

NATIONAL UNIVERSITY OF LESOTHO

FACULTY OF LAW

LL.B SUPPLEMENTARY EXAMINATIONS

L597 – CONVEYANCING AND NOTARIAL PRACTICE

AUGUST 2023

MARKS: 100

TIME: 3 HOURS

INSTRUCTIONS:

1. Answer any FOUR (4) questions.
2. Begin each answer on a new page.
3. You may use your calculator where necessary.
4. Ensure that you have written your student number on the answer sheet.

Question 1

Izwe Lethu (unmarried) approached Lozi Bank for a loan of M500 000.00 (Five Hundred Thousand Maloti) to complete his double storey building situated on Plot No. X000-123, Mangotsoaneng, Romia. The Bank gave him the loan but required Izwe to put up his immovable property on plot X000-123 as security for the due repayment of the loan. You work in the bank's property finance section and are given the following instructions that you must execute assuming the law of Romia to be the same as that of Lesotho:

- a) Calculate the stamp duty payable upon registration of the mortgage bond signed by Izwe in favour of the Bank. 5 Marks
- b) Draw a mortgage bond passed by Izwe in favour of Lozi Bank. 20 Marks
- [25 MARKS]**

Question 2

Majeoa approached Machankura Bank for a loan to start a cruise boat business on the Katse Dam. The Bank agreed to extend a M1 million loan to Majeoa provided he signed a covering bond to secure his indebtedness to the Bank and in terms of which the brand new boat to be purchased would be put up as security for Majeoa's indebtedness.

- (a) Explain the following to Majeoa:
- (i) Where would the proposed bond have to be attested and registered? 3 Marks
- (ii) What would be the amount of stamp duty payable upon registration of the bond? 7 Marks

(b) Draw the bond that Majeoa and the bank would sign incorporating the demands of the bank as stated above. 15 Marks

[25 MARKS]

Question 3

Read the following paragraph and answer the questions that follow:

On 1 August, 2023, Mohloahloaeli, a wealthy mountaineering fanatic, travelled to China with his fiancé, Kharebe, “to get married on top of the world at the summit of Mount Everest.” Mohloahloaeli and Kharebe are due back in Lesotho on 1 August, 2024 as they intend to go on a yearlong honeymoon touring iconic mountains around the world. Before departing for China, Mohloahloaeli and Kharebe executed an antenuptial contract before Maonatso.

A week after the departure of the two love birds from Lesotho, Maonatso’s office caught fire and everything in it, including Mohloahloaeli and Kharebe’s antenuptial contract, could not be saved. Maonatso said he had “kept the contract safely in the drawer of [his] desk so as not to forget to have it registered on time.”

(a) Maonatso is not sure whether to ask Mohloahloaeli not to proceed with his marriage to Kharebe as their antenuptial contract got destroyed before it could be registered. Briefly discuss whether Mohloahloaeli and Kharebe should abort their marriage plans in China and proceed on holiday unmarried. 15 Marks

(b) The Law Society has also threatened to take disciplinary action against Maonatso for misconduct arising from how he kept his clients’ important documents. Maonatso views this as a witch-hunt because the fire did not start in his office or as a result of his negligence and, in any case, his own office was securely locked when the fire started. Briefly discuss whether the Law Society has a case against Maonatso.

10 Marks

[25 MARKS]**Question 4**

Briefly explain the following:

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| (i) Huur gaat voor koop. | 5 Marks |
| (ii) Exceptio non numeratae pecuniae. | 5 Marks |
| (iii) Exceptio non causa debiti. | 5 Marks |
| (iv) Beneficium divisionis. | 5 Marks |
| (v) Beneficium ordinis seu excussionis. | 5 Marks |

[25 MARKS]**Question 5**

Thabo rented a house from Nulia Properties (Pty) Ltd (Nulia Properties). Thabo subsequently further sublet the house to Molelekeng. Thabo thereafter had differences with Nulia Properties who instituted an action for the cancellation of their sub lease agreement with Thabo and for his ejection from their property. Molelekeng learned of Nulia Properties' case against Thabo and is desirous of intervening in it as an interested party. She is however unsure of whether she could successfully apply to be joined as Thabo's co-defendant.

Advise her.

[25 MARKS]**Question 6**

(a) A notary public is, in terms of section 29 of the Legal Practitioners Act of 1983, obliged to maintain a protocol of all deeds passed before them. A notary public's protocol is subject to periodic examination.

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| (i) Briefly explain what a protocol is and why it has to be examined. | 5 Marks |
| (ii) Who has the duty to examine a notary public's protocol? | 2 Marks |

(b) Compare and contrast the duties of a conveyance and those of a notary public.

18 Marks

[25 MARKS]