



THE CATHOLIC UNIVERSITY OF EASTERN AFRICA

A. M. E. C. E. A MAIN EXAMINATION

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JANUARY – APRIL 2018 TRIMESTER

FACULTY OF LAW

EVENING PROGRAMME

CLS 208: EQUITY AND LAW OF TRUST

Date: APRIL 2018

Duration: 2 Hours

INSTRUCTIONS: Answer Question ONE and ANY OTHER TWO Questions

- Q1. Alex Garage Limited and Safina Petrol Station got into a contract on 25th April 2016. Under this contract Alex Garage Limited was to buy all the petrol for its garages from Safina Petrol Station. The later party to the contract was to supply Alex Garage Limited with all its requirements for the petrol. Later in November 2017 Safina Petrol Station alleged breach of contract resulting from delay in payments and purported to terminate the contract. This purported termination of contract was at a time when petrol supplies were limited. The result of this was that Alex Garage Limited had little prospect of finding an alternative supply of fuel and therefore went to court for redress.
- a) Citing relevant case law advice the Plaintiff on the available remedies **(15 Marks)**
- b) With the help of decided cases discuss types of contracts that are specifically enforceable and those that are not specifically enforceable. **(15 Marks)**
- Q2. Equity is a historical source: it has no role in the modern legal system. Critically consider the accuracy of this statement citing relevant maxims of equity **(20Marks)**
- Q3. “Equity will hold the defendant to the enforcement of his bargain. The court will require the defendant to perform part of his bargain and can only depart from that rule in certain recognized instances.” *Anonymous*
With the help of decided cases discuss the available defenses for an action for specific performance. **(20 Marks)**

Q4. A conveyed land to B to hold on trust for C. B kept the benefit of the land for himself. C took the matter to court as there was an abuse of confidence on the part of B capable of redress in a court of justice.

Advice C citing relevant cases law as well as maxims of equity.

(20 Marks)

Q5. “The word ‘trust’ refers to the duty or aggregate accumulation of obligations that rest upon a person described as trustee. The responsibilities are in relation to property held by him, or under his control. That property he will be compelled by a court in its equitable jurisdiction to administer in the manner lawfully prescribed by the trust instrument, or where there be no specific provision written or oral, or to the extent that such provision is invalid or lacking, in accordance with equitable principles. As a consequence the administration will be in such a manner that the consequential benefits and advantages accrue, not to the trustee, but to the persons called *cestuis que trust*, or beneficiaries, if there be any; if not, for some purpose which the law will recognize and enforce. A trustee may be a beneficiary, in which case advantages will accrue in his favour to the extent of his beneficial interest” Mayo J. in *Re Scott* (1948) S.A.S.R. 193, 196)

Discuss the various types of Trusts

(20 Marks)

END