intended to be the school's playground but was "mysteriously" allocated together with the other 20 acres by the Kenyan Government to a Nairobi tycoon, who was registered as absolute proprietor before he proceeded to sell it to Abel Baya in 1990. What is/are the avenue(s) available to the Kenyan Government at law to ensure that the public school does not lose the use of the 10 acres of playground?  
**(10 marks)**
- c) The neighbours from the village also stake their claim to the 10 acres upon which they have been farming since 1990. What nature of claim is likely to be made at law by the neighbours in relation to these 10 acres of land, and what would be the matters that the court would consider in deciding the legitimacy or otherwise of the neighboring residents' claim to these 10 acres of land?  
**(10 marks)**
- Q2. Explain, and distinguish between, the deeds system of registration and the title system of registration. Which is the better of the two systems of land registration and why?  
**(20 marks)**
- Q3. Identify and explain the elements that constitute a right/interest in land.  
**(20 marks)**
- Q4. 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)**
- Q5. Land is defined at law in its horizontal and vertical dimensions, including previously movable property that has acquired permanency thereon. Elaborate.  
**(20 marks)**

**\*END\***