

**THE BOARD OF LEGAL EDUCATION
GHANA SCHOOL OF LAW, ACCRA**

PROFESSIONAL LAW EXAMINATIONS – PART II

DATE: MONDAY 27TH JUNE 2005

CONVEYANCING AND DRAFTING

TIME ALLOWED: Three (3) hours 9.30 a.m. to 12.30 p.m.

INSTRUCTIONS TO CANDIDATES

1. Read these instructions very carefully before beginning your answers.
2. ANSWER ANY FOUR (4) Questions. All questions carry equal marks. Marks for sub-questions are as shown against them.
3. Do **not** write your name on your Answer Book, but do put your Index/Seat Number on it and on each sheet of loose paper used.
4. Please write legibly. You may lose marks for illegible writing. Bonus marks will be awarded for logical presentation of arguments and neat layout of instruments and documents.

QUESTION 1

Mr. Samuel Akoto is the beneficial owner of House Number 6/1, Pear Street, Teshie-Nungua Estates, Accra of the Republic of Ghana. He has agreed to lease his property to Mr. Pius Osabutey of P.O. Box GP 1792, Accra. The lease is for thirty years. The parties herein have agreed that the rent should be one million cedis a month, payable half yearly in advance. The lease is to take effect from June 1, 2005. The parties agree on these matters:

- (i) Either party may terminate the lease at the end of 10 years after giving 6 months' notice in writing to the other of his intention to do so.
- (ii) The lessee shall have the option to renew the lease for a further term of 10 years provided he gives the lessor 6 months' notice prior to the end of the current term of his intention to do so and is prepared to pay a new rent to be mutually agreed upon by the parties or to be determined by arbitration.

- (iii) The lease shall contain express covenants for insurance, repair and quiet enjoyment in the usual form.
- (iv) If the premises leased are destroyed or become unfit for carrying out the purpose for which they have been leased through causes not attributable to the negligence of the lessee, there shall be abatement or suspension of rent, as appropriate.
- (v) The lessor reserves the right of re-entry on to the leased premises in the case of non-payment of the rent reserved or the breach of any express or implied covenant by the lessee.

Draft the lease omitting the testimonium clause, schedule and attestation clauses.

QUESTION 2

- (a) State and discuss any four (4) of the essential differences between a power of attorney and a power of appointment.
- (b) List and discuss five (5) principal advantages of the Land Title Registration Law, 1986 (PNDCL 152).

QUESTION 3

- (a) Discuss the essential requirements of a conveyance of land at customary law and in particular state and briefly discuss the essential requirements of a gift as stated in the case of *Yoguo v Agyekum* [1966] GLR 482.
- (b) State and discuss the circumstances under which a conveyance may be set aside or modified by the courts.

QUESTION 4

- (a) "The customary law principle which states that when, in consideration of crop-sharing a landowner gives his virgin forest land to a stranger to cultivate using his own resources, then an **abusa** tenancy is created is not inflexible and is not tenable in modern Ghana". Discuss.
- (b) Miss Christine Baidoo is the lessee of House No. 6, Akosombo Street, Airport Residential Area, Accra. She obtained a fifty-year lease from the Government of Ghana, acting through the Lands Commission Secretariat. She has been in occupation since May 1, 2000. She has agreed to sell

- (i) Either party may terminate the lease at the end of 2 years after giving months' notice in writing to the other of his intention to do so.
- (ii) The lessee shall have the option to renew the lease for a further term of 5 years provided he gives the lessor 6 months' notice prior to the end of the current term of his intention to do so and is prepared to pay a new rent to be mutually agreed upon by the parties or to be determined by arbitration.
- (iii) The tenancy shall contain express covenants for insurance, repair and quiet enjoyment in the usual form.
- (iv) If the premises leased are destroyed or become unfit for carrying out the purpose for which they have been leased through causes not attributable to the negligence of the lessee, there shall be abatement or suspension of rent, as appropriate.
- (v) The lessor reserves the right of re-entry on to the leased premises in the case of non-payment of the rent reserved or the breach of any express or implied covenant by the lessee.

Draft the tenancy agreement omitting the testimonium clause, schedule and attestation clauses.

QUESTION 5

- (a) Discuss the significance of the Supreme Court decision in *Amuzu v Oklikah* [1998-99] SCGLR 141 in relation to land registration in the country.
- (b) State and discuss the rights of the mortgagee under the Mortgages Decree, 1972 (NRCD 96).

QUESTION 6

- (a) State and briefly discuss the six (6) essential characteristics of a valid will under the Wills Act, 1971 (Act 360).
- (b) X has consulted you to draft his will for him. He appoints Rexford Ampomah and Ama Danquah as his executors and trustees. He has ₵100 million in Treasury Bills lodged with Databank Limited, Accra, a cocoa plantation at Okorase in the Eastern Region of the Republic of Ghana, one BMW car with registration number GR 3883 Q, one Leyland articulator truck with registration number PS 6543 K which runs between Accra and Mali and 40 per cent shares in Placo Limited, Accra.

X wants the ₵100 million in Treasury Bills to be given to his executors and trustees to hold in trust for the education and support of his children until the last of them has completed University education or attained the age of 25 years, whichever event first occurs. He also wants his widow to be supported for life out of the fund so long as she remains his widow. The cocoa farm he has dedicated as family property. The car must go to his widow; the articulator must be sold and the proceeds paid into the fund.

X also has 2 houses, one in his hometown, Sokode-Gbogame in the Volta Region of the Republic of Ghana and the other in Ho in the Volta Region of the Republic of Ghana. He gives the house in Ho to his widow for life or during her widowhood and then to his children as tenants in common thereafter. The house in his hometown, he gives to his paternal family.

X concluded his instructions to you in the following words:

"When the last of my children has completed University education or has attained the age of 25 years, I want the fund to be realized and distributed equally among my children and wife, if she is alive and has not remarried at that time. I give the residue of my estate to my children. I also want all dividends accruing from my shares in Placa Limited to be paid into the fund."

Draft the will of X. X has 4 children namely, Rejoice, Abba, Prosper and Dela at the time of giving you these instructions. Unfortunately, X, though literate, is now blind.

QUESTION 5

(a) What is the meaning of adverse possession? What is the effect of adverse possession on the following:

- i. The person in possession
- ii. The person claiming title to the land

QUESTION 6

(a) To what extent do you think that the strict technicalities, which grew up in relation to restrictive covenants are being relaxed in favour of a general rule based on the intention of the parties? Discuss.

(b) In what circumstances may a landlord forfeit a lease by re-entry and what reliefs may a tenant claim against forfeiture?