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THE BOARD OF LEGAL EDUCATION
GHANA SCHOOL OF LAW

PROFESSIONAL LAW COURSE PART II EXAMINATIONS
2005/2006 SESSION

THE LAW OF INTERPRETATION OF DEEDS AND STATUTES

WEDNESDAY, 31ST MAY, 2006

Time Allowed: Three (3) Hours 9:30a.m.-12:30p.m.

INSTRUCTIONS TO CANDIDATES

- 1 Read the instructions very carefully before beginning your answers.
 - 2 **ANSWER QUESTION ONE (1) (WHICH IS COMPULSORY) AND ANY THREE OTHER QUESTIONS.**
 - 3 Credit will be given to legible handwriting, clarity of expression and orderly presentation of material.
 - 4 Do not write your names on the answer booklet. Write only your index number.
 - 5 Adhere strictly to the instructions on the front cover of your Answer Booklet.
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QUESTION 1

It is provided by section 34(1) and (2) of the Transitional Provisions to the 1992 Constitution as follows:

34. (1) No member of the Provisional National Defence Council, Provisional National Defence Council Secretary, or other appointees of the Provisional National Defence Council shall be held liable either jointly or severally, for any act or omission during the administration of the Provisional National Defence Council.

(2) It is not lawful for any court or tribunal to entertain any action or take any decision or make any order or grant any remedy or relief in any proceedings instituted against the Government of Ghana or any person acting under the authority of the Government of Ghana whether before or after the coming into force of this Constitution or against any person or persons acting in concert or individually to assist or bring about the change or individually to assist or bring about the change in Government which took place on the twenty-fourth day of February 1966, on the thirteenth day of January, 1972, on the fourth day of June 1979 and on the thirty-first day of December 1981 in respect of any act or omission relating to, or consequent upon-

(a) The overthrow of the government in power before the formation of the National Liberation Council, the National Redemption Council, the Supreme Military Council, The Armed Forces

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Revolutionary Council and the Provisional National Defence Council; or

- (b) The suspension or abrogation of the Constitutions of 1960, 1969 and 1979; or
- (c) The establishment of the National Liberation Council, the National Redemption Council, the Supreme Military Council which took office on the ninth day of October 1975, the Supreme Military Council established on the fifth day of July 1978, the Armed Forces Revolutionary Council, or the Provisional National Defence Council; or
- (d) The establishment of this Constitution.

On 5 January 1982, that is barely five days after the coup d'etat which overthrew the 1979 constitution and the Government of the Third Republic and indeed also ushered in the 31st December Revolution of the Provisional National Defence Council (PNDC), Lt. Major Kosi Alonzo, an officer of the Ghana Army who was immediately after the coup appointed PNDC Liason officer in charge of the Rapid Development Unit (RDU) at the PNDC Headquarters, was instructed by his superiors to proceed to Ebo Valley, a plush residential suburb of Accra, to effect the arrest of Kojo Dagarti, Esq. a prominent Accra barrister who was alleged to have made some seriously uncomplimentary remarks about the 31st December Revolution in conversation with some lawyer colleagues at the Bar Common Room in the High Court Building, Accra. A team of 50 soldiers armed to the teeth and led by Lt. Major Alonzo himself immediately proceeded to Ebo Valley to effect the arrest of the reportedly too-known lawyer who mercifully did little to resist arrest and had consequently been rewarded with only some slight beatings with the butts of the AK47 Rifles carried by some of the soldiers as well as a few "gentleman" slaps.

However on their way back to the PNDC Headquarters Lt. Major Alonzo directed his team to raid the home of his long time rival Kofi von Adjei otherwise known as KVA (now a very successful business tycoon) at Madomoheko, another suburb of Accra. Several years ago, precisely in 1975, KVA had not only painfully snatched from Lt. Major Alonzo his childhood sweet heart, the beautiful Yaa Nayako, who Alonzo had really wanted to marry but had also heartlessly dumped the lady after a short affair of some 22 months. Yaa was seriously traumatised by this event and soon thereafter committed suicide. In the course of the raid of KVA's residence, the soldiers severally assaulted KVA as well as the members of his household; demolished parts of his building and destroyed domestic items and properties then valued at over USD20,000. Lt. Major Alonzo also personally raped Efua Von Adjei (wife of KVA) several times over and took away cash in the sum of over USD 10,000 which he found in KVA's special safe. Efua Von Adjei suffered a major depression following these events and was hospitalised for well over a year for stress and other anxiety related ailments. KVA was also so distressed or "broke" after the raid on his home and quietly retired to his holy village with his family to lick his wounds and to do some farming.

Abra complained of Kwabla's conduct to her family and Kwabla's and a family meeting was called. All went well for two weeks after the family meeting but then things started deteriorating again. One day when Abra returned from work, she found a note on the dining table from Kwabla to the effect that he had found someone, "I really love and I am moving in with her. I hope you will also find your true love with somebody else. Good luck".

Advise Abra

(16 marks)

(b) Desertion has been defined as the "unjustifiable withdrawal from cohabitation without the consent of the other spouse and with the intention of remaining separated permanently".

Discuss

(9 marks)

QUESTION 5

Kofi and Ama were friends for a couple of years. When Ama became pregnant, Kofi sent some drinks to the parents of Ama but Ama unfortunately had a miscarriage.

Kofi met Ayeele at a disco, fell in love with her and decided to marry her. He consulted his friend, the Rev. Kuntu Blankson of the Church of the Blessed Triumphant who performed the marriage ceremony in his church. Rev Blankson is not a marriage officer, neither is the church registered, but banns were published three times.

Two years later, Kofi went on a course in Canada and was pleasantly surprised to find that his former girlfriend, Daavi was living just two blocks away from him. They renewed their amorous relationship and Daavi moved in to live with him. They returned to Ghana together and eventually Daavi succeeded in persuading Kofi to take her to the Accra Metropolitan Assembly (A.M.A.) office for marriage.

Ayele had been living in London, England, for the past nine months. She got to know about the impending marriage and flew in to Accra on the day of the intended wedding and went straight to the wedding place.

Kofi, sweating profusely in his wedding suit, dashed from the A.M.A. office and desperately comes to you for your advice.

Please advise Kofi

QUESTION 6

The essentials of a customary law marriage were set out by Ollennu J., (as he then was), in *RE CAVEAT BY CLARA SACKITEY* [1962] 1 GLR 180 at 181-182 as follows:

- “ 1. Agreement by the parties to live together as man and wife.
2. Consent of the family of the man that he should have the woman to his wife; that consent may be indicated by the man's family acknowledging the woman as wife of the man.
3. Consent of the family of the woman that she should be joined in marriage to the man; that consent is indicated by the acceptance of drink from the man or his family or merely by the family of the woman acknowledging the man as the husband of the woman.
4. Consummation of the marriage by cohabitation”.

Critically examine these propositions.

QUESTION 7

“Even in this sometimes more reckless than brave new world, important... functions are most effectively fulfilled by marriage and the family, consistently with modern pragmatism as well as our diverse culture, our political philosophy and universal human needs”.

Discuss
