



NLS

SAMPLE DRAFT

on

PROPERTY LAW PRACTICE



Highlights

- ▶ Deeds
- ▶ Assent
- ▶ Search Report
- ▶ Power of Attorney
- ▶ Scales of Charges
- ▶ Tenancy Agreement
- ▶ Probate Application
- Leases ▶
- Mortgage ▶
- Bills of Charges ▶
- Contract of Sale ▶
- Wills and Codicils ▶
- Deed of Assignment ▶
- Registration of Title Application ▶

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Week 3
GENERAL OVERVIEW AND APPLICABLE LAWS TO PROPERTY LAW PRACTICE

The word property has a variety of meanings depending on the context in which it is used. Sometimes, it may mean ownership or title such as when it is said that property in the goods passes to the buyer immediately the contract of sale is concluded whether or not the goods have been physically transferred to him. It may mean the 'res' (thing) over which ownership may be exercised. It may also mean an interest in a thing less than ownership but nevertheless conferring certain rights such as when it is said that 'B' as pledgee has 'special property' in the subject matter of the security – **Donald v. Suckling**.

Property Transactions, Parties, Documents Involved

| S/ N | Transactions | Parties | Document | Responsibility of Drafting the Document |
|-----------------|---------------------------------|---------------------------|------------------------------|--|
| 1 | Assignment | Assignor/Assignee | Deed of Assignmen t | Assignee's Solicitor |
| 2 | Conveyance/Co ntract of Sale | Vendor/Purchaser | Deed of Conveyanc e | Vendor's Solicitor |
| 3 | Mortgage | Mortgagor/Mortgagee | Deed of Legal Mortgage | Mortgagee's Solicitor |
| 4 | Gift of Land | Donor/Donee | Deed of Gift | Donee's Solicitor |
| 5 | Lease | Lessor/Lessee | Deed of Lease | Lessor's Solicitor |
| 6 | Sub-Lease | Sub-Lessor/Sub- Lessee | Deed of Sub-Lease | Sub-Lessor's Solicitor |

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| | | | | |
|----|--------------------------|---|--------------------------|-------------------------------------|
| 7 | Tenancy | Landlord/Tenant | Tenancy Agreement | Landlord's Solicitor |
| 8 | Donation of Power | Donor/Donee | Power of Attorney | Donor's Solicitor |
| 9 | Will/Codicils | Testator/Testatrix; Executor/Executrix; and Beneficiaries | Will | Testator/Testatrix's Solicitor |
| 10 | Assent | Personal Representatives/Beneficiaries | Assent | Personal Representatives' Solicitor |
| 11 | Administration of Estate | Administrators/Beneficiaries | Letter of Administration | |
| 12 | Search | | Search Report | Purchaser/Mortgagee's Solicitor |
| 13 | License | Licensor/Licensee | | |

Week 4

DEEDS AND DEED OF CONVEYANCE

A deed is a document which passes interest in property (a deed of conveyance) or which binds a person to perform or abstain from doing some action. It is a general word to describe a document, which is in writing on a good quality/durable paper (papers like A4 paper, Indenture paper, and parchment) that is signed, sealed and delivered. This essence is for the transaction contained in the deed to be binding and has the force of the Law. Example of deeds are Deed of lease, gift, transfer, release, mortgage, assignment etc. A deed of release of mortgage may be used to discharge a legal mortgage created by deed. Factors required for validity of a deed are the deed must be signed, sealed and delivered.

Note: A deed is different from a contract of sale. A contract of sale becomes binding upon the exchange of their parts (of the document) by both parties to the contract. A deed becomes binding upon delivery without necessarily parting with the possession of the deed - once there is intention to be bound, the parties become bound.

SAMPLE DRAFTS OF DEEDS

Deed of Assignment

THIS DEED OF ASSIGNMENT is made the 6th day of December, 2020

BETWEEN

Mrs. Ashley Alobi, a trader of No. 75 Ibong Street Calabar, Cross River State
(The Assignor) on the one part

AND

Professor Bukola Akinola, a lecturer of No. 5 Straight Road Akure, Ondo State
(The Assignee) on the other part.

BACKGROUND

This Deed recites as follows:

1. The Assignor is the legal owner of a Certificate of Occupancy No. 49/59/2018A over a parcel of land with six blocks of flat situate at No. 5 Straight Road Akure, Ondo State.
2. The Assignor is willing to alienate her interest while the Assignee is willing to buy subject to the conditions to be stated herein.

NOW THIS DEED WITNESSES AS FOLLOWS:

In consideration of the sum of thirty five million naira (~~N~~35, 000, 000.00) now PAID to the Assignor by the Assignee (the Receipt of which the Assignor hereby acknowledges), the Assignor as a BENEFICIAL OWNER ASSIGNS ALL THAT parcel of Land with six blocks of flat situate at No. 5 Straight Road Akure, Ondo State covered by a Certificate of Occupancy No. 49/59/2010A and more rightly described in the Survey plan to be prepared by a licensed Surveyor attached to the Schedule with all rights, easements and appurtenances TO HOLD unto the Assignee as holder of a Statutory right of Occupancy for the term unexpired on the Certificate of Occupancy.

IN WITNESS OF WHICH the parties have executed this Deed in the manner below the day and year first above written.

(Or if it is an individual and a corporate body that are the parties, then it may be like this:

IN WITNESS OF WHICH the Assignor has signed this Deed and the Assignee (a company) has caused its common seal to be affixed in the manner below the day and year first above written.)

SCHEDULE

1. Survey Plan

SIGNED, SEALED AND DELIVERED

By the Assignor

.....

Mrs. Ashley Alobi

IN THE PRESENCE OF:

Name: Eyeke Kenneth Samuel

Address: No. 12 Umoji Street Abakaliki, Ebonyi State

Occupation: Lawyer

Signature:

Date: 6th December, 2020

SIGNED, SEALED AND DELIVERED

By the Assignee

.....
Prof. Bukola Akinola

IN THE PRESENCE OF:

Name: Ayorinde Victor O.

Address: No. 8 Ahmad Road, Akure, Ondo State

Occupation: Business Man

Signature:

Date: 6th December, 2020

I CONSENT TO THIS AGREEMENT

.....
DATED THE 16th DAY OF DECEMBER, 2020
GOVERNOR OF ONDO STATE

Deed of Assignment where a Party is an Illiterate/Blind Person

THIS DEED OF ASSIGNMENT is made the 6th day of December, 2020

BETWEEN

Mrs. Ashley Alobi, a trader of No. 75 Ibong Street Calabar, Cross River State
(The Assignor) on the one part

AND

Zenith Bank Plc. a body corporate duly incorporated under the Company and
Allied Matters Act, CAP C20 LFN 2004 with RC 8356 and its registered office
address at 10 Bank Street Victoria Island, Lagos State (The Assignee) on the
other part.

BACKGROUND

This Deed recites as follows:

3. The Assignor is the legal owner of a Certificate of Occupancy No. 49/59/2018A over a parcel of land with six blocks of flat situate at No. 5 Straight Road Akure, Ondo State.
4. The Assignor is willing to alienate her interest while the Assignee is willing to buy subject to the conditions to be stated herein.

NOW THIS DEED WITNESSES AS FOLLOWS:

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In consideration of the sum of thirty five million naira (N35, 000, 000.00) now PAID to the Assignor by the Assignee (the Receipt of which the Assignor hereby acknowledges), the Assignor as a BENEFICIAL OWNER ASSIGNS ALL THAT parcel of Land with six blocks of flat situate at No. 5 Straight Road Akure, Ondo State covered by a Certificate of Occupancy No. 49/59/2010A and more rightly described in the Survey plan to be prepared by a licensed Surveyor attached to the Schedule with all rights, easements and appurtenances TO HOLD unto the Assignee as holder of a Statutory right of Occupancy for the term unexpired on the Certificate of Occupancy..

IN WITNESS OF WHICH, the parties have executed this Deed in the manner below the day and year first above written.

SCHEDULE

1. Survey Plan

SIGNED, SEALED AND DELIVERED, By the Assignor, Mrs. Ashley Alobi, being blind, the contents of this Deed having been first read and interpreted (aloud if Blind) to her From English language to Calabar Language by me Udoh Edet of No. 15 Bank Street Lagos when she appeared perfectly to have understood same before affixing her thumbprint.

BEFORE ME

.....
MAGISTRATE/ NOTARY PUBLIC

The common seal of Zenith Bank Plc. (The Assignee) was affixed to this Deed on the 6th day of December, 2020 and was duly delivered in the presence of:

.....
Director

.....
Secretary

I CONSENT TO THIS AGREEMENT

DATED THE 16th DAY OF DECEMBER, 2020
GOVERNOR OF ONDO STATE

Deed of Assignment Where the Donee of a Power of Attorney Executes on Behalf of a Party to the Agreement.

THIS DEED OF ASSIGNMENT is made the 6th day of December, 2020

BETWEEN

Mrs. Ashley Alobi, a trader of No. 75 Ibong Street Calabar, Cross River State (The Assignor) on the one part

AND

Zenith Bank Plc. a body corporate duly incorporated under the Company and Allied Matters Act, CAP C20 LFN 2004 with RC 8356 and its registered office address at 10 Bank Street Victoria Island, Lagos State (The Assignee) on the other part.

BACKGROUND

This Deed recites as follows:

5. The Assignor is the legal owner of a Certificate of Occupancy No. 49/59/2018A over a parcel of land with six blocks of flat situate at No. 5 Straight Road Akure, Ondo State.
6. The Assignor is willing to alienate her interest while the Assignee is willing to buy subject to the conditions to be stated herein.

NOW THIS DEED WITNESSES AS FOLLOWS:

In consideration of the sum of thirty five million naira (N35, 000, 000.00) now PAID to the Assignor by the Assignee (the Receipt of which the Assignor hereby acknowledges), the Assignor as a BENEFICIAL OWNER ASSIGNS ALL THAT parcel of Land with six blocks of flat situate at No. 5 Straight Road Akure, Ondo State covered by a Certificate of Occupancy No. 49/59/2010A and more rightly described in the Survey plan to be prepared by a licensed Surveyor attached to the Schedule with all rights, easements and appurtenances TO HOLD unto the Assignee as holder of a Statutory right of Occupancy for the term unexpired on the Certificate of Occupancy.

IN WITNESS OF WHICH the parties have executed this Deed in the manner below the day and year first above written.

NLS DRAFTS ON PROPERTY LAW PRACTIC

SCHEDULE

1. Survey Plan

SIGNED, SEALED AND DELIVERED

By the Assignor

.....

Mrs. Ashley Alobi

Through her true and lawful Attorney Mr. Eyeke Kenneth Samuel by virtue of a Power of Attorney dated the 4th day of February 2020 and registered as 10/23/2020A at the Lands Registry Cross River State.

IN THE PRESENCE OF:

Name:

Address:

Occupation:

Signature:

Date:

SIGNED, SEALED AND DELIVERED

By the Assignee

.....

Prof. Bukola Akionla

IN THE PRESENCE OF:

Name:

Address:

Occupation:

Signature:

Date:

I CONSENT TO THIS AGREEMENT

DATED THE 16th DAY OF DECEMBER, 2020
GOVERNOR OF ONDO STATE

Week 5

POWER OF ATTORNEY

A power of attorney is an instrument (a document in writing) usually but not necessarily a deed, by which the principal called “donor” appoints an agent called “donee” and confers authority on him to perform certain specified acts or kinds of acts on his behalf – ***Ude v Nwara; Chime v. Chime***.¹As it relates to Real Property Law, it was held by the Supreme Court in ***Ude v Nwara***²that it is a document, usually but not always necessarily under seal, whereby a person seized of an estate in land (the donor) authorises another person (the donee), who is called his attorney to do in the stead of the donor anything which the donor can lawfully do, usually spelt out in the Power of Attorney.

A power of attorney may not always be in writing. It could also be given orally. A power of attorney can thus be used for many purposes, for example to manage property, to receive and sue for rent and rates, to prosecute a case in court, to transfer or convey interest in land, including complete alienation etc. Power of attorney can be conferred on more than one person; however it’s necessary to spell out each person’s function to avoid conflict. When in respect of family or community property, the head of the family/community must be present either as a sole donor or a co-donor.

SAMPLE DRAFT OF POWER OF ATTORNEY

BY THIS POWER OF ATTORNEY given this _____ day of _____ 2020

I, Pastor Enoch E. Adebayo, of No 19 Glory Avenue, Redemption Camp (donor) appoint Eyeke Kenneth Samuel, a Legal Practitioner of Plot 66 Nkaliki Street, Abakaliki (donee) to be my true and lawful Attorney and in my name and on my behalf to do all or any of the following acts or things namely:

1. To manage my property at Plot 042 Redemption Estate, Lagos
2. To let/lease my property at Plot 55 Obi Okoye Street, Port Harcourt
3. To collect rent for property at Plot _____
4. To render account of the rent so collected for Plot _____ for a period of ... years
5. To sell my property at No _____
6. To sell my property at No 65 Amina Street, Kaduna

¹(2001) 3 NWLR (Pt. 701) 527

²(1993) 2 NWLR (Pt. 278) 647

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AND to do all things necessary and incidental to the matters above as I may lawfully do.

And it is declared that this Power of Attorney shall be irrevocable for a period of 11 months from the ... day 2020.

IN WITNESS OF WHICH I, the said Pastor Enoch E. Adebayo, have executed this Power of Attorney the day and year first above written.

