

THE INDEPENDENT EXAMINATIONS COMMITTEE
GENERAL LEGAL COUNCIL

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2019 SUPPLEMENTARY EXAMINATION/OLD PART II
PROFESSIONAL LAW COURSE

REFERRED & REPEAT 2019

DATE: 8TH JULY 2019
SUBJECT: CONVEYANCING AND DRAFTING
TIME ALLOWED: THREE (3) HOURS 10:00am – 1:00pm

INSTRUCTIONS TO CANDIDATES:

1. Read the instructions **very carefully** before beginning your answers.
2. **ANSWER ANY FOUR (4) QUESTIONS.**
3. Credit will be given for legible hand-writing, clarity of expression and orderly presentation of answers.
4. **Do not** write or sign your name on the Answer Booklet. **Only write your index number.**
5. Adhere strictly to the instructions on the front cover of your Answer Booklet.

QUESTION 1

Mr. Richard Yeboah of Madina, Accra in the Greater-Accra Region is interested in acquiring a house at Dzorwulu, Accra. He is buying the house from Linda Smith. The vendor leased the property from the Government of Ghana for 50 years on June 1, 2006. She has agreed to sell her absolute interest in the property to Mr. Richard Yeboah. The purchase price is Two Hundred Thousand Ghana Cedis. This has been fully paid for by the purchaser. The land is bounded on the North by Dzorwulu Mall measuring 100 feet and on the East by land belonging to Manet Limited measuring 120 feet and on the South by land belonging to Mrs. Abigail Ansaah measuring 100 feet and on the West by a proposed road measuring 110 feet and containing an approximate area of 0.30 acre more or less.

Draft the appropriate instrument.

(25 Marks)

QUESTION 2

Discuss the circumstances under which a mortgagee could be in possession of the mortgaged property and briefly outline the procedure involved as laid down by the Mortgages Act, 1972 (NRCD 96).

(25 marks)

QUESTION 3

Kofi Shatta is the owner of a three-bedroom property with an outhouse at Kwadaso in the Ashanti Region of the Republic of Ghana. He agreed to let the property to Mr. Kwame Appiah, a businessman, for a period of ten years commencing 1st January 2007. The agreed rent was Three Hundred Ghana Cedis per month, payable in advance every year.

The landlord informed him that Mr. Zormelo, a chef, was occupying the outhouse and his tenancy was expected to expire on 31st December 2008. The landlord promised Kwame that he would not renew the tenancy for Zormelo and so Kwame could take up the whole premises at an increased rent. Based on this agreement, Kwame moved into the premises with his family.

The lease provided *inter alia* for the usual covenant of re-entry on failure of the lessee to pay rent and also that when Zormelo's lease expired on 31st December 2008 "the lessor shall automatically be deemed to have demised the said outhouse to the lessee".

In January 2009, Kwame realized to his chagrin, that Zormelo had no intention of leaving the outhouse, although his tenancy had expired. He left the premises very early in the morning and returned late at night. In protest, Kwame refused to pay the next rent advance, which had become due.

In March 2009, the Landlord instituted an action against Kwame Appiah at the Kumasi High Court asking for the forfeiture of the lease. Thereafter, the Landlord categorically refused to accept the rent payment offered by Kwame and is bent on having him ejected from the premises. Before the case could be heard, Kwame had hurriedly and surreptitiously paid the outstanding rent into court. Kwame had heard from a reliable source that another person had offered the landlord a higher rent for the property, hence his intransigent position on the matter.

Kwame wants your advice on his chances of success in the suit.

(25 marks)

QUESTION 4

- A. Mr. Joe Samini put up a building, known as "Sam's Club", at New Bortianor, a suburb of Accra, where he lived with his wife, Margaret, and their three children. In January 2000, Mr. Joe Samini made a will in which he appointed Luke John and Matthew Mark as his executors. In the will he gave his house at New Bortianor, Accra to his wife Mrs. Margaret Samini absolutely.

Sadly, Mr. Joe Samini died on 20th January 2008. On May 1, 2008 the executors successfully proved the will in court. The executors are desirous of transferring the property to Mrs. Margaret Samini.

Draft the appropriate instrument, omitting the schedule and oath of proof.

(15 Marks)

B. Explain with decided cases the requirements of a private express trust.

(10 marks)

QUESTION 5

A parcel of land with a three-bedroom house thereon described as House No. 10 Kwadaso Estate, Kumasi was acquired in 1990 by Madam Ama Agyeman. The above-mentioned property was mortgaged to First Ghana Financial Co. Limited in 1999 by Madam Agyeman for financial assistance. Unfortunately, Madam Agyeman died in 2000 without redeeming the subject property.

Meanwhile in Madam Ama Agyeman's last Will and Testament dated 15th June 1995 she devised the above-mentioned property to her daughter Nana Akua who in May 2019 intends to dispose of her interest in the subject property to one James Brown.

You have been consulted to advice on what is to be done to finally complete the transfer and on conveyance of interest in the property from Nana Akua to James Brown.

- a. What are the questions to ask?
- b. What documents/instruments would you advise to be considered to give effect to the transfer of the interest, and why?

(25 Marks)

QUESTION 6

Explain the principle of Presumption of Advancement and its relevance today in light of the 1992 Constitution and decided cases.

(25 marks)