

NATIONAL UNIVERSITY OF LESOTHO

FACULTY OF LAW

LL.B FINAL EXAMINATIONS

L5321 – CONVEYANCING AND NOTARIAL PRACTICE

JANUARY 2024

MARKS: 100

TIME: 3 HOURS

INSTRUCTIONS:

1. Answer FOUR (4) questions.
2. You may refer to relevant pieces of legislation.
3. You may use a calculator.

QUESTION 1

Read the following facts and answer the questions that follow.

On 1st January, 2022, Thabo Thabang concluded a sublease agreement with Ntlo Moaho. In terms of the agreement, Thabo agreed to rent Ntlo's premises on plot number 2000-0022 for four years paying M1000.00 (one thousand Maloti) rent per month. The rent was to escalate at 10 per cent per annum.

Their lawyer, Akhente, advised them that in order to avoid having to register their agreement and pay duties, he would draw them an agreement that says they are entering into a sub-lease for one year renewable for three more one year rental periods.

- (i) Can Akhente's stratagem really make Thabo and Ntlo escape having to register their agreement? Briefly explain your answer. **5 Marks**
- (ii) Calculate the stamp duty payable for the registration of the agreement if it were to be registered as a four year sublease agreement. **5 Marks**
- (iii) Draw Thabo and Ntlo's agreement as a four year sublease agreement.

15 Marks

[25 MARKS]

QUESTION 2

'Muelli drew an antenuptial contract for Libuseng and Loverboy which the parties signed but, 'Muelli was distracted by a personal emergency and forgot to register the contract before the parties' marriage. Libuseng discovered this when she approached 'Muelli's office to retrieve a copy a year after the parties' marriage. 'Muelli has assured Libuseng that he will get the contract registered but Libuseng would like to get a second opinion about whether it is indeed possible to register an antenuptial contract that was not registered before marriage. Advise her and also address the question whether your advice would be any different if the parties decided after getting married that they would like to have their marriage to be out of community of property.

[25 MARKS]

QUESTION 3

Read the following facts and answer the questions that follow:

Morui Hali advertised the sale of his “Vultures’ Paradise” holiday resort at Ox Bow in the local Lejoe-letle newspaper. The advertised selling price was ten Million Maloti. Molotsana Tooe bought the property but persuaded Morui to reflect the value of the property as one Million Maloti in the deed of transfer so as to bring down the amount of duties payable upon registration of the deed. Unbeknown to the parties, the Land Registrar always reads the property section of local newspapers to keep up with developments in the property market and she had noticed that “Vultures’ Paradise” was being sold for ten Million Maloti. She would have bought the property herself had she not recently invested heavily in shares of a company planning on opening a diamond cutting and polishing operation in Maseru. When Morui and Molotsana’s deed of transfer landed on her desk, she decided to do an evaluation of the property and found that it was actually valued at twenty Million Maloti.

- (i) Which of the three values may the Land Registrar use for purposes of calculating the duties payable upon registration of the transfer of “Vultures’ Paradise” property? Briefly explain your answer. **5 Marks**
- (ii) Calculate the transfer and stamp duties payable upon registration of the property using the value determined by the Land Registrar. **5 Marks**
- (iii) Draw a deed of transfer of Vultures’ Paradise from Morui to Molotsana. Do not draft any declarations or affidavits. **15 Marks**

[25 MARKS]

QUESTION 4

Draw a simple mutual will on behalf of Thabo and Limakza Thabo, who are married in community of property. The two wish to appoint each other the sole heir of the estate of the first of them to die, as well as administrators and executors of their respective estates.

[25 MARKS]

QUESTION 5

Comment on the statement that the office a notary public has more onerous responsibilities and a greater clout than that of a mere attorney.

[25 MARKS]

QUESTION 6

“Testamentary trusts are increasingly becoming the preferred mode of carrying out the wishes of people who leave a fair amount of wealth behind when they die.” (Anonymous). Discuss the benefits and disadvantages of creating a testamentary trust.

[25 MARKS]