SIGNED, SEALED AND DELIVERED by General Pastor Enoch E. Adebayo
IN THE PRESENCE OF:

Name:

Address:

Occupation:

Signature:

Date:

Prepared by:

Nwokeke Chidera, Esq

Zenith Chambers

No 13 Eagles Street, Abuja.

Draft of a Power of Attorney to Execute a Sub-Lease [Deed] Irrevocable For Six Months

BY THIS POWER OF ATTORNEY made this _____ day of ____ 2020.

I, Chief Eyeke Kenneth of No. 3 Ademola Street, Ikeja, Lagos (DONOR) APPOINT Mr. Afolabi Samuel of No 66, Mukumu Road, Kano, Kano state (DONEE) to be my true and lawful attorney and in my name and on my behalf to do all or any of the following acts:

1. To create a term of ten (10) years over my property, the block of four flats at 27, Sabon Gari, Kano, Kano state, covered by Certificate of Occupancy NO 37679 date 23/11/2013 and registered as 45/45/2098 in favour of Lawal Bashir & Sons Limited whose registered office is at 5, Nuhu Street, Kano, Kano state.

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2. To commence and conclude the transaction on my behalf and on my behalf to sign all necessary documents in respect of the transaction with Lawal Bashir & Sons Limited.

3. To collect from Lawal Bashir & Sons Limited the sum of ~~N~~30 million, the sum being the agreed rent for the property for the first three years of the lease and to remit the money collected into my account less his fees, charges and commission as may be agreed between the two of us.

AND to do all and any other things and to exercise all other powers as are necessary and incidental for the purpose of carrying out of the powers created above as I may lawfully do.

AND I DECLARE that this Power of Attorney shall be irrevocable for a period of six (6) months from the date of its execution.

OR

AND I DECLARE that in consideration of the sum of ~~N~~50, 000 already paid by the donee to the donor (the receipt of which the donor acknowledges), this power of attorney shall be irrevocable.

IN WITNESS OF WHICH I, the Donor, has executed this Power of Attorney in the manner below the day and year first above written.

SIGNED, SEALED AND DELIVERED by the within named DONOR

CHIEF EYEKE KENNETH

IN THE PRESENCE OF:

Name:

Address:

Occupation:

Signature:

Date:

PREPARED BY

Nwokeke Chidera, Esq

Zenith Chambers

No 13 Eagles Street, Abuja.

Draft by Registered Trustees

BY THIS POWER OF ATTORNEY made this _____ day of _____ 2020,
We the Registered Trustees of Igboamaka Progressive Union of Lagos,
registered under the Companies and Allied Matters Act with registered office at
15, Authur Eze Street, Ikeja, Lagos state (DONOR) APPOINT Mr. Kenneth Okwor
of 6, Alkali Street, Onitsha, Anambra State (DONEE) to be our true and lawful
attorney and in our name and on our behalf to do all or any of the following acts:

1.
2.
3.

AND to do all and any other things and to exercise all other powers as are
necessary and incidental for the purpose of carrying out of the powers created
above as we may lawfully do.

THE COMMON SEAL of the Registered Trustees of Igboamaka Progressive
Union of Lagos was affixed to this Power of Attorney and it was duly delivered.

IN THE PRESENCE OF

SECRETARY/TRUSTEE

TRUSTEE

PREPARED BY:

Nwokeke Chidera, Esq
Zenith Chambers
No 13 Eagles Street, Abuja.

**A Draft of the Testimonium and Execution Clauses of Sub-Lease Executed
under Power of Attorney**

IN WITNESS OF WHICH the parties have executed this DEED in the manner
below the day and year first above written:

SIGNED, SEALED AND DELIVERED by

the lawful attorney of Chief Eyeke Kenneth, the sub-lessor by virtue of a power of
attorney dated _____ and registered as num _____ page _____ vol _____ of the
Lands Registry Office at _____ state.

NLS DRAFTS ON PROPERTY LAW PRACTIC

THE COMMON SEAL of Lawal Bashir & Sons Limited has been affixed pursuant to a Resolution dated _____ and duly delivered.

IN THE PRESENCE OF

SECRETARY

DIRECTOR

PREPARED BY:

Nwokeke Chidera, Esq
Zenith Chambers
No 13 Eagles Street, Abuja

Power Of Attorney Executed By Husband and Wife

BY THIS POWER OF ATTORNEY made this _____ day of _____ 2020,
We Mr. Otache Shaibu (1) and Mrs Brisibe P. Otache (2), all of 3 Tinubu Street, Ikeja, Lagos state (DONOR) APPOINT Mr. Geoffrey-Mina Marily of 16, Sabon Gari, Kano, Kano state (DONEE) to be our true and lawful attorney and in our name and on our behalf to do all or any of the following acts:

1.
2.
3.

AND to do all and any other things and to exercise all other powers as are necessary and incidental for the purpose of carrying out of the powers created above as we may lawfully do.

IN WITNESS OF WHICH, We the Donors have executed this Power of Attorney in the manner below the day and year first above written.

SIGNED, SEALED AND DELIVERED by within named Donors

1. _____
MR. OTACHE SHAIBU

2. _____
MRS. BRISIBE P. OTACHE

IN THE PRESENCE OF

Name

Address

Occupation

Signature

PREPARED BY:

Nwokeke Chidera, Esq

Zenith Chambers

No 13 Eagles Street, Abuja

**Draft Sample of Concluding Part of Deed of Assignment Executed By
Attorney On Behalf of Donor**

IN WITNESS OF WHICH the parties have executed this deed of assignment in the manner below on the date and year first above written

SIGNED, SEALED AND DELIVERED by

Waate Goodness Niabari,

(Lawful Attorney of Dr. Esegì Maureen Izibevie (the assignor) by virtue of Power of Attorney dated 09/09/2026 and registered as NO 3 at page 9 in volume 2044 in the Lands Registry, Yola, Adamawa State)

IN THE PRESENCE OF:

NAME: _____

ADDRESS: _____

OCCUPATION: _____

SIGNATURE: _____

READ THE FOLLOWING CASES:

1. Ibrahim Vs. Obaje (2018) All FWLR (pt. 937) 1682
2. Ezeigwe v. Awudu (2008) 11 NWLR (pt. 1097) 158
3. Chime v. Chime (1995) 6 NWLR (pt. 404) 734
4. Ude v. Nwara (1993) 2 NWLR (pt. 278) 638
5. Abina v. Farhat (1938) 14 NLR 18
6. ACB Ltd and Others v. Ihekwoaba and others (2004) FWLR (pt 194) 555

WEEK 5 ASSIGNMENT:

Nnamdi Ali is a retired Director of Procurement in the Ministry of Defence, Abuja. He is from Ogidi in Anambra State. He lives at Plot 86 Golf Club Road, Awka. Because of his family business background and the money, he made while in service, Ali became very rich and is now a successful entrepreneur. He has great investments in tourism, real estate and aviation. In 2015, he registered a company in Pretoria, South Africa with the main object in manufacturing, Oil and Gas. He has concluded plans to set up a huge mechanized farm at Ado Odo in Ogun State. Being mindful of his busy schedule and limited time to personally oversee and manage his businesses in Nigeria, he is at a loss as to what he can do with his wide investments without any set back.

He has granted term of years to different people with respect to some of his properties located at:

1. No. 12 Regina Road, Port Harcourt, Rivers State;
2. Plot X16 Jamjam Way, Abuja,
3. No. 104 Adam Road, Asaba, Delta State
4. Plot 96H North Bank Road, G.R.A., Enugu and
5. No. 45 Ebega Road, Lagos.

The terms of lease on most of the properties will lapse in the second quarter of 2020.

Ali is desirous of creating further term of years and/or transfer of his unexpired residue in some of the properties. Occasionally, he engages his cousin, Gafarlbekwe to act for him in respect to overseeing his business investments and dealings on his properties in Nigeria.

On April 1 2020, Ali agreed to grant a term of six years to Miss Dayoldoko of No. 45 Ebega Road, Lagos at an annual rent of N4m in respect of his property at 45 Ebega Road, Lagos. He has also concluded agreement to sell his property at Plot 96H North Bank Road, G.R.A., Enugu to Mrs. Mabel Ololade at a price of N60m. To raise more funds for the mechanized farm project, Ali has decided to use his property at Plot X16 Jamjam Way, Abuja to secure a loan of N40m from Royal Bank PLC.

Questions

- (1) Identify all the Property Law transactions contemplated in the above scenario, the document/s to be executed for each transaction and the person that should prepare the documents.
- (2) Assuming Ali hurriedly relocated to South Africa after a kidnap attempt on him and he has decided to fully engage GafarIbekwe to oversee his estate, advice Ali on steps to take to enable him to conclude the two pending transactions, the document to be executed and its features.
- (3) (i) List the information you will require to draft the said instrument(s) in (2) above, if any.
(ii) List the various clauses to be included in the document.
(iii) List the differences between the document mentioned in 2 above and any of the documents identified in 1 above.
- (4) (i) Assuming Ali appointed "Lindodo Biz Enterprises" as his attorney, comment on the validity or otherwise of the appointment. Would your answer be the same if he appointed "Chairman, Dodondawa Investments Ltd"? Explain briefly.
- (5) Draft the instrument(s) mentioned in (2) above, using the above scenario.
- (6) Comment on the effect of the death of Alliafter executing the instrument in favour of Ibekwe
- (7) Assuming while on a short visit to Nigeria, comment on the validity or otherwise of the subsequent sale of the property in Enugu, by Ali to Ericco Telecommunications limited. Ibekwe has threatened to sue Alli for breach of contract. Advise the parties.
- (8) Assuming Ibekwe actually sold the property to Mrs Ololade, draft the introductory and concluding parts to be included in the final document the parties would execute.
- (9) Assuming Ali had on June 30, 2018 executed an instrument of delegation authorizing Bolulkuku to manage his property at Plot X16 Jamjam Way, Abuja, the instrument was expressed to be irrevocable; Ali died nine (9) months after executing the instrument, Bolu collected rents from the tenants on April 25, 2019? Give reason(s) for your answer as it affects the estate of late Nnamdi Ali.

Week 6

CONTRACT OF SALE AND CONVEYANCING I

Sale of land is a process by which interest or rights in land are created/transferred from one person to another. The person transferring the interest is the vendor/seller and the person to whom the interest is transferred is the purchaser/buyer. In certain instances, the consent of 3rd parties is required to perfect the transfer – consent of Governor, head lessor. Conveyancing is the transfer of the total interest (legal and equitable) from one person to another.

The applicable laws in a contract of sale are: **CFRN 1999, CA 1881& 1882, PCL, Land Instruments Registration Laws** of various states, **Registration of Title Law, Stamp Duties Law**, and **Land Instrument Preparation Law**. The means of acquiring land in Nigeria are by:

1. Customary law
2. Inheritance
3. State grant – government allocation
4. Purchase e.g. an assignment
5. Gift inter vivos e.g. a deed of gift

In a contract of sale, there is a preliminary step in the transfer of title in land; the purchaser acquires equitable title only while the legal interest passes on completion stage; and then the purchaser is given time to investigate the title while being sure of his bargain. Vendor will have to prove a good title to pass (nemo dat quod non habet). Note that legal practitioners now insert a clause showing that time is of the essence (e.g. 6 months for completion) since reasonable time is too vague. All contracts for the sale of land must be evidenced in writing: **Section 4 Statute of Frauds 1677; Section 5(2) Law Reform (Contracts) Act 1961, Section 67 PCL 1959.**

CASE STUDY & DRAFT SAMPLE OF CONTRACT OF SALE

Content/Parts of a Contract of Sale

1. Commencement
2. Testatum
3. Consideration
4. Receipt clause
5. Capacity of vendor
6. Words of grant
7. Parcel clause

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8. Habendum
9. Terms/Covenants
10. Deposit/Part Payment
11. Testimonium
12. Schedule
13. Execution
14. Franking

Particulars of Information to Draft a Contract of Sale

1. Names, occupation and addresses of parties
2. Names, occupation and addresses of witnesses
3. Description of property
4. Capacity of vendor
5. Date of completion
6. Consideration

Case Study

Mrs Juliet Eskor of No 20 Abakpa Close, Kaduna has agreed with Mr Biyo Aku of Plot 12 FHA Lugbe, Abuja for the sale of his 4 bedroom bungalow with BQ fenced round with hollowed red bricks at No 4 Chime Avenue, Benin City for the sum of ~~N~~4, 000,000. They have agreed to execute a contract of sale with the following terms:

1. That she will take possession upon execution of the contract.
2. That in the event of default by Mrs Eskor, the interest rate shall be at the going CBN rate. That the deposit shall be 8% of the purchase sum and paid to Mr Aku's lawyers, the firm of Ntephe, Smith & Wills to hold same as a stakeholder.
3. That since the vendor has insured the property, the insurance policy will be assigned to Mrs Eskor at completion. That completion shall be on or before 31st March 2015 (3 months from the execution of the contract)
4. That Mrs Eskor will in addition purchase the 12.5KVA Top-Max generator in the property for ~~N~~1, 000,000 million, the industrial Bosch refrigerator in the kitchen for ~~N~~1, 200,000 and 6 oriental rugs for ~~N~~500, 000.
5. That Mr Aku is conveying as a beneficial owner

Draft a contract of sale of land between the parties in the case study

Sample Draft of a Contract of Sale

THIS AGREEMENT made the 12th day of December 2014

BETWEEN Mr Biyo Aku of Plot 12 FHA Lugbe, Abuja (the 'Vendor') of the one part

AND Mrs Juliet Eskor of No. 20 Abakpa Close, Kaduna (the 'Purchaser') of the other part.

