

NATIONAL UNIVERSITY OF LESOTHO
FACULTY OF LAW
LL.B SUPPLEMENTARY EXAMINATIONS
L1305 – FAMILY LAW I

AUGUST 2023

MARKS: 100

TIME: 3 HOURS

Answer FOUR questions.

Question 1

David and Lerato had been dating for 2 years when they decided to get married. Lerato is 17 years old and David 25 years old. Lerato is an orphan and has been raised by her grandmother, 'Me Lintle. 'Me Lintle is happy that her granddaughter is getting married but is frustrated because she has been advised that it is impossible for Lerato to get married because she is under age and that only biological parents can consent to their children getting married.

David is excited about getting married and proceeded to make wedding arrangements despite 'Me Lintle's frustration. He has asked Pheta to be their photographer as well as his best man. He met Pheta once at a wedding he attended a few weeks ago. Pheta has agreed but his boss advised him that the law of Lesotho does not allow a photographer at a wedding to also play the role of a best man at the same wedding. His boss has told him that if he plays both roles, the marriage will not be valid.

(a) With the aid of relevant statutory provisions, advise 'Me Lintle about the correctness or incorrectness of the advice she has received.

15 marks

(b) Is the advice that Pheta got from his boss legally correct? Explain with reference to statutory law.

10 marks

[25 MARKS]

Question 2

Mr and Mrs Litabe have been married for 5 years. Mr Litabe discovered that his wife has been having a relationship with his younger brother. Since the discovery, he started abusing his wife physically, emotionally and financially. The abuse

continued even after Mrs Litabe ended the relationship. Subsequently, Mrs Litabe decided to leave the matrimonial home and has been living in a rented house, paying M3,500.00 per month. She has been struggling financially as she is currently unemployed. She has asked her husband to help her with the living expenses and rent but he refuses. His reason was that she should go back home where there is food and shelter. Mrs Litabe has taken legal action against her husband for financial support.

Maseru Dry Cleaners has made several claims against Mr Litabe for payment of M2,500.00 for laundry services given to Mrs Litabe on credit since she left the matrimonial house. Mr Litabe refuses to pay them explaining that he did not give his wife authority to receive any services on credit while she is not living at home. The couple had always been receiving laundry services from Maseru Dry Cleaners on credit since they got married.

Maseru Dry Cleaners resorted to suing Mr Litabe, claiming M2,500.00 for the services offered to his wife.

Mr Litabe plans to defend both matters and has come to you for legal advice. Advise him on his chances of success.

[25 MARKS]

Question 3

Giving examples where applicable, distinguish between the following:

(a) *Arrhae sponsalitia* and *Sponsalitia largitas* **10 marks**

(b) *Actio iniuriarum* and an action for damages **15 marks**

[25 MARKS]

Question 4

With reference to relevant case law, explain the concept of *Consortium omnis vitae*, and show how it can be protected, and what remedies an aggrieved spouse has against a third party.

[25 MARKS]

Question 5

Distinguish between the following sections of the Legal Capacity and Married Persons Act No. 9 of 2006:

- (a) Section 5 on consultation and section 7 on consent. **15 Marks**
- (b) Section 11 and section 12 on the powers of the court. **10 Marks**

[25 MARKS]

Question 6

Mr and Mrs Hlooho are married out of community of property. Clause 3 of their antenuptial contract reads as follows:

“Upon my wife obtaining her LL.B degree at the National University of Lesotho, all the rights held in Property 15675 located in Maseru West, Maseru Urban Area, shall be passed to her.”

Mrs Hlooho obtained her LL.B degree in 2021 with a 2:2 pass and has been demanding the enforcement of clause 3. However, Mr Hlooho refuses to have the rights transferred to her as he says a 2:2 pass is not good enough. This issue has caused a lot of tension between them and also caused their marriage to be unhappy. As a result, Mr Hlooho wants a divorce while Mrs Hlooho wants a separation.

(a) The couple has come to you for legal advice about the possibility of successfully divorcing or separating.

Advise them accordingly.

20 marks

(b) If the couple divorces, can clause 3 still be enforced? Explain. **5 marks**

[25 MARKS]