



THE CATHOLIC UNIVERSITY OF EASTERN AFRICA

A. M. E. C. E. A

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

MAIN EXAMINATION

JANUARY – APRIL 2014 TRIMESTER

FACULTY OF LAW

REGULAR PROGRAMME

CLS 208: EQUITY AND TRUST LAW

Date: APRIL 2014

Duration: 2 Hours

INSTRUCTIONS: Answer Question ONE and ANY OTHER TWO Questions

- Q1 a) As an expert in trusts, you have been approached by a group of young wealthy Kenyans who wish to set up two charitable trusts:
- i) A trust to promote the worship of African ancestral spirits and other mythological creatures in African folk lore.
 - ii) A trust to found a college for the training of “modern day” witchdoctors and exorcists of evil spirits.

Using relevant case law, extensively advice your clients on the validity or otherwise of each trust. **(20 marks)**

- b) Distinguish between a private and a public (charitable) trust. **(10 marks)**

Q2. With the use of relevant case law, discuss the defences to an application made for an order of specific performance. **(20 marks)**

- Q3. Write explanatory notes on each of the following remedies:
- a) Appointment of receivers
 - b) Taking of accounts

Are they applicable in Kenyan law?

(20 marks)

Q4. With the aid of case law, discuss the following maxims and how courts have applied them:

a) He who seeks equity must do equity

b) Equity acts in personam

(20 marks)

Q5. With reference to **Knight-v-Knight** and other relevant cases discuss any **TWO** of the three certainties of an express private trust. **(20 marks)**

END