IT IS AGREED AS FOLLOWS:

That the Vendor sells and the Purchaser buys ALL THAT PROPERTY described in the first schedule to this Agreement subject to the following terms and conditions -

1. The consideration for the sale of the property shall be the sum of ~~N~~4, 000,000 (four million) naira.
2. The Purchaser shall before the execution of this Agreement pay a deposit of the sum of ~~N~~320,000 (three hundred and twenty thousand) naira to the Vendor's solicitor, the firm of Ntephe, Smith & Wills who shall hold the deposit as stakeholder pending completion.
3. The balance of the consideration being the sum of ~~N~~3,680,000 (three million, six hundred and eighty thousand) naira shall be paid at completion, and if there is delay caused by the default of the Purchaser he shall be liable to pay interest at the prevailing Central Bank of Nigeria rate.
4. The sale includes chattels, fittings, and other items specified in the second schedule and valued at the sum of ~~N~~2,700,000 (two million and seven hundred thousand) naira. The receipt of which the vendor acknowledges.
5. The Vendor sells as Beneficial Owner PROVIDED ALWAYS and it is agreed that the covenants which are by law implied by reason of assigning as Beneficial Owner shall not be deemed to imply that the Vendor has performed covenant for repairs contained in his document of title.
6. The Purchaser acknowledges that she has inspected the property for her use and enjoyment as licensee, and if she defaults in payment of the balance of the property to the Vendor and the deposit paid under this Agreement shall be forfeited.
7. The purchaser after the execution of this Agreement shall take immediate possession of the property for her use and enjoyment as licensee, and if she defaults in the payment of the balance of the property to the Vendor, the deposit paid under this Agreement shall be forfeited.
8. It is agreed that time is of the essence in this Agreement which shall be

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completed on or before 31st of March 2015 at the office of the Vendor.

9. The Vendor agrees to execute in favour of the purchaser, a Deed of Assignment and such other documents as are required to vest legal title in the purchaser and also to obtain the Governor's consent to assign the property to the purchaser.
10. The vendor having insured the property shall assign the insurance policy to the purchaser upon completion. PROVIDED THAT where reinstatement is not possible, the insurance money shall be shared between the parties *pro rata* the deposit paid by the Purchaser.
11. The Vendor indemnifies the Purchaser for any loss or damages arising from and connected with the title of the Vendor.
12. The Purchaser shall pay all costs incidental to the preparation and execution of this Agreement and any further instruments necessary and proper for carrying this agreement into effect.
13. This contract shall prevail over any previous agreement and it contains all the terms finally agreed by the parties.

FIRST SCHEDULE

(Description of the property)

ALL THAT property situate at No 4 Chime Avenue, Benin City which include a four bedroom bungalow with Boy's Quarters fenced round with hollowed red bricks.

SECOND SCHEDULE

(List of chattels and fittings sold along with property and their respective prices)

1. One 12.5KVA Top-Max generator for the price of ₦1,000,000 (one million) naira
2. One Industrial Bosch refrigerator for the price of ₦1,200,000 (one million and two hundred thousand) naira
3. Six Oriental Rugs for the price of ₦500,000 (five hundred thousand) naira

IN WITNESS OF WHICH the parties have executed this contract in the manner below the day and year first above written.

SIGNED by the within named vendor Mr Biyo Aku

IN THE PRESENCE OF:

Name: Mr Uko Banki

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Address: No. 5 Bwari Crescent, Bwari, Abuja, FCT

Occupation: Business man

Signature:

SIGNED by the within named purchaser, Mrs Juliet Eskor

IN THE PRESENCE OF:

Name: Mr Joel Adamu

Address: No. 25 Bwari Crescent, Bwari, Abuja, FCT

Occupation: Business man

Signature:

Prepared by:

N.E. Killi Esq.

Ntephe, Smith & Wills.

No. 80 Pankshin Road Ikeja

Lagos State

WEEK 6 ASSIGNMENT

On 11 October 2019, Mrs Hope Eyo of No. 202 Giri Close, G.R.A, Kaduna, concluded negotiations with Dr Ade Williams of Plot 123 Ebony Homes, Bwari, Abuja for the sale of his 5-bedroom duplex with a 2 room BQ at No.54 Sango G.R.A. Abeokuta at a consideration of N 50 Million Naira.

The following were the terms agreed on by the parties;

- 1) The purchaser will take possession upon exchange of the Contract.
- 2) The sum of N5 Million Naira is to be paid as deposit while the balance of the purchase price will be paid on or before the 14 of April 2020, which is the date of completion.
- 3) That in the event of failure to pay up the balance by the date of completion, the interest rate chargeable on the balance will be at the prevailing CBN rate.
- 4) That the deposit will be paid to Dr Williams' Solicitors- the firm of NSW Law Partners of Plot 456, Action Layout, Bwari, who Dr Williams' refers to as his agents.
- 5) That the insurance policy in respect of the property taken out by the vendor with Safehomes Insurance PLC, will be assigned to Mrs Eyo at Completion.

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6) Mrs Eyo will in addition, purchase the 12.5KVA Topeco Generator in the property for N2 Million Naira, the 2 Industrial Refrigerators in the kitchen for N2.4 Million Naira and 6 oriental rugs for N1.Million Naira.

7) Dr Williams is conveying as a Beneficial Owner.

Using the above scenario, answer the following questions:

Question 1

- a) Draft the agreement embodying the above terms.
- b) Mrs Eyo is irked by your insistence on the drafting of the above agreement, because according to her “people buy and sell properties everyday without this whole hassle of entering into a contract. A receipt will serve the same purpose”. Explain to her the different types of contract of sale of land in Nigeria, their implications and the advantages the formal contract enjoys over the other types.
- c) As a student of the NLS on Externship, explain to the Managing Partner of NSW Law Partners, the implication of Dr Williams’ reference to the firm “as his agents” as it affects the deposit and advise the Managing Partner on what would be beneficial to all parties.
- d) List 10 laws that will apply to the transaction between Dr Williams and Mrs. Eyo
- e) Mention the stages and two matters involved in each stage to ensure that the transaction is concluded.

Question 2

- a) As solicitor to Mrs Eyo, list 5 pre contract enquiries you will make in respect of the property and explain to her the importance of these enquiries.
- b) Mrs Eyo is of the opinion that the agreed deposit is as good as a part payment for the sale of the property. As her solicitor (BFG Solicitors of No 21, Gidan Kwano Rd. Kaduna), write a letter to her, briefly detailing the difference between the two concepts and the legal implications (if any), as it affects the above agreement with Dr Williams.
- c) Assuming Mrs Eyo is desirous of buying the property in the name of her only son Essien, who is 19 years old (because, the money for the purchase of the property is from her late husband’s life insurance), advise her on the validity or otherwise of the transaction and state 5 other circumstances that may restrain or fetter her liberty in dealing with landed properties in Nigeria.

Question 3

Chief Odogu of Umuti Qtrs in Onowu autonomous community in Ihiala LGA of Imo State wants to sell the piece of land known as 'Afor' that he inherited from his late father Chief Eneri. The community gave the land to his late father about 40 years ago, to atone for wrongly ostracising him when he was a young man.

On 11 May, 2020, the day the sale was to take place, the buyer Hon. Ike of Nara Qtrs. in Onowu Autonomous Community came with N100, 000, fifty tubers of yam, two 20 Litres of palm oil, 5 litres of palm wine, a basket of kolanuts, alligator peppers and Anyara – garden eggs with a bowl of Nsoji as payment for the land. Chief Odogu and Hon. Ike met in Chief Odogu's house and Mrs Odogu and their 10 years old son were present.

On the way to Afor land after receiving the items, Hon Ike received a call, which necessitated his having to leave for Owerri. He then detailed his P.A to go along with Chief Odogu to Afor land.

Answer the following questions:

- (i) Comment on the validity of the transfer of the sale of Chief Odogu's land to Hon Ike.
- (ii) Assuming on the 14th February 2020, the parties agreed that the property be sold for =N=30 million naira. Hon Ike paid part-payment of =N=10 million naira to Chief Odogu on the same day. The agreement was that the balance would be paid on 14th of April 2020. Chief Odogu issued the following document to Hon Ike

I acknowledge receipt of the sum of =N=10 million naira today 14 February 2020 from Hon Ike of Nara Qtrs. in Onowu Autonomous Community being part payment for the sale of my property known as 'Afor', Umuti Qtrs in Onowu Autonomous Community in Ihiala LGA of Imo State The balance of =N=20 million naira to be paid on or before 14 April 2020. Signed: Chief Odogu

However, Hon Ike was unable to pay the balance to Chief Odogu despite several demands. His excuse was that the lock down as a result of the Covid 19 Pandemic has caused him loss of income. Chief Odogu sold to Hon Jare Jude of 24 Nile Road, Port Harcourt, Rivers State for =N=45 million naira on the 21 April 2020. Hon Ike is aggrieved and wants a refund of the money he paid.

Advise the parties.

Week 7

CONTRACT OF SALE AND CONVEYANCING II

After the exchange of contract, the vendor is required to show that he has a good root of title, that is, he is in a position to transfer what he has contracted to convey and the manner in which he discharges that duty I practice. This is because before the contract is exchanged, there is no obligation on the vendor to establish that he is the owner of the title which he intends to convey, but once the contract has been exchanged, he is under duty to do so – **MEPC Ltd v. Christian-Edwards**.

Abstract/Epitome of Title

Vendor deduces his title by preparing and delivering to the purchaser the following documents:

- (a) **Abstract of Title:** this is the historical summary of all recorded instruments and proceedings affecting title to the property up until the present vendor.
- (b) **Epitome of Title:** this is a chronological list of the documents which prove title to the land usually to be accompanied by photocopies of the documents.

Both the abstract and epitome of title must show a good root of title.

Contents of an Abstract of Title

- (a) Date of transaction or proceeding
- (b) Nature of event
- (c) Parties to the transaction
- (d) Whether original or photocopy
- (e) Number of documents available
- (f) Whether original document will be handed over

Sample Draft of an Abstract of Title

| Date of transaction | Nature of event | Parties to the transaction | Whether original or photocopy | Number of documents available | Whether original document will be handed over at completion |
|---------------------|-----------------|----------------------------|-------------------------------|-------------------------------|---|
| | | | | | |

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| | | | | | |
|------|------------|----------------------------------|----------|-----|-----|
| 1902 | Settlement | Sallau family | Nil | Nil | Nil |
| 1956 | Assignment | Sallau Zainb and Amaebi Osaribie | Original | 1 | YES |
| 1975 | Mortgage | Amaebi Osaribie and Zenith Bank | Original | 1 | NO |

Note that the abstract of title should be in a letter head and should be dated and signed

Contents of an Epitome of Title

- (a) Date of document
- (b) Nature of transaction
- (c) Parties to the transaction
- (d) Whether original, CTC or photocopy available
- (e) Number of documents available
- (f) Whether original document will be handed over at completion

Sample Draft of an Epitome of Title

| Date of document | Nature of transaction | Parties to the transaction | Whether original or photocopy | Number of documents available | Whether original document will be handed over at completion |
|-------------------------|------------------------------|-----------------------------------|--------------------------------------|--------------------------------------|--|
| 1956 | Assignment | Amaebi Osaribie and John Adamu | Original | 1 | YES |
| 1975 | Mortgage | John | Original | 1 | NO |

| | | | | | |
|--|--|-------------------------|--|--|--|
| | | Adamu and First Bank | | | |
|--|--|-------------------------|--|--|--|

Note that the epitome of title should be in a letter head and should be dated and signed

Sample Draft of Cover Letter

**EYEKE KENNETH & ASSOCIATES
LEGAL PRACTITIONERS AND SOLICITORS**

NO 15, Deeper life Road, Abakaliki

Email: Eyekekennethsamuek@gmail.com 08102959631

Our Ref: _____

Your Ref: _____

Date:

To:

Mohammed Sani Bala
No. 5 Balarabe Crescent,
Sabon Gari,
Kano.

Dear Sir,

**REPORT OF SEARCH CONDUCTED ON PROPERTY REGISTERED AS
NUMBER 45 ON PAGE 45 IN VOLUME 2908 (45/45/2908) AT THE LANDS'
REGISTRY OFFICE, KANO STATE**

Kindly refer to the above subject matter and find attached the reports of the searches conducted pursuant to your instructions.

Our bill of charges is also attached for your kind and prompt consideration.

Attached to this letter are the following:

1. Search report
2. Bill of charges

Thank you,

Yours faithfully

Nwokeke Chidera Esq
For: Eyeke Kenneth & Associates
Solicitor

Sample Draft on Search Report

EYEKE KENNETH & ASSOCIATES
LEGAL PRACTITIONERS AND SOLICITORS

NO 15, Deeper life Road, Abakaliki

Email: Eyekekennethsamuek@gmail.com

Phone: 08102959631

Our Ref: _____

Your Ref: _____

Date

**REPORT OF SEARCH CONDUCTED ON PROPERTY REGISTERED AS
NUMBER 45 ON PAGE 45 IN VOLUME 2908 (45/45/2908) AT THE LANDS'
REGISTRY OFFICE, KANO STATE**

Date of Search: 7/12/2020

Place of Search: Lands Registry office, Kano, Kano State

Name of Registered Owner: Mohammed Sani Bala

Particulars of the Property: The property is registered as number 45 on page 45 in Volume 2908 at the Lands Registry, Kano

Description of the Property: The property is a five bedroom bungalow with a boys quarters located at No 3, Ijesha Close Kano and is covered by Certificate of Occupancy numbered 1234529hl

Nature of Title/Interest: Statutory Right of Occupancy

Encumbrances: There is an undischarged mortgage on the property.

