

**NATIONAL UNIVERSITY OF LESOTHO**

**FACULTY OF LAW**

**LL.B FINAL EXAMINATIONS**

**L3313 – SUCCESSION AND ADMINISTRATION OF ESTATES**

**JANUARY 2024**

**MARKS: 100**

**TIME: 3 HOURS**

**INSTRUCTION:**

There are six questions. Answer any **FOUR (4)** questions.

## QUESTION 1

Mr Pere executed a will in 1995 and made his son, Bolo his sole heir. On the night of 6th May 2015, Mr Pere arrived home highly intoxicated. He started using vulgar language towards his wife, 'Manku and threatening to kill her if she did not stop the affair he alleged she was having with his brother, Tonki. Bolo tried to stop his father from acting in that manner but Pere became so angry that he took out his gun and started shooting uncontrollably in all directions but missing both 'Mmanku and Bolo. Bolo also took out his gun and with just one shot, killed his father.

(a) The executor of Mr. Pere's estate has advised the family that Bolo cannot inherit anything from the estate and the family has come to you for legal advice. Give them the advice. **10 Marks**

(b) Would your advice be different if Bolo had killed Tonki instead and the same executor was dealing with Mr Pere's estate? Explain.

**5 marks**

(c) X died intestate leaving an estate valued at M600, 000.00. X's husband Y, sons A (born out of wedlock) and D, and her father P have predeceased her. X is survived by her daughter C, granddaughters F and G (the children of A), mother M and brother B.

As the Master of the High Court, illustrate who amongst the living relatives is entitled to a share of X's estate and indicate their shares. Also show who is not entitled to inherit and explain why they cannot inherit.

**10 marks**

**[25 MARKS]**

**QUESTION 2**

With reference to case law, discuss the principle of relative dependant revocation.

**[25 MARKS]**

**QUESTION 3**

(a) Mr and Mrs Jones, a couple married in community of property executed a will wherein they made their twin sons, Peter and John their heirs. In 2013 Mrs Jones died and Mr Jones subsequently executed another will and left legacies for Peter to the exclusion of John. A few days after executing this will he started showing signs of depression and dementia. John looked after him and monitored his condition closely. He constantly told him that he was the only person who could care for him like that and that he was going to build him his dream house. Mr Jones subsequently executed a will making John his sole heir. Mr Jones died shortly after executing the third will.

Peter and John have come to you for legal advice regarding the issues that affect them directly given these set of facts. Make reference to legal authorities and advise them accordingly.

**15 marks**

(b) Distinguish between the following:-

- (i) Letters of Administration and Letters of Confirmation
- (ii) *Dies cedit* and *Dies venit*

**10 marks**

**[25 MARKS]**

**QUESTION 4**

With the aid of decided cases, critically discuss the doctrine of freedom of testation.

**[25 MARKS]**

**QUESTION 5**

On the 2<sup>nd</sup> of April, 2019, Second Lieutenant Samson gave a note to his commander while in Ukraine during a war between Russia and Ukraine. He had written the following on the note:

“All to Mphuthi-Puthi, my son”

He returned from Ukraine sometime in May 2019. Second Lieutenant Samson contracted Covid - 19 in January 2021 and died in the same month. He is survived by Maria, his wife, Mphuthi-Puthi, his daughter, Tim, his adopted son and Bohdana, his daughter he had with his Ukrainian girlfriend while in Ukraine. His estate is valued as M900, 000.00. Mphuthi-Puthi has been advised by the Commander of the Lesotho Defence Force that her father left everything to her.

As the executor of the estate of the late Second Lieutenant Samson, advise Mphuthi-Puthi on the legal issues emanating from these facts.

**[25 MARKS]**

**QUESTION 6**

Draft a will for Mr Makintane, a resident of Thaba Bosiu in the district of Maseru. The will must be properly executed and consist of clauses with the following headings:

- (a) The modus
- (b) Fideicommissary substitution

(c) Usufruct

(d) Negative postative condition

**[25 MARKS]**