

THE BOARD OF LEGAL EDUCATION
GHANA SCHOOL OF LAW
POST-CALL EXAMINATION 2014/2015
FAMILY LAW AND PRACTICE

DATE: 18TH June 2015

TIME ALLOWED: Three Hours 10:00 a.m. – 1.00 p.m.

INSTRUCTIONS TO CANDIDATES

Read these instructions very carefully before beginning your answer.

1. Answer QUESTION 1 (which is compulsory) and ANY three (3) other questions.
2. Do not write your name on the Answer booklet but do put your seat or index Number on it and on each loose paper used for your answers.
3. Please write legibly. You may lose marks for illegible writing.
4. Adhere strictly to the instructions on the front of your Answer booklet.

QUESTION ONE

Dear Lawyer,

My name is Mrs. Gina Yeboah. My maiden name was Ms. Gina Nkansah. I met my husband, a Ghanaian called George Yeboah, when I was in London. I am also a citizen of Ghana. I was a student nurse and a spinster. My husband was at Medical School. My husband informed me that a few months before we met, his wife had been involved in a car accident. She died instantly. We dated for two years and returned to Ghana when both of us completed our studies.

Two years after our return, we married under customary law and started living together as husband and wife. In the year 2005, we successfully converted our marriage to a monogamous one. The wedding ceremony was held at the Methodist Church at Danyame in Kumasi on 16th June 2005. The ceremony was officiated upon by Reverend Dankwa.

After the marriage, my husband, who was working at the Okomfo Anokye Teaching Hospital in Kumasi, was transferred to Tamale. We lived in Tamale for three years before moving to Accra where my husband set up his own medical practice.

We have three children, Asantewa three years, Oforiwa five years and Otopabea seven years.

We were a very happy family until my husband started coming home late. When I confronted him, he explained that the number of patients coming to his Clinic had tripled. I subsequently heard through the grapevine that he was having an affair with one of the young nurses at his Clinic and that he had bought a brand new car for her. I became highly incensed and confronted my husband.

This time, my husband became extremely angry. He shouted at the top of his voice that he was no longer in love with me and that he had impregnated the nurse.

Lawyer, life at the matrimonial home changed drastically since that day. My husband stopped talking to me. He stopped eating meals prepared by me. He hit me in the face in the presence of his friends. On one occasion he spat on me when I bumped into him at a mutual friend's party. He also pushed me so hard that I fell and broke my ankle. I was hospitalized for two weeks.

I decided to move with the children from the matrimonial home, the address of which is No 55 Church Avenue, Airport Hills Accra to my family house which is situated at No 22/6 Nii Noi Kwame Street Dzorwulu, Accra.

My husband bought the matrimonial home when we moved to Accra. He has recently purchased a block of flats at Oyarifa and six plots of land at Aburi. He also owns three cars, a Kia Sorrento with registration No. GG 2332 X, a 250 Mercedes Benz car with registration No. GX 558 Y and a Nissan Pick-up with registration No. SS 4475 X.

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Lawyer, I can no longer continue with the marriage. I want it to be dissolved but I need the Kia Sorrento saloon car to ferry the children to and from school. I also want the matrimonial home, maintenance and custody of all the children.

DRAFT THE DIVORCE PETITION FOR FILING AT THE ACCRA HIGH COURT

(25 Marks)

QUESTION TWO

The Ghanaian courts recognize two types of adoption, adoption under the customary law and adoption under the Children's Act, 1998 Act 560.

Discuss these two types of adoption with reference to relevant case law.

(25 Marks)

QUESTION THREE

Desertion is one of the six facts that may be used by a petitioner to establish that a marriage has broken down beyond reconciliation.

Discuss the principles of desertion with the aid of decided cases.

(25 Marks)

QUESTION FOUR

Esther met Robert at a night club in New York in the year 2001. They become friends and started dating subsequently. The relationship continued until 2005 when Robert returned to Ghana. Before Robert's departure he made an offer of marriage to Esther which Esther gladly accepted.

In the year 2006, Robert was introduced to Betty by friends. Robert was so smitten by Betty's beauty that after only three months of dating he asked Betty if she would marry him. Betty responded in the affirmative.

Three months after the proposal, the families of both Robert and Betty met and the customary marriage rites were performed.

In the year 2007, Betty became pregnant. Robert and Betty decided to convert their customary law marriage to an ordinance marriage. They approached the leader of their Bible Studies Group Mr. Thomas Eshun for assistance. Mr. Eshun explained to them that they could celebrate the marriage at one of their Tuesday evening meetings at the church hall in the presence of all the members of the group.

Mr. Eshun announced the impending marriage celebration to the group on three consecutive Tuesdays. No objections were raised by any of the group members.

On the agreed upon date, all the members met at the church hall. Robert wore a tuxedo and Betty wore a beautiful wedding gown and a tiara. They were pronounced husband and wife after the reading of some verses from the King James Bible.

In the year 2010, Robert met Kate at a wake-keeping and started a relationship with her. When Kate became pregnant, Robert decided to marry her in addition to Betty. All the customary rites were performed.

On the 16th June 2014, Robert was involved in a serious accident on the Accra-Kumasi highway. He was on his way to visit one of his many cashew-nut farms. Robert eventually passed away on 20th June 2014.

After the funeral it was established that Robert died intestate. Betty's argument is that she is the only lawful wife and that because her marriage to Robert was monogamous she is the only wife qualified to benefit under The Intestate Succession Act, PNDCL 111.

Both Esther and Kate are also claiming to be lawful wives.

ADVISE ESTHER, KATE AND BETTY.

(25 Marks)

QUESTION FIVE

Fully comment on the four essentials of a customary law marriage as enunciated by Justice Ollenu in the case of **Yaotey v Quaye [1961] GLR 573.**

(25 Marks)

QUESTION SIX

Bianca and Moses got married in July 2005 under a Registrar's Certificate. Bianca gave birth to Ben in 2007, Francis in 2009 and Julius in 2013.

Moses is a business man and Bianca works on casual basis at the Shoprite Supermarket. They live in a mansion bought by Moses at Trasacco, a suburb of Accra. The children attend a prestigious English school also at Trasacco.

Six months ago, Moses informed Bianca that he was no longer in love with her and that he was leaving the matrimonial home to live with his concubine, Beatrice. He also informed Bianca that Beatrice was pregnant with his child. Bianca immediately left the matrimonial home to reside with her mother. She took the children with her.

Bianca has decided to petition for divorce. She has come to see you for advice. She also wants custody of all the three children.

ADVISE BIANCA

(25 Marks)

QUESTION SEVEN

Akosua met Fiifi in 2010 and there was an instant attraction. They became friends and in 2011 they decided to share a flat at Dzorwulu.

Akosua became pregnant in June 2012 and informed Fiifi that she was expecting twins. Fiifi, together with his parents went to see Akosua's parents. They presented three bottles of Gordon's gin and a lump sum of money to them and promised that they would return soon to perform the necessary marriage rites.

In September 2012, Fiifi invited Akosua to the New Era Hotel for dinner. After dinner, Fiifi asked Akosua if she would marry him. Akosua answered in the affirmative. Fiifi then slipped a ring on Akosua's finger.

Akosua gave birth to a set of twins in March 2013. They were named after Fiifi's parents.

In January 2014, Fiifi informed Akosua that he was no longer interested in the relationship and that the marriage would not come on.

Akosua thereafter moved out of the flat they shared and has now decided to bring a legal action against Fiifi.

ADVISE AKOSUA

(25 Marks)