The mortgage is registered as number 65 at page 87 in volume 8763 at the lands registry Kano State.

Comments: The title to the property is sound, but the property is encumbered by the undischarged mortgage. Purchaser is therefore advised to stay action on the contract for sale until the said mortgage is completely discharged.

Kenneth Eyeke Esq.
For: Eyeke Kenneth & Associates
Solicitor

Note That Where More Than One Search Report Is Involved, Then A Cover Letter Is Drafted And The Search Reports Are Attached Including The Bill Of Charges. See Sample Draft:

Sample Draft of Search Report Issued by AGIS

**FEDERAL CAPITAL TERRITORY ADMINISTRATION ABUJA
GEOGRAPHIC INFORMATION SYSTEMS (AGIS)**

(AGIS LOGO)

LEGAL SEARCH REPORT

Date: 7/1/2020

To: Muhammed Sani of No 12 Buhari Close, Maitama, Abuja

Dear Sir,

Below is the status report to title over which you applied a search.

A. Particulars of Title for: Dr Joel Nancwat

| | |
|---------------------------------------|---|
| Plot Number: 23C | Date of C of O: 23/6/2010 |
| District: Area 1 | Plot Size (m²): 1400 ² |
| Land Use: Lease | Rent per Annum: N10, 000 |
| C of O Number: No. 59/59/2010A | Outstanding Rent Dues: Nil |
| Registration Number: 45 | Page: 45 Volume: 2910 |

B. Encumbrances

| | |
|---|--|
| Action: Subsisting Lease with CCTCC Industries Ltd | Date: 1/1/2016 |
| | Number: 234 Page: 35 Volume: 1002 |

C. Other Details

| |
|---|
| Present Status: The title to the property is sound. |
| Other Comment: Purchaser is therefore advised to proceed action on the contract for sale |

Yours faithfully,

.....
For: Deeds Registrar (AGIS)
Adviser (AGIS)

.....
Certified by Company Sec/Legal

NOTE: Where the purchaser fails to investigate title, he buys subject to any defect in title.

SAMPLE DRAFT OF DEED OF ASSIGNMENT

THIS DEED OF ASSIGNMENT is made the 6th day of December, 2020
BETWEEN
Dr Kenneth Okwor, a Legal Practitioner, of No. 42 Udoaku Street, Ibadan, Oyo State (The Assignor) on the one part
AND
Mr Killi Nancwat, a Legal Practitioner, of No. 22 Bank Road, Ikoyi, Lagos State (The Assignee) on the other part.

BACKGROUND

This Deed recites as follows:

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1. The Assignor is the legal owner of a Certificate of Occupancy No. 29/29/2014A over a parcel of land with six blocks of flat situate at Plot 45 Gadzama Road, Area 5, Abuja.
2. The Assignor is willing to alienate his interest while the Assignee is willing to buy subject to the conditions to be stated herein.

NOW THIS DEED WITNESSES AS FOLLOWS:

In consideration of the sum of thirty five million naira (~~N~~35, 000, 000.00) now PAID to the Assignor by the Assignee (the Receipt of which the Assignor hereby acknowledges), the Assignor as a BENEFICIAL OWNER ASSIGNS ALL THAT parcel of Land with six blocks of flat situate at Plot 45 Gadzama Road, Area 5, Abuja covered by a Certificate of Occupancy No. 29/29/2014A and more rightly described in the Survey plan to be prepared by a licensed Surveyor attached to the Schedule with all rights, easements and appurtenances TO HOLD unto the Assignee as holder of a Statutory right of Occupancy for the term unexpired on the Certificate of Occupancy.

IN WITNESS OF WHICH the parties have executed this Deed in the manner below the day and year first above written.

SCHEDULE

1. Survey Plan

SIGNED, SEALED AND DELIVERED

By the Assignor

.....

Dr Kenneth Okwor

IN THE PRESENCE OF:

Name

Address:

Occupation:

Signature:

Date:

SIGNED, SEALED AND DELIVERED

By the Assignee

.....

Mr John Raph

IN THE PRESENCE OF:

Name

Address:

Occupation:

Signature:

Date

Prepared by:

Eyeke Kenneth Esq

Eagles Chambers

I CONSENT TO THIS AGREEMENT

.....

DATED THE DAY OF, 2020

MINISTER OF THE FEDERAL CAPITAL TERRITORY ABUJA

WEEK 7 ASSIGNMENT

QUESTIONS

Mr. Mark Girllands, an Engineer, of No. 10 Eyilawe Crescent, Gboko is the immediate past Commissioner for Water Resources for Benue State. His severance package was substantial, and he has decided to invest it in real property from where he hopes to earn some money to cushion the vicissitudes of income associated with consultancy business which he hopes to return to.

He has executed a contract of sale of land agreement with Telumo Andoase and Teese Andoase both of No. 3 Tor Tiv Road, Gboko, who are the Executors of the Estate of Chief Tervar Andoase (deceased) to purchase a shopping mall located at No. 2 Swansea Road, Makurdi, Benue State for 10million and there has been an exchange of contract between the parties.

A photocopy of the Will of the deceased testator was part of the documents given by the vendor to the purchaser after the exchange of contract but on closer scrutiny, the purchaser noticed that there was no evidence of the grant of probate of the Will by the court. The title of the deceased testator to the property which has now been conferred on the Executors by the Testator's Will is a Deed of

Lease between the deceased testator and the owner of the reversion which is yet to lapse.

Answer with the aid of authorities (where applicable) the following questions:

- 1) Advise the parties on the next step to be taken after the exchange of contract, the party obliged to take it, the documents by which this next step may be actualized, the importance of these documents and the period back in time that the party whose duty it is to take this next step is required to satisfy the other party as it relates to the devolution for title from the first owner of interest in the property to the present transaction.
- 2) List the various ways by which investigation of title may be conducted, the party to conduct same and state at least one reason why the said party needs to conduct investigation on title.
- 3) What is your opinion on the way by which the necessary party may make enquiries about the absence of any evidence of grant of probate of the Will by the Court to the Executors?
- 4) Assuming you are Mr Jones Adoga, Mr Girllands' legal practitioner of 24 Ajoche Road, Gboko, Benue State, write a letter to your client, advising him on your reservation on the suitability of the Deed of Lease upon which the title of the deceased testator is founded. Give reasons and give three examples of documents you would have preferred.
- 5) Advise Mr. Mark Girllands on why he should pay a visit to the property he intends to purchase during investigation.
- 6) What do you understand by a completion statement?
- 7) State the steps the parties would need to take during the completion process.
- 8) Explain the steps needed to perfect the title of the purchaser after completion, where each step would be undertaken and effect of failure to undertake any/all of the steps. Would your answer be different if one of the parties is Petlab Industries limited, a company registered under Part A of CAMA and whose registered office is at 45 Epe-Ofun Road, Markudi, Benue State.
- 9) Draft the introductory and concluding parts of the final instrument to be executed by the parties. (Mr Girllands and the Estate of Chief Tervar Andoase.
- 10) Mention in the correct order matters to be included in the operative part of the final instrument. Draft the operative part.
- 11) Mention the status of the parties under the Contract of Sale executed and the effect of the exchange of contract.

Week 8

LAND REGISTRATION UNDER LAGOS STATE LANDS REGISTRATION LAW

The Lagos Lands Registration Law 2015 consolidated the numerous laws on lands registration. It repealed the Registered Land Law of Lagos 2003; the Registration of Titles Law and Registration of Titles (Appeals) Rules 2003; the Land Instrument Registration Law 2003; and the Electronic Documents Management System Law 2007. The registration districts that were hitherto stated under the RTL are still applicable under the LRL 2015. The registration districts are the areas covered by the LRL. The registration districts are:

1. Lagos Island
2. Obalende
3. Victoria Island
4. Ebutte-Metta
5. Mushin (Part)
6. Yaba
7. Badagry
8. Ikoyi
9. Gbagada
10. Apapa
11. Somolu
12. Surulere

The features of the Land Registration Law

1. Establishment of the Land Information Management System
2. Requirement for the registration of every interest/title in land
3. Establishment of offences and punishment
4. Establishment of the Land Registry where all registrations are made

Sample Drafts
Registration of Title to Land (Form 1)

APPLICATION FORM FOR REGISTRATION OF TITLED LAND

District.....
Title.....
No.....
Address of Property.....
Assignee's Name.....
Residential Address.....
E-mail/Website Address.....
Assignor's Name.....
Residential Address.....
Type of Registration.....
Document Submitted by.....
Office Address.....
Date of Submission.....

Receiving Officer
(Official Stamp & Seal)

Registration of Land Covered by Deeds/Certificate of Occupancy (Form 2)

APPLICATION FORM FOR REGISTRATION OF LAND COVERED BY
DEEDS/CERTIFICATES OF OCCUPANCY

District.....
Registered Instrument No.....
Address of Property.....
Assignee's Name.....
Residential Address.....
E-mail/Website address.....
Assignor's Name.....
Residential Address.....

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E-mail/Website Address.....
Type of Registration.....
Document Submitted by.....
Office Address.....
Date of Submission.....

Receiving Officer
(Official stamp & date)

Application to Conduct a Search (Form 3)
APPLICATION FOR CONDUCTING SEARCHES

1. Search conducted at.....
2. Registration no. of property.....
3. Description of property.....
4. Name of proprietor.....
5. Search conducted by.....
Name.....
Address.....
E-mail/website.....
Phone.....Fax No.....
6. Reasons for search.....
7. Date search conducted.....
8. Payment of fees for search.....
9. Payment of fees for printing.....

Electronic Search Report (Form 4)
ELECTRONIC SEARCH REPORT

1. Document searched.....
2. Date of search.....
3. Description of property.....
4. Grantor.....
5. Grantee.....
6. Term.....
7. Area of land.....
8. History of Land.....
9. Subsequent Transaction/Encumbrance.....

10. Remarks.....

WEEK 8 ASSIGNMENT

Scenario& Tasks

Mr. Mat Musaba lives in Benin City. Mr Mat Musaba is married to Adekemi and they have five children --- John, Jide, Jumai, Jolaade, and Jumoke. Mr. Mat Musaba owns the following properties, among others:

1. The 3-bedroom bungalow at 15, Ore Street, Benin City, (his residence) which he purchased from his business partner, Chief Damien of 45, Sapele Street, Benin City for N15 million in 2009;
2. The 40-feet-wide warehouse at 17, Dolapo Street, Okota, Lagos, which Mr. Musaba bought from Madam Kareem in 2010. Mr. Musaba assigned his legal interest in the property by way of a sub-demise in June 2020 to Diamond Bank to secure a loan of N280 million he took from the bank. The legal due date is 12 July 2023. Mr. Musaba now proposes to grant a term of ten years on the same property to Bo Nigeria Limited at N6 million per annum. The term to commence on 22 August 2020;
3. The 5-rooms bungalow at 4, Obalende Road, Ikoyi, Lagos, which Mr. Musaba inherited from his mother, Chief (Mrs.) Arinne who died intestate in 2015. On July 10, 2017, Mr. Musaba secured a loan of N200 million from First Bank Plc of 12, Marina, Lagos using the property as security for the legal mortgage. The duration of the mortgage is five years;

Mr. Musaba plans to undertake the following additional transactions:

- (a) To purchase a plot of land at 16, Bauchi Street, Ojota, Lagos for and in the name of his first son, John (17 years old). The property belongs to Mr Ebuka Mankuand hiswife Anuli. They live at 88, El-Aminu Street, Kaduna; price is N120 million,
- (b) To execute an irrevocable Power of Attorney in favour of Mr. Sanu Madiq, the Managing Partner of Mr. Sanu Madiq & Co, a firm of Estate Managers and Consultants located at 12, Ore Close, Karu, Abuja, to enable Mr. Sanu Madiq to undertake on Mr. Musaba`s behalf the transactions involving the properties at Ikoyi, Lagos and the one at Ojota, Lagos.

Mr. Musaba has approached you for advice on the proposed transactions, especially with respect to his properties located in Lagos

Answer the following questions

Question One

- a) State any five differences between registration of the proposed sale involving the property at Bauchi Street, Ojota, Lagos (under the Land Registration Law, Lagos) and registration of the sale involving the property in Benin (under the Land Instruments Registration Law (LIRL) of Edo State.
- b) Mention the mandatory records that must be maintained in the Land Registry, Lagos for the purpose of real property registration under the LRL, 2015. How do these differ from the document(s)/records that must be maintained for purposes of operation of the land Information Management System (LIMS) in Lagos;
- c) For purposes of the various applications Mr. Musaba may have or choose to make under the LRL, 2015, state the prescribed Form under the LRL, 2015 that would be relevant for each of the following applications and processes:
 - i. Application for CTC,
 - ii. Application for search under LIMS,
 - iii. Registration of interests covered by Certificate of Occupancy,
 - iv. Application for registration of titles to land,
 - v. Registration of caution, and
 - vi. Withdrawal of caution.
- d) In respect of the purchase of the property at 16, Bauchi Street, Ojota, Lagos,
 - i. Identify the person or persons who are authorized to conduct searches in Lagos State Lands Registry.
 - ii. Outline the procedure required to be followed to conduct a search under the LIMS in respect of the property at 16, Bauchi Street, Ojota, Lagos;
- e) Advise Mr. Musaba on the following:
 - i. The real property interests, property transactions, and land documents or holders that are registrable in Lagos.
 - ii. State the consequences of failure by the person obliged to apply for registration of a registrable interest in Lagos State.
 - iii. Are there any instance or instances in which registration is not mandatory? Identify that/them.

