



THE CATHOLIC UNIVERSITY OF EASTERN AFRICA

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

JANUARY – APRIL 2019 TRIMESTER

FACULTY OF LAW REGULAR PROGRAMME

CLS 104: PRINCIPLES OF TORTS

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Date: APRIL 2019

Duration: 2 Hours

INSTRUCTIONS: Answer Question ONE and ANY OTHER TWO Questions

- Q1. Joan and Mary are neighbors, Joan wants to start a children's home and finds Mary's land very appropriate for this purpose she starts negotiations with Mary towards this purpose. When the negotiations are started, Mary initially agrees to sell the land to Joan not knowing that Joan wanted the land for the purpose of starting a Children's home a thing which Mary wanted to do in her land adjacent to the one Joan wanted to buy using the proceeds from this sale. Upon this realization she grows cold feet in selling the land to Joan as this would greatly interfere with her plans to have her Children's home due to their closeness and possible getting the go ahead from the community to have the two since they would be very close to each other. Mary on the other hand has a water reservoir in the land that Joan is interested in buying where she has been doing open irrigation. In order to force Mary to sell the land to her Joan sinks boreholes in her land to interfere with the water channels in Mary's land parcel, and indeed Mary's water channels dry up affecting her business of horticulture fed by the water from the channels, the open irrigation. You as a prominent lawyer has been approached by Mary for an advice on this matter.
Advice Mary on the legal principles that arise from Joan's action and the nature and extent of remedies available against Joan. **(20 marks)**
- Q2. Explain the relationship between tort and other form of legal wrong. What are the aims of the law of tort? **(20 marks)**

- Q3. "Is it justifiable to impose liability on an employer for the tortuous act of his employee?"
- a) Expound on the legal principle envisaged in this statement? **(10 marks)**
 - b) State and explain any TEN possible defenses in tort. **(10 marks)**
- Q4. In *Donohue v Stevenson (1932)* and *Rylands vs Fletcher (1868)* both Lord Atkinson and the Exchequer Chamber respectively developed certain tests applicable in determining the degree of liability in negligence. Discuss the tests so developed. **(20 marks)**
- Q5. Write explanatory notes on the following;
- a) Vis major **(5 marks)**
 - b) Legal capacity of Lunatics and Children to claim under tort **(6 marks)**
 - c) Mistake **(4 marks)**
 - d) Volenti non fit injuria **(5 marks)**

END