



THE CATHOLIC UNIVERSITY OF EASTERN AFRICA

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MAIN EXAMINATION

JANUARY – APRIL 2014 TRIMESTER

FACULTY OF LAW

REGULAR PROGRAMME

CLS 208: LAND LAW I

Date: APRIL 2014

Duration: 2 Hours

INSTRUCTIONS: Answer Question ONE and ANY OTHER TWO Questions

Q1. You are serving an internship at a prominent law firm in Nairobi. Mr. Mali Mali, your firm's client and a prominent businessman in Nairobi is the owner of 1,000 acres of land in Kiambu County. The land is registered in his name as Sale Proprietor holding an absolute interest of a freehold nature. Mr. Mali Mali seeks your firm's considered views on the matters set out below, appertaining to his property rights in the said land.

a) Mr. Mali is reliably informed that the County Government of Kiambu intends to build an industrial park to woo investors. It was determined, after a feasibility study that the ideal site is within Mr. Mali's said land. The said County Government, consequently plants to 'take' 100 acres of land from Mr. Mali's said land to meet its objectives. **(15 marks)**

b) Mr. Mali Mali has for several years now had a dispute with a group of about twenty families from the surrounding villages who have been squatting on the said land. He has on several occasions asked them to vacate the portion of 100 acres that they occupy, but they have claimed the said portion to be their ancestral land and have refused to vacate. **(15 marks)**

The senior partner in the law firm asks you to write a brief for each of the afore-stated matters setting out and explaining the common law principle(s) of law, and the applicable constitutional and statutory law provisions in Kenya, applicable to each case. Discuss.

- Q2. Define the term “title” as far as it is used in the context of land law and enumerate and briefly explain the various ways in which title to land can be acquired under Kenya Statutory Law. **(20 marks)**
- Q3. *Cojus est solum ejus est asque ad coelum et ad inferos.*
- a) Discuss the implication of this maxim and cite where it finds expression under Kenyan law. **(5 marks)**
 - b) Identify the limitations to the maxim that are evident in the Kenyan Constitution. **(5 marks)**
 - c) Set out at least **FIVE** Kenyan statutes that tend to curtail the maxim. **(10 marks)**
- Q4. a) What is the Kenyan statutory definition of the term ‘lease’? **(4 marks)**
- b) Briefly explain the various types of leasehold estates at common law. **(16 marks)**
- Q5. Enumerate the overriding interests provided for under Section 28 of The Land Registration Act, No. 6 of 2012, Laws of Kenya. **(20 marks)**

END