- iv. On what grounds (if any) may the Registrar decline registration under the LRL, 2015?
- f) Set out the various obligations, roles, powers and responsibilities of the Registrar in respect of registration of interests, lands, holders and transactions under the LRL, 2015.
- g) Comment briefly on the various features of registration under the LRL, 2015
- h) List all special precautionary measures that must be taken at the Lagos land registry in respect of the irrevocable Power of Attorney executed in favour of Mr. Sanu Madiq to ensure he would be able to validly carry out the proposed transactions on behalf Mr. Musaba and to ensure that the various instruments of transfer to be executed in respect of the transactions over the properties in Ikoyi and Ojota are accepted for registration.
- i) List out the various interests or rights that may constitute a form of encumbrance on the rights of Mr. Musaba as a holder of landed properties in Lagos;
- j) To ensure their acceptance for registration in Lagos State, highlight the proper form of execution and attestation of Deeds under the LRL, 2015;
- k) Advise Mr Musaba on the validity of the proposed transaction with Bo Nigeria Limited.
- l) Assuming the property at Ore Street was in Lagos State and now, Mr. Musaba proposes to sell the property to the Aduba family of Ikorodu, describe the procedure the family would adopt to ensure due registration of its representatives for purposes of effecting this and similar real property transaction on behalf of the family. On what grounds may such registration be rectified?

Week 9 LEASE I

A lease is a document that creates an interest in a property or land for a fixed term of years usually (but not necessarily) in consideration of the payment of rent. The interest created is called a term of years, but it is also often referred to as a lease or a leasehold interest. Leases are used to describe long-term grants. A lease is both a contract and an estate (an interest in land).

In a lease, the consideration flowing from the lessor (landlord) to the lessee (tenant) is the demised premises. The consideration paid by the lessee is the rent and the observance of any condition or covenant in the lease. A lease is a grant of land by the lessor to the lessee for an interest less than that of the grantor. Grantor is the transferor of an interest in property to the grantee.

It should however be noted that title to the land is not conveyed, only the use and occupation of the property is given out; the property reverts back to the lessor after the expiration of the term. The reversion is any future interest left in the grantor or his successor. The owner of the property who makes the grant is the lessor or landlord/landlady, whilst the person who takes over the exclusive use of the demise is the lessee or tenant.

ETHICAL ISSUES

1. A lawyer should not fail to reflect instructions given to him by his client
2. A lawyer has a duty to show competence when drafting the lease agreement - **Rule 16 RPC.**
3. The document should correctly and fully reflect the wishes of the party with special reference to the covenants.
4. Duty not mix the rent paid to the client with solicitors money or not spend such fund belonging to the client - **Rule 23(2) RPC.**
5. Duty not to frank a document not prepared by the Solicitor - **Rule 3(2) RPC and Section 10 LPA.**
6. Duty not to aid a non-lawyer in the unauthorised practice of law - **Rule 3(1) (a) RPC.**

CASES ON LEASES

Bosah v Oji (2002) 6 NWLR (Pt. 762) 137

The plaintiff and defendant came to an agreement in writing for a lease of a building and clause 7 of the agreement stated that "The term of sixty years will be counted from the time when the lessee obtains the Certificate of Occupancy for

the building on the un-built area in front if he builds or if he chooses to convert it into a commercial use from the time he begins to make use of it." The defendant shall pay a sum of 980 pounds if added to 100 pounds already paid will represent three years rent paid in advance. Supreme CT: for a lease to be valid, the term of lease and date of commencement must be certain or capable of being ascertainable. In order to have a valid agreement, there must be in express terms or written so that the commencement can be inferred. SC held there was a certain term of 60 years and the date of commencement could be inferred from the contingency of getting the certificate of occupancy i.e. reference to the happening of an event that will occur.

Okechukwu v. Onuorah(2000) 12 SCNJ 146

A deed of lease made on 17th July 1972, appellant demised a piece of land to the defendant. One of the covenants: "for a term of 50 years from the day the lessee is issued with a certificate of occupancy". Issue of commencement date in this case. Supreme Court held for the defendant. Certificate of occupancy was a condition precedent to moving into the house (to inspect the house by the Onitsha Local Government) not the same as under the Land Use Act. Where the date for commencement for the lease is unspecified but stated in reference to a contingency, until the contingency happens the lease is unenforceable but once the contingency happens, the lease becomes enforceable.

Tejumola & Sons Ltd v U.B.A (1988) 2 NWLR (Pt. 79) 662

The defendant (UBA) made a conditional offer to the plaintiff to grant him a lease. They entered into negotiations and the date of commencement was to be made that physical possession would be taken, Plaintiff suggested a date for commencement for UBA to take possession. UBA stated that defendant should effect some repairs on the property which he did. Negotiations broke down. Correspondence by UBA was headed subject to contract so a mere invitation to treat and so no contract was made. (NB: if terms have already been agreed and concluded and the letter is still termed subject to contract, Supreme CT held that this is cosmetic and the Ct will not accept that there is no contract). In this case, no terms were agreed upon so no valid contract. UBA did not agree to physical possession to be the date of commencement. A commencement date is enforceable even though made subject to a contingency, if the contingency actually happened. In this case, the contingency never happened, therefore there was no enforceable lease.

WEEK 9 ASSIGNMENT

Ayaba Kudus of No. 23 Isaleko St. Yaba, Lagos State is the owner of a block of 1 three-bedroom, 3 two-bedroom, 2 one-bedroom and 2 self-contained flats at No. 8 Dopemu Estate, Mushin, Lagos State.

On January 31 2020, she gave the three-bedroom flat to Mallam Moha Moha for 6 years at N500, 000 per annum. One of the terms agreed on by the parties was that Mallam Moha Moha would pay the entire 6 years rent before any agreement was signed between them.

On 1 February 2020, Ms Fynecountry Miene took possession of one of the two-bedroom flats for two years and a half, on the consideration of her professional fees for undertaking the perfection of Ayaba Kudus' title in respect of a parcel of land at Kuje Extension, Kuje, Abuja.

Ayaba Kudus on April 2 2020 at the quarterly rent of N75, 000, gave one of the one-bedroom flats to Dr Bitrus, a Gambian who was unable to leave Nigeria after the Covid-19 pandemic broke out, for as long as the pandemic would last.

She gave one of the self-contained flats to Bonaby Akpan, her best friend's son admitted into the 2020/2021 Session of the Nigerian Law School and posted to the Lagos Campus to stay for the Session at no cost.

Answer the following questions using the above scenario:

Question1

- i. Identify the transactions in the above scenario.
- ii. State the requirements (if any) for the validity of each of the transactions identified.
- iii. Comment on the validity of each of the transactions using the "stated requirements" as a yardstick.
- iv. State 5 laws that are applicable to the transactions between Ayaba Kudus and Ms Fynecountry Miene and identify any other transaction in the above scenario that these laws also apply to.

Question 2

- i. Ayaba Kudus is really happy over Mallam Moha Moha's agreement to pay the entire 6 years rent. As her solicitor, explain to her the possible implications of her action.

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- ii. Assuming Ayaba Kudus' block of flats is in Apapa, Lagos, will your answer in (i.) be different?
- iii. As Ayaba Kudus' solicitor, proffer a more advantageous solution that will enable her achieve her aim for demanding the entire rent in advance and do a draft of your proffered solution.
- iv. Draft the clause evidencing the consideration paid by Mallam Moha Moha.
- v. State the type of rent that Ayaba Kudus is most likely to demand for her block of flats and factors that will influence her in arriving at the rents payable.
- vi. As solicitor acting for any of the parties to the above transactions, state 5 duties you owe them.

**Week 10
LEASES II**

COVENANTS IN LEASES: These are agreements creating obligations usually in a deed. Promises and pledges made by parties to a lease. Either party can make promises that something is done, shall be done, shall not be done or speaks the truth about certain facts. In respect to the nature of a covenant, it can either be positive or restrictive. Positive covenants stipulate the performance of an act or payment of money, while Negative/Restrictive covenants forbids doing of an act or acts. Covenants are drafted in leases using good precedent books.

Draft of Rent Clause (Usually called Reddendum)

The Lessee covenants with the Lessor to pay the rent reserved in the lease at the time and in the manner prescribed.

Or

The reserved rent shall be payable in advance and if not paid within 21 days after one month notice issued by the Lessor, it shall be lawful for the Lessor to re-enter upon the premises and the lease shall cease.

Draft of Covenant to Pay Rate and Charges

The Lessor/Lessee covenants to pay all rates, taxes, charges, duties, assessments and other outgoings which may fall due and payable now or subsequently in respect of the demised premises or on the Lessor or Lessee.

Draft of Covenant on Use

The Lessee covenants to make use of the premises and to permit the premises to be used for the purpose of residence/commerce/agriculture only.

Draft of Covenant to Repair

The Lessee covenants to keep in tenantable repair all the inside fixtures, fittings and glasses on the demised premises and not to remove from it any of the furniture and effects, but to keep them in their present state of repair and condition (reasonable wear and tear excepted).

Or

The Lessee covenants to internally redecorate the demised premises including all additions to it and to deliver up the premises in the same condition at the determination of the lease.

Draft of Alterations

The tenant covenants not to make any addition or alteration to the premises without the written consent of the Landlord, such consent not to be unreasonably withheld and to restore the property to its original position at the end of the term of the lease at his own expense.

Draft of Covenant to Insure

“The Lessee covenants to immediately insure the premises at all times during the term against loss or damage by fire in the sum of N10, 000,000 (ten million naira) in the NICON Insurance Co. Ltd (RC No 9999) insurance office, in the name of the Lessor (or in the joint names of the Lessor & Lessee), and that in case the premises is or any part of it is damaged or destroyed, then all moneys received in respect of the insurance shall be laid out in repairing or otherwise reinstating the premises in a good and substantial manner.”

Draft of Covenant against Assignment and Sub-Letting

“The Lessee covenants not to assign, sublet or otherwise part with possession of the demised premises or any part of it.”

or

“The Lessee covenants not to sublet, assign or otherwise part with possession of the demised premises or any part of it without first obtaining the written consent of the Lessor; such consent not to be unreasonably withheld in the case of responsible or respectable person.”

PROVISOS IN A LEASE

Option to Renew/Covenant for Renewal of a Lease: This is a lessor’s covenant made to the lessee that at the expiration of the lease and a new lease will be created for similar or reviewed terms, rents and covenants (as agreed upon by both parties based on certain conditions e.g. tenant complied with covenants in the lease).

Draft of perpetually renewable lease –

“The Lessor shall on the written request of the lessee made at least three months before the expiration of the current term, grant to the lessee the lease of the demised premises for another term of five years from the expiration of the current term on the same terms and conditions as this present lease.”

The solicitor can avoid a perpetually renewable lease by stating that the terms of the new lease are created by reason of the option to renew and expressly excluding the option to renew in the subsisting lease agreement. For instance:

“The Lessor/Landlord shall on the written request of the lessee/tenant made three (3) months before the expiration of the term hereby created, grant to the lessee/tenant the Lease of the demised

premises for another term of three (3) years at a rent to be agreed and containing all the terms and conditions of this Lease/Agreement except the option to renew and the rent clause’.

Or

“The Lessor shall on the written request of the Lessee made at least three months before the expiration of the current term, grant to the Lessee the lease of the demised premises for another term of five years from the expiration of the current term on the same terms and conditions as the present lease, except rent and this option to renew; Provided, however, that Lessee shall have materially observed all its obligations under the present lease.”

Option to Purchase Reversion: This is Assignable - **Re Buttons Lease**. The tenant may enforce option by action for specific performance and may even sue to set aside the sale of the property to another person - **Owosho v. Dada**. An offer by the landlord to the tenant for the sale of the premises on fulfilment of certain conditions (payment of rent and compliance with other covenants).

Proviso for Forfeiture and Re-Entry: This may lead to the suspension or termination of the lease for non-payment of rent or non-observance of covenants of the lease. It operates to bring a lease to an end earlier than it would otherwise terminate. The law presumes against forfeiture of leases except where the clause is expressly stated.

Draft

PROVIDED ALWAYS that if the tenant commits a breach of covenants or conditions in the lease or becomes bankrupt, it shall be lawful for the lessor to re-enter the premise and immediately the term shall absolutely cease and determine.

Abatement of Rent: Abatement must be provided for because generally, frustration is inapplicable in leases. At Common Law, if rent was paid over a premises and the premises is destroyed or anything prevents its use, the rent will run till it expires and the tenancy will be exhausted even if the tenant could not use the premises.

Draft

“The Lessor covenants with the Lessee that the rent shall not continue to run in a case of an act of God where the demised premise is destroyed or anything happens preventing the use of the premises.”

FORMAL PARTS OF LEASE

1. **Commencement:** *THIS LEASE* or *THIS DEED OF LEASE*. Where it is a simple tenancy, it is commenced thus *THIS TENANCY AGREEMENT* or *THIS AGREEMENT*.
2. **Date:** *Made this 4th Day of December, 2020*. The date is the day the lease is made. Where it is by deed, the important date is the date of delivery of the lease. In tenancy agreement, the important date is the date of execution.
3. **Parties**
 - (a) **Individuals:** *BETWEEN Edward Evbuomwan, a lawyer, of No.5 Chess Club Street, Benin, Edo State the lessor/landlord of the first part AND Mrs Afinjuomo Oluwafunmilayo, a banker, of No. 5 Simi Crescent, Ikeja, Lagos State, the lessee or tenant of the second part.*
 - (b) **Company:** *Musa & Sons Limited, a company registered under CAMA with RC No: 85840 and registered office at No 14 Democracy Estate, Ikoyi Estate, Lagos State (the lessor) of one part or (the lessee) of the other part.*
 - (c) **Attorney:** *BETWEEN Mr Umunnakwe Michaelangelo of No. 22 Ibori Street Ikeja Lagos (through her true and Lawful Attorney Eyeke Kenneth of Area 10 Owerri Imo Lagos) (The Assignor) on the one part*
4. **Recitals:** This is not an essential part of a lease except
 - (a) A sub-lease
 - (b) Surety or guarantor
 - (c) There is a Power of Attorney
5. **Testatum:** *WHEREBY the lessor agrees to demise to the lessee or WHEREBY/BY WHICH the Landlord gives and the Tenant takes*. The Lessor demises to the Lessee. The testatum contains the operative words and parcel clause. The operative words show what the parties have agreed to do. The parcel clause describes the subject matter of the lease.
6. **Parcel Clause:** *ALL THAT property (describe the property)*
7. **Habendum:** *TO HOLD UNTO the lessee for the terms of 10 years commencing on the 1st May, 2020 and ending on the 30th April, 2030*. Note that the phrase “commencing on” includes the date named in computation while “commencing from excludes the named date.” The habendum specifies the quantity, commencement of the term of a lease.
8. **Reddendum:** *YIELDING AND PAYING yearly during the term the rent of N20, 000 clear of all deductions by yearly payments in advance, the first of such payment to be made on the 24th day of May, 2020*. The reddendum

defines the amount of rent payable by the lessee, the person to whom the rent is payable; as well as mode of payment usually in advance. Generally, rent is payable in arrears. Thus, it must be clearly stated if it is intended to be payable in advance.

9. Covenants: (Treated above)

10. Provisos: *'Provide That'*

11. Testimonium: *IN WITNESS OF WHICH the parties have executed this lease in the manner below the day and year first above written.* This clause connects the parties with the agreement

12. Schedule: It should be inserted where necessary. It serves the following functions -

- (a) To describe the property in details.
- (b) The parts of the property to be repaired by each party
- (c) Rent review formula

13. Execution

(a) Individuals: *SIGNED, SEALED AND DELIVERED by the within named lessor or lessee.* This provides for the signature, mark or seal of the parties to the lease. In Tenancy Agreement -*SIGNED by landlord or tenant.*

(b) Company: *The COMMON SEAL of Musa & Sons Limited is affixed to this lease and the lease duly delivered in the presence of DIRECTOR and SECRETARY.*

(c) Illiterate or Foreigner (that does not understand English): *SIGNED, SEALED AND DELIVERED by the within named lessor, the contents having been first read and interpreted to him in Igbo Language by me (name of interpreter and address) when he appeared perfectly to understand it before Affixing his thumb print, mark/signature. For blind say read aloud; For deaf and dumb add "the contents of this lease having been first been read over to him by sign language by _____ a sign language instructor when he appeared to perfectly understand it before affixed his thumb print/mark)."*

(d) Attorney: *SIGNED, SEALED AND DELIVERED by The lawful attorney of the lessor by virtue of a power of attorney dated _____ and registered as No _____ page _____ Vol _____ of the (State) Land Registry.*

14. Attestation: This contains the witnesses to the lease and their signature.

IN THE PRESENCE OF:

Name

Address:

Occupation

Signature

PERFECTION OF A LEASE

1. Obtain the Governor's consent, which is endorsed on the Deed of sub Lease. This is not needed for a tenancy agreement or a normal lease.
2. Stamp the Deed of Lease at ad valorem rate
3. Registration at the Lands Registry of the State where the Land is situate

EXPRESSIONS RELATING TO TIME

1. **On** - plus the date mentioned; start counting from the day mentioned.
2. **From** - minus mentioned date; exclude the mentioned date.
3. **After** - Exclude the day mentioned
4. **Till and Until** -not clear if mention date should be included or excluded
5. **As soon as possible/within a reasonable time:** these expressions should be avoided, and once a quit notice is badly drafted, it is void for defective computation of time.

NB: In computation, one does not have half of a day, the day starts from 12am

SAMPLE DRAFTS

Deed of Sub-Lease (Illiterate and Company)

THIS DEED OF SUB-LEASE made this 4th day of December, 2020
BETWEEN Mr. *Edward Evbuomwan*, a lawyer, of No.5 Chess Club Street, Benin, Edo State (The Sub-Lessor) of the first part
AND *Musa & Sons Limited*, a company duly incorporated under the Companies and Allied Matters Act 2004 with its registered office address at No. No 14 Democracy Estate, Ikoyi Estate, Lagos State (The Sub-lessee) of the second part.

RECITALS

1. The sub-lessor is the lessee of the property owned by *Edward Evbuomwan*, the beneficial owner of a Duplex with Boys Quarters situate at No. 8 Ofuru Estate, Benin Edo State, by virtue of a Deed of assignment dated 21st June 2005 registered as No. 4051 pages 50 in volume 1350 at the Lands registry

of Edo State.

2. The sub-lessor has the consent of the lessor/owner to enter into the transaction
3. The sub Lessor desires to lease the property to the Lessee for a term of five years.

Or.....

If it is pursuant to a certificate of occupancy

1. The sub-lessor is the beneficial owner of the property a Duplex with Boys Quarters situate at No. 8 Ofuru Estate, Benin Edo State, by virtue of a certificate of occupancy dated 21st June 2005 registered as No. 4051 pages 50 in volume 1350 with the Lands registry of Edo State
2. The consent of the Governor has been obtained
3. The sub Lessor desires to lease the property to the Lessee for a term of ten years.

NOW THIS SUB-LEASE WITNESSES AS FOLLOWS:

1. In CONSIDERATION of the rent and covenants reserved in this Deed, the Sub-Lessor AS BENEFICIAL OWNER demises to the Sub-Lessee ALL THAT Duplex with Boys Quarters situate at No. 8 Ofuru Estate, Benin Edo State covered by a certificate of Statutory Occupancy registered as 45/45/2345 and rightly described in the survey plan attached to the 1st Schedule referred to as 'The demised Premises'.
2. TO HOLD UNTO the Sub-Lessee for a term of ten (10) years commencing on the 1st day of April 2020 and to expire on the 31st day of March 2030, subject to any proviso for determination contained in this Sub-Lease.
3. PAYING the sum of four million naira only per annum (N4, 000, 000.00) (the receipt of which the Sub-Lessor hereby acknowledges) as rent for the term granted, payable in advance the first of such payment to be made on the 2nd day of April 2020.

(The covenants are to be here as part of the miscellaneous part of this sub-lease)

PROVIDED ALWAYS THAT in breach of any of the covenants contained in this Deed by the Sub-lessee, the Sub-Lessor may forfeit the sub-lease by re-entering the premises or any part of it and the term granted in this Deed shall come to an end immediately.

OPTION TO RENEW:

The Sub-Lessor shall on the written request of the Sub-Lessee made three (3)

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months before the expiration of the term hereby created, grant to the Sub-Lessee the sublease of the demised premises for another term of three (3) years at a rent to be agreed and containing all the terms and conditions of this Deed except the option to renew and the rent clause.

IN WITNESS OF WHICH the parties have executed this sublease in the manner below the day and year first above written.

1st Schedule

SIGNED, SEALED AND DELIVERED

By the Sub-Lessor

.....

Mr. *Edward Evbuomwan*

The contents of the foregoing having been first read and explained to her from English Language to Edo Language by me Akioya Ofuru of No. 23 Akafu Street, Benin, Edo State when he appeared perfectly to have understood same before making her thumb impression above.

BEFORE ME

.....

MAGISTRATE/NOTARY PUBLIC/COMMISSIONER OF OATHS

The common seal of the Sub-Lessee is affixed on this Deed the 24th day of March, 2020 and duly delivered in the presence of:

.....

Director

.....

Secretary

I CONSENT TO THIS SUB-LEASE

DATED THE 30TH DAY OF MARCH 2020

EXECUTIVE GOVERNOR EDO STATE

Tenancy Agreement

THIS TENANCY AGREEMENT made the 4th Day of December, 2020.

BETWEEN

MR. EMEREONYE GODSPOWER of No. 4 Rotimi Crescent, Port Harcourt, River State (Landlord) of the one part

AND

MRS. LOVETH BAKO of No. 55 Buhari Close Wuse 2, Abuja (Tenant) of the other part.

IT IS AGREED AS FOLLOWS:

The landlord demises to the tenant ALL THAT premises together with the Boys Quarters and known as No. 8 Rotimi Crescent, Port Harcourt, River State, TO HOLD the same to the tenant on the 1st day of January, 2021 for the term of two years to end on 31th December, 2022 .

PAYING the yearly rent of N1, 000,000(One Million Naira only) clearly of all deductions by yearly payment in Advance; the first of such payment to be made on 22nd Day of December, 2020.

The rent is subject to review in accordance with the provisions contained in the Schedule to this lease.

THE TENANT COVENANTS WITH THE LANDLORD AS FOLLOWS:

1. To pay rent reserved in the lease on the day mentioned.
2. Pay all rates, taxes, assessment, charges and outgoings or as may be imposed later whether payable by Landlord or not.
3. Not to assign, sublet, or otherwise part with possession the property or any part without the consent of the Landlord in writing first had and obtained such consent not to be unreasonably withheld for a respectable and responsible person.
4. Not to make any alteration to the property except for installation of A-C and Burglary proof without the consent of the Lessor and to restore the property to its original position at the end.
5. To keep the premises in a good state of repairs, fair wear and tear excepted and to deliver up possession of the property at the end of the lease term.
6. To use the property for residential purposes only.

THE LANDLORD COVENANTS WITH THE TENANT AS FOLLOWS:

1. The Lessee shall have a quiet possession of the property free from

interference by the landlord or his agents.

2. To insure the property against fire with NICON Insurance Co. Ltd(RC NO 9769)to the tune of N10,000,000 (ten million naira) to be paid by the tenant and in the event of the property being damaged, all money received in respect of the insurance shall be used to reinstate the property. If reinstatement is not possible, the sum will be shared PRO RATA between the parties.
3. Upon the Lessee paying the rent and observing all the terms and covenant in the Lease upon 3 months before the expiration of the tenancy the Landlord shall (may) grant him a further term of two years at a rent and terms to be agreed by the parties.
4. The Lessor covenants with the Lessee that the rent shall not continue to run in a case of an act of God where the demised premise is destroyed or anything happens preventing the use of the premises.

PROVIDED ALWAYS that if the rent reserved or any part of it shall be unpaid for twenty eight (28) days after becoming payable and demand made for it or if the lessee commits a breach of the covenants in the Lease or the Lessee become bankrupt, it shall be lawful for the Lessor to re-enter the premises and immediately the term shall absolutely cease and determine.

IN WITNESS OF WHICH the parties have executed this agreement in the manner below the day and year first above written.

SIGNED

By the within named landlord

.....

Mr. Emereonye Godspower

IN THE PRESENCE OF:

Name:

Address:

Occupation:

Signature:

NLS DRAFTS ON PROPERTY LAW PRACTIC

SIGNED by the within named tenant

.....

Mrs. Loveth Bako

IN THE PRESENCE OF:

Name:

Address:

Occupation:

Signature:

NB: Ensure to learn execution clause for family land, illiterate, blind, attorney (where there is a power of attorney), company

WEEEK 10 ASSIGNMENT

TASKS FOR LEASES 2

MrsAfolake Bamikole is a business woman who deals in exportation of Palm Kernels to West African Countries. She lives at 23 Anike Street, Yaba Lagos. She owns two plots of land at Zoe Lane, Ikeja Lagos covered by a Certificate of Occupancy No 235198 and registered as 12/19/2008C in the Lands Registry, Ikeja, Lagos. She purchased the property in 2008. In 2009, she erected a block of ten twin duplex on the property.

In a bid to delve into real estate as advised by her Son who just got called to the Bar last year, MrsAfolakeBamikole purchased the following properties.

1. An acre of land at no. 15. Ibrahim Taiwo Road Ilorin, Kwara State. She intends togrant of a term of 3 years in respect of this property to AlheriGodiya of 12 Amilegbe, Ilorin, Kwara State.
2. A hotel having 150 rooms at 23 Church Gate Street, Agbani, Enugu State. She decided to grant of a term of 7 years in respect of this property in favour of Gold Ventures owned by Mrs Goldie Onyesopu of 33 Omalicha Street Enugu at the rate of 15 Million per annum.
3. A bungalow at Sapele, Delta State.
4. An office complex housing 30 offices at 16 Ikoyi Road, Obalende, Lagos State.

ANSWER THE FOLLOWING QUESTIONS

1. Mention the final document the parties to the transaction affecting the property in Enugu would need to execute in order to complete the transaction.
2. Would your answer in 1 above be the same in respect of the transaction affecting the property in Ilorin?
3. Enumerate at least 10 information you would obtain from the parties to enable you draft the document mentioned in question 1 above.
4. Draft the document mentioned in question 1 above assuming MrsBamikole understands only Igbona language (spoken among the people of Oke-Ero LGA of Kwara State).
 - i. Explain to Mrs Bamikole why you would need to include the following in the document identified in 1 above and the effect of failure to include such.
 - a. Covenant against Assignment;
 - b. Covenant as to User;
 - c. Covenant to pay rates and taxes;
 - d. Option to renew
 - e. Rent review clause
 - f. Covenant to repair.
 - ii. Explain to Mrs Bamikole the implication/s if any, of not including the above covenants in the transaction with Gold Ventures. Would your answer be different assuming the property was in Ikeja, Lagos?
5. How would you ensure that you balance the interests of both parties to a lease with respect to assignment of the demised premises? Demonstrate this in a draft.
6. Mention the contents of a standard insurance covenant in a lease and list out four factors that should be considered in deciding the party that should bear the burden of insurance in a lease.
7. Outline the various remedies available to each party in a lease, where the other party has committed a breach.
8. Explain to Mrs Bamikole what she needs to do to enable her take advantage of capital appreciation on her property at Agbani, Enugu State. Would your answer be the same assuming she wants to grant a further term to Gold Ventures?

- 9.** Identify the following clauses and comment on the adequacy or otherwise of the following clauses as a solicitor and offer a redraft if necessary.
- a. To pay all existing rates, taxes and other outgoings in respect of the demised premises.
 - b. The lessor covenants to keep the demised premises in a good state of repair.
 - c. The lessor shall on the written request of the lessee made at least three months before the expiration of the current term, grant to the lessee the lease of the demised premises for another term of five years from the expiration of the current term.
 - d. Not to assign, sublet, charge or otherwise part with possession of the demised premises or any part of it without the prior consent of the lessor.
 - e. This Deed of Lease is Made thisDay of20....

Between

Mrs Morenikeji Olomomeji (Sub Lessee) of the one part

AND

Mr Ikechukwu of the 2nd Part.

Week 11

MORTGAGES & CHARGES I

A Mortgage is a legal relationship or security transaction by which rights in land are transferred to secure payment of money or the discharge of some other obligations subject to redemption upon repayment of the loan or discharge of the obligation – ***Suberu v. AISL Ltd, Santley v. Wilde***. It is an agreement which may be expressed by deed between persons in which a borrower of a sum of money puts up his property as collateral for the money given with the understanding that the property will be conveyed back to him upon the repayment of the money and any interest on it. Mortgage is a security created by contract for the payment of a debt already due or to become due - ***Olowu v. Millers Bros Limited***.

Sample Draft of Search Report

Specimen Search Report

From: [Person making the report]:

To: [Person who requested or needs the report]:

1. Location of the Property: No. 12 Sweet Mother Street, Ikom, Cross River State
2. Title No. of the Property: No. 6532 dated 2/06/2011 and registered as 12/12/6532 at the Lands Registry Calabar, Cross River State.
3. Date of Search: 15th December, 2020
4. Place of Search: Lands Registry Calabar, Cross River State
5. Name of Registered Owner: Chief. Eyeke Kenneth Samuel
6. Nature of Interest of Registered Owner: Statutory Right of Occupancy
7. Existing Encumbrance(s) on the Property: Nil
8. Observations and Comments by the Solicitor: The property is a good security and it is unencumbered.
9. Any other comment:

Note: write a covering letter for the search report.

Sample Draft of Search Report

**EYEKE KENNETH & CO
BARRISTERS AND SOLICITORS
NO. 15 LOKOJA STREET, IKEJA
LAGOS STATE**

OUR REF: _____ YOUR REF: _____

DATE: _____

The Bank Manager
Zenith Bank Plc No. 23 Marina Lagos State

Dear Sir,

**SEARCH REPORT CONDUCTED ON PROPERTY REGISTERED AS
12/12/6532 AT THE LANDS REGISTRY IBADAN, OYO STATE**

Sequel to your briefing our Firm to conduct a search on the above property, we are pleased to inform you that the search has been carried out and a copy of the Search report is attached below:

1. **DATE OF SEARCH:** 6th January, 2021
2. **PLACE OF SEARCH:** Lands Registry Ibadan Oyo State
3. **NAME OF REGISTERED OWNER:** Chief Mrs. Remi Yakossi
4. **NAME OF BORROWER:** Chief Nosa Okon of No. 16 Makurdi Close Kwara State.
5. **DESCRIPTION OF THE PROPERTY:** No. 12 Croker Street Oyo State.
6. **NATURE OF INTEREST:** Right of Occupancy No. 6532 dated 12/07/2004 registered as 12/12/6532 at the Lands Registry Ibadan Oyo State.
7. **ENCUMBRANCES:** Nil
8. **COMMENTS/OBSERVATIONS:** The property is a good security and it is unencumbered

Yours faithfully,

Eyeke Kenneth Samuel, Esq.
(Principal Partner)
For: Eyeke Kenneth & Co.
External Solicitors to Zenith Bank Plc

Specimen of Electronic Search Report

1. Document Search:
2. Date of Search:
3. Description of Property:
4. Grantor:
5. Grantee:
6. Term:
7. Area of Land:
8. History of Land:
9. Subsequent Transaction/Encumbrance:
10. Remarks:

WEEK 11 ASSIGNMENT

QUESTION ON MORTGAGE 1

Chief Adebayo intends to raise more money for his campaign for 2023 election into the Senate. On 10th June, 2020 he used his property at 25, Bodija, Ibadan, Oyo State in which he has a Statutory Right of Occupancy for a term of 89 years with the agreement to let Zenith Bank Plc hold it for 50 years. He was to redeem it within five months. The loan was for N15m. He also deposited the title documents of the properties at 10, Blantyre Street, Lagos Island, Lagos State, and 5, Jos Street, Kaduna, Kaduna State with Access Bank Plc for the loan of N10m along with a memorandum of deposit made by deed. He later obtained additional N5m from Zenith Bank Plc with the same property at Ibadan, Oyo State but the bank merely stamped the 2nd instrument without obtaining the consent of the governor.

1. Identify the various ways of creating mortgage with the property known as 25, Bodija, Ibadan, Oyo State.
2. Identity the various types of mortgages created in this scenario with reasons.
3. Enumerate the roles of a solicitor in the transactions above

4. Mention the parties to the above mortgage transactions and briefly comment on capacity
5. Outline the procedure for Investigation of title and write the search report.
6. Advise the parties on the options of creating mortgage with the property known as 10, Blantyre Street, Lagos Island, Lagos State.
7. Assuming Chief Adebayo intends to create equitable mortgage using his property at 25, Bodija, Ibadan, Oyo State, identify the options available.
8. Comment on the need for the consent of the Governor in the above transaction and List the items needed to procure the consent of the Governor.

Scenario & Tasks

Mr. Mat Musaba lives in Benin City. Mr Mat Musaba is married to Adekemi and they have five children --- John, Jide, Jumai, Jolaade, and Jumoke. Mr. Mat Musaba owns the following personal and real properties, among others:

- 1) A 3-bedroom bungalow at 15, Ore Street, Benin City, (his residence) which he purchased from his business partner, Chief Damien of 45, Sapele Street, Benin City for N15 million in 2009;
- 2) A 40-feet-wide warehouse at 17, Dolapo Street, Okota, Lagos, which Mr. Musaba bought from Madam Kareem in 2010;
- 3) A 5-rooms bungalow at, Obalende Road, Ikoyi, Lagos, which Mr. Musaba inherited from his mother, Chief (Mrs.) Arinne who died intestate in 2015;
- 4) A Toyota Prado jeep;
- 5) The sum of Two Million Naira in his account domiciled at Jaiz Bank Plc.

Mr. Musaba has been diagnosed with a prostate cancer and he has been told he has few months to live. He instructed Aboki Audu Esq. to write his will. The will was executed on 1st December, 2019 with the following clauses:

1. I give my 3-bedroom bungalow at 15, Ore Street, Benin City to my son John.
2. I give N 2million from my account No. 34342424 domiciled at Jaiz Bank to my daughter Jumoke.
3. I give my 5-rooms bungalow at Obalende Road, Ikoyi, Lagos to my son Jide.
4. I give my Toyota Prado Jeep to my son Jolade.
5. I give my 40-feet-wide warehouse at 17, Dolapo Street, Okota, Lagos to my daughter Jumai.
6. The remainder to all my children to be shared equally.

Answer the following questions:

- a) Identify the type of gifts in clauses 1,2,3,4 and 5.
- b) Are there any implication(s) on the gifts in clauses 4 and 5?
- c) Assuming clause 6 is not inserted in the will, what are the likely consequences.
- d) What properties will add up to the gift in clause 6?
- e) Two days after the testator's death, it was discovered that the Lagos State Government had acquired the 5-rooms bungalow at Obalende Road, Ikoyi, which had been bequeathed to his son Jide on ground of public interest to be used as COVID 19 isolation center. Comment on the legal implication of the gift to his son Jide.
- 7. It was also discovered that the testator had mortgaged his 40-feet-wide warehouse at 17, Dolapo Street, Okota, Lagos to secure a loan to contest for a Senatorial seat which he lost and had not redeemed before his death. Comment on the effect of the mortgage on the gift to his daughter Jumai.
- f) Assuming John died one hour before the testator's death, state legal implications on the gift to him?
- g) Would your answer in (f) above be different if John is survived by a 5 years old son?
- h) List other exceptions to the effect on a gift to a beneficiary who predeceased the testator?
- i) Assuming after the Will had been executed and the testator decided to change his mind about the bequest to his daughter Jumoke and he cancelled it and in its place name his Son Jide who graduated with a first class from the Nigerian Law School.
- j) Comment on the implication of such alteration.
- k) Assuming after the alteration the bequest to Jumoke is still visible on the face of the will. Comment on the legal implication.
- l) By what other means the testator could have achieved the same result in (j) above?
- m) Assuming before the testator's death he had asked for your advice on how he could revoke his Will. Advise him.

Week 12 & 13

MORTGAGES AND CHARGES II

Covenants in mortgages are specific contractual agreements (terms) between the parties reached to regulate the relationship between the mortgagor and mortgagee in a particular mortgage transaction. The eight covenants are: Covenant to pay the mortgage sum and interest at a fixed date; covenant to insure against risk; covenant to consolidate; observance and performance of covenant in head lease; covenant to repair; covenant to create lease and sublease; restriction of redemption for a term certain; and covenant to create a power of attorney or declaration of trust.

DRAFTING DEED OF MORTGAGE

Particulars of Information needed to Draft a Deed of Mortgage

1. Particulars of the parties: Full names and addresses
2. Date of commencement
3. Duration of the mortgage
4. Principal sum
5. Interest rate
6. Description of the mortgage property
7. Value of the property
8. The various covenants
9. Execution
10. The witnesses

Formal Parts/Contents of a Deed of Mortgage

1. **Commencement:** THIS MORTGAGE/THIS DEED OF MORTGAGE
2. **Date:** Made the day of 20... Note: A deed takes effect from the date of delivery not necessarily the date on the deed.
3. **Parties:** BETWEEN..... of (The mortgagor) of the one part ANDof (The mortgagee) of the other part. It is possible to have a third party, a guarantor or some person forwarding his property as security.
4. **Recitals:** THIS DEED RECITES AS FOLLOWS: The following facts should be recited, borrower's title, the mortgagor's property, his desire to borrow and mortgagee's agreement to lend, guarantor's agreement to guarantee the

loan, Governor's consent where necessary.

5. Testatum: NOW THIS DEED WITNESSES AS FOLLOWS"

(a) The undertaking by mortgagor to pay to the mortgagee the principal sum with interest on a named date.

(b) The interest rate

(c) The deed may also contain a second testatum, stating the capacity of the mortgagor conveying as beneficial owner"

6. Provision for Redemption: this is the clause that allows the mortgagor to redeem the mortgaged property upon repayment of the mortgaged sum.

7. Parties Covenants: the various covenants that the parties to the mortgage transaction are expected to observe.

8. Testimonium: IN WITNESSES OF WHICH

9. Execution: SIGNED, SEALED, AND DELIVERED BY... If a company, COMMON SEAL of... is affixed to this deed.

10. Attestation: IN THE PRESENCE OF: Name, address, signature, and occupation of witness. If a company, IN THE PRESENCE OF: Director, Secretary.

11. Consent Clause: where required

Sample Drafts

Deed of Legal Mortgage

THIS DEED OF MORTGAGE is made this 6th day of September, 2019 BETWEEN Eyeke Kenneth Samuel of No. 7 Ogoja Road, Abakaliki, Ebonyi State (the Mortgagor) on one hand AND Heritage Bank Plc, a company registered under the Companies and Allied Matters Act with RC No: 191102 and a registered address at Plot E13 Express way, Ibadan, Oyo State (the Mortgagee) on the other part.

BACKGROUND:

1. The Mortgagor is entitled to the property, a 5 bedroom duplex at Plot 68 Melanin Crescent, Ibadan, Oyo State which is covered by Certificate of Occupancy dated 13/9/88 with Registration No. 88/13/13.
2. The Mortgagor has agreed to take the sum of **N50, 000,000** (Fifty Million Naira) loan and the Mortgagee has agreed to advance it using the said property as security.
3. This mortgage is made subject to Governor's consent to be obtained by the Mortgagor.

NLS DRAFTS ON PROPERTY LAW PRACTIC

THIS DEED WITNESS AS FOLLOWS:

The Mortgagor covenants to repay the principal sum of fifty million (N50, 000, 000.00) naira only to be paid by monthly instalments and the interest at 15% rate per annum, provided that if the Mortgagor pays the instalments at the last day of every month or within 14 days after that day, the interest rate shall be reduced to 12% per annum. The mortgagor further agreed with the mortgagee that the mortgage shall last for 24 months which the principal sum and interest shall become due on 30th March, 2020.

The Mortgagor as BENEFICIAL OWNER hereby SUB-DEMISES to the Mortgagee ALL THAT PROPERTY, a 5 bedroom duplex at Plot 68 Melanin Crescent, Ibadan, Oyo State which is covered by Certificate of Occupancy dated 13/9/88 and registered as No. 88/13/13 at the Lands Registry Office Ibadan, Oyo State rightly described by the survey plan to the First Schedule TO HOLD unto for the unexpired residue of the term granted under the Certificate of Occupancy less one day.

PROVIDED always that if the mortgagor repays the principal and interest on the loan, the mortgage shall cease and the mortgagee shall re-convey the property to the mortgagor at his cost.

TESTATUM

The miscellaneous part-provisos/covenants

IN WITNESS OF WHICH the parties have executed this deed of mortgage in the manner below the day and year first above written.

FIRST SCHEDULE

SIGNED, SEALED AND DELIVERED by the Mortgagor:

Eyeke Kenneth Samuel

IN THE PRESENCE OF:

Name: Olowoyeye Itunu

Address: No. 9 Mission Road, Ibadan, Oyo State

Occupation: Lawyer

Signature: _____

THE COMMON SEAL OF HERITAGE BANK PLC (THE MORTGAGEE) IS AFFIXED ON THIS DEED THE 6TH DAY OF SEPTEMBER, 2019 AND DULY DELIVERED IN THE PRESENCE OF:

.....
Director

.....
Secretary

I CONSENT TO THIS LEGAL MORTGAGE

DATED THIS 20TH DAY OF SEPTEMBER, 2019
EXECUTIVE GOVERNOR OF OYO STATE

Tripartite Deed of Legal Mortgage

THIS DEED OF LEGAL MORTGAGE is made this 6th day of December, 2020
BETWEEN Eyeke Kenneth Samuel of No. 7 Ogoja Road, Abakaliki, Ebonyi State
(The Mortgagor) of the first part
AND Mrs. Ukamaka Oriaku of No. 56 Calabar Road Agbani, Enugu State (The
Guarantor) of the second part
AND Zenith Bank Plc, a public company duly incorporated under the Companies
and Allied Matters Act with RC No: 891102 and a registered address at 10 Bank
Road, Maitama Abuja (The Mortgagee) of the third part.

BACKGROUND:

1. The Guarantor is the holder of a Certificate of Occupancy No. 26971 dated 10/10/2001 and registered as 19/19/1167 at the Lands Registry office, Enugu, Enugu State.
2. A loan Agreement between the Mortgagor, Guarantor and the Mortgagee where the sum of fifty million naira (N50, 000, 000.00) was advanced to the Mortgagor by the Mortgagee was made on 6th day of December, 2020 and duly executed.
3. The Guarantor agreed in the Agreement to secure the repayment of the loan collected by the Mortgagor on the property covered by a certificate of occupancy No. 26971 dated 10/10/2001 and registered as 19/19/1167 at the Lands Registry Enugu, Enugu State.
4. The Mortgagor has agreed to obtain the loan and the Mortgagee to advance

it while the Guarantor is standing as surety for the repayment of the loan using the said property as security.

THIS DEED WITNESS AS FOLLOWS:

The Mortgagor covenants to repay the principal sum of fifty million (N50, 000, 000.00) naira only to be paid by monthly instalments and the interest at 15% rate per annum, provided that if the Mortgagor pays the instalments at the last day of every month or within 14 days after that day, the interest rate shall be reduced to 12% per annum, while the Guarantor is standing as a surety for the repayment of the loan. The mortgagor further agreed with the mortgagee that the mortgage shall last for 24 months which the principal sum and interest shall become due on 30th May, 2021.

The Guarantor as BENEFICIAL OWNER hereby SUB-DEMISES to the Mortgagee ALL THAT PROPERTY, a 6 bedroom duplex at No 68 Fr. Mbaka Street, Enugu, Enugu State which is covered by Certificate of Occupancy dated 13/9/98 and registered as No. 26971 dated 10/10/2001 and registered as 19/19/1167 at the Lands Registry office Enugu, Enugu State rightly described by the survey plan to the First Schedule TO HOLD unto for the unexpired residue of the term granted under the Certificate of Occupancy less one day.

PROVIDED always that if the Mortgagor repays the principal and interest on the loan, the mortgage shall cease and the Guarantor shall re-convey the property to the mortgagor at his cost.

IN WITNESS OF WHICH the Mortgagor have executed this deed of mortgage in the manner below the day and year first above written

TESTATUM

The miscellaneous part-provisos/covenants

IN WITNESS OF WHICH the parties have executed this Deed in the manner below the day and year first above written.

SCHEDULE

SIGNED, SEALED AND DELIVERED

By the Mortgagor

.....

Eyeke Kenneth Samuel

IN THE PRESENCE OF:

Name: Esegì Maureen Izibevie

Address: No. 5 Akachukwu Road, Abakaliki, Ebonyi State

Occupation: Medical Doctor

Signature: _____

SIGNED, SEALED AND DELIVERED

By the Guarantor

.....

Mrs. Ukamaka Oriaku

IN THE PRESENCE OF:

Name: Ikokwu Rejoicce

Address: No 8 Fr. Mbaka Street, Enugu, Enugu State

Occupation: Civil Servant

Signature: _____

THE COMMON SEAL OF ZENITH BANK PLC (THE MORTGAGEE) IS AFFIXED
ON THIS DEED THE 6TH DAY OF SEPTEMBER, 2020 AND DULY DELIVERED
IN THE PRESENCE OF:

.....

Director

.....

Secretary

I CONSENT TO THIS LEGAL MORTGAGE

DATED THIS 20TH DAY OF SEPTEMBER, 2017
EXECUTIVE GOVERNOR OF ENUGU STATE

WEEK 13 ASSIGNMENT

TASK FOR MORTGAGES III

Pal and Pat Integrated Limited owns a factory at Industrial Area, Ibadan, Oyo State with two large warehouses and other facilities covered by a Certificate of Occupancy No OY 56735 and an estate of 10 units of 3bedroom flats at Ajao New Extension, Ikoyi, Lagos covered by Certificate of Occupancy No LA 35789. The management of the company approached Ziba Bank PLC to obtain a loan facility for the sum of N30million for the purpose of expanding the business and used the property at Ibadan as security. The mortgage instrument was assessed and stamped at the value of N20million and when the Company was called upon to apply for the consent of the Governor to perfect the mortgage, the company declined on the ground that they have some internal issues to settle at the Board of Directors of the company before that can be done. The Company had earlier used its property at Ikoyi Lagos to obtain a facility in the sum of N10million from Agreeable Bank PLC on the 25th of April, 2015 the property is however valued at N75million, they later approached the same Bank to obtain an additional facility in the sum of N35million to be paid by the 31st day of December, 2019. The interest rate for the initial facility with Agreeable Bank PLC is 20% percent, but the Bank intends to motivate early repayment by accepting 15% if paid promptly.

1. Identify the stages to register the mortgage instrument with Ziba Bank and list the documents that you will require for that purpose.
2.
 - a. What is the implication of the refusal of Pal and Pat Integrated Limited to apply for governor's consent?
 - b. Identify instances where Governor's consent would not be required in mortgage transactions.
3. What advise can you give Ziba Bank PLC in view of the mortgagor's refusal to apply for governor's consent?
4. Assuming the mortgage with Ziba Bank PLC was duly registered as a legal mortgage, by what means can it be discharged and what are the implications?
5. What are the implications of stamping of the mortgage instrument with Ziba Bank Plc?
6. Advise Agreeable Bank Plc on the legality or otherwise of the grant of the additional facility.

7. Draft the operative part of the initial agreement between Pal and Pat Integrated Ltd and Agreeable Bank PLC.
8. Outline list of instructions you will obtain in order to draft the Mortgage Agreement between the parties.
9. Assuming Pal and Pat Integrated Ltd wishes to use the property (comprising the factory and warehouses) in Ibadan to obtain another loan of N10million from Isolation Quar Bank Ltd;
 - a. Advise the parties of the propriety or otherwise of using the property in Ibadan.
 - b. Would your answer be different if the property were to be in Rivers State?
10. Identify the similarities and differences between the transactions in question 6 involving the additional facility of N35million and question 9 involving the proposed transaction between Pal and Pat Integrated Ltd and Isolation Quar Bank Ltd (using the property in Ibadan).

Week 14

SOLICITORS BILLING AND CHARGES

A solicitor cannot be paid legal fees except he is engaged to render legal services: and where an agreement provides for the payment of legal fees, a solicitor can only successfully recover fees where he acts for a party to that agreement – ***Rebold Ind. Ltd. v. Magreola***

ETHICAL CONSIDERATIONS

1. The solicitor should comply strictly with the scales of charges particularly scale I and II.
2. The solicitor should diligently prepare bills of charges where necessary
3. The solicitor should not submit bills that are objectionable
4. The solicitor should observe the rules of professional conduct in the legal profession in respect of fees
5. The solicitor should not enter into an agreement for, charge or collect an illegal or clearly excessive fee
6. The solicitor should not share his professional fee with non-lawyer
7. The solicitor should not sign legal documents prepared by a non-lawyer for a fee

Scenario

Air Cdr. Yabo Uzezi, public Servant of No 63 Kofar Eyong Road, Jimeta-Yola, is the owner of property at Plot 134 Najiv Avenue, Victoria Island, Lagos with Certificate of Occupancy No 231/LVI/2003. He also owns No. 46 Vitalis Close, Maitama Abuja.

At a **rent of N2m annually**, Yabo **created a term of three years** over the property at Lagos in favour of Engr. Tanko Calista, a Civil Engineer of No. 37 Augie Street, Apapa Lagos.

The three years rent was paid in advance. The agreement was to commence on February 1, 2009.

Later, on February 25, 2019, he used the same property to **secure a loan of N20m** obtained from RitzBank Plc. of No. 56 Ovie Faleti Road Ikoyi, Lagos at annual rate of 15% redeemable within 6 months of commencement.

Yabo was unable to redeem a loan of N25m he obtained from Fidelity Bank Plc in April 2016 within the agreed period; to avoid total loss of the mortgaged property, he contacted Engr. Tanko Calista for the **purchase of the property, which was agreed for N32m.**

You **acted for all the parties** in the negotiation for the **loan of N20m**, and also in negotiation for the sale **on behalf of both parties**. You had earlier **represented both parties** in the tenancy agreement.

You later sent a Bill of Charges for your professional services to both clients. The Bank has failed to pay. You filed summary summons at the Chief Magistrate Court, Yaba, Lagos since the amount claimed is just N3.8m.

Transactions Identifiable

The transactions identifiable in the scenario are:

1. Mortgage – acted for all the parties in the negotiation for the loan of N20m.
2. Sale of Land – acted for both parties in negotiation for the sale of land worth N32m.
3. Lease - represented both parties in the tenancy agreement of N6m.

Rules of Computing Charges/Fee

1. Mortgage (Scale I)

- (a) **Different Solicitors:** where the mortgagor and mortgagee are represented by different solicitors, the mortgagor solicitor will be entitle to full payment and the mortgagee solicitor will equally be entitle to full payment.
- (b) **One Solicitor:** where the mortgagor and the mortgagee are represented by one solicitor, the solicitor will be entitle to half payment of what is due to the mortgagor solicitor and
- (c) full payment of what is due to mortgagee's solicitor.

2. Sale of Land (Scale I)

- (a) **Different Solicitors:** where the vendor and the purchaser are represented by different solicitors, the vendor solicitor will be entitle to full payment and the purchaser solicitor will also be entitle to full payment.
- (b) **One Solicitor:** where the vendor and the purchaser are represented by one solicitor, the solicitor will be entitle to full payment of what is due to the vendor solicitor and half payment of what is due to the purchaser solicitor.

3. Lease (Scale II)

- (a) **Different Solicitors:** where the lessor and the lessee are represented by different solicitors, the lessor solicitor will be entitle to full payment and the lessee solicitor will be entitle to half payment of what is due to the lessor's solicitor. E.g. if the lessor solicitor is entitle to N10, 000 from the lessor, then lessee solicitor will be entitle to N5, 000 from the lessee.

(b) One Solicitor: where the lessor and the lessee are represented by one solicitor, the solicitor will be entitle to full payment of what is due to the lessor solicitor and half payment of what is due to the lessee solicitor. E.g. if the solicitor is entitle to N10, 000 from the lessor, then the solicitor will be entitle to N2, 500 from the lessee i.e. $\frac{1}{2}$ of the N5, 000.

Scales of Charges

Scale I - Scale of Charges on Sales, Purchase and Mortgages

| (1) | (2) | (3) | (4) | (5) |
|---|--|---|---|--|
| | For the first N1,000 per N100 N | For the second and third N1,000 per N100 N | For the fourth and each subsequent N1,000 up to N20,000 per N100 N | For the reminder without limit per N100 N |
| 5. Mortgagor's legal practitioner for negotiating loan... | 11. 25 | 11.25 | 3.75 | 2.50 |
| 7. Mortgagee's legal practitioner for negotiating loan... | 22.50 | 22.60 | 7.70 | 5.00 |
| 9. Purchaser's legal practitioner for negotiating a purchase and vendor's legal practitioner for negotiating a sale of property by private auction... | 22.50 | 3.75 | 3.62 | 2.80 |

Scale II – Scale of Charges for Leases and Agreement to Lease

(c) Where the rent exceeds N1, 000 –

1. N37.50 in respect of the first N100 of rent
2. N25 in respect of each N100 of rent or part thereof up to N1, 000
3. N12.50 in respect of each subsequent N100 or part thereof

Answer

MORTGAGE

Total Value of Transaction – N20, 000, 000

Mortgagor's Solicitor Fee

(Step 1 - For the first N1, 000 per N100 is N11. 25)

$$1, 000/100 \times 11.25/1 = 112.5$$

(Step 2 - For the second and third N1, 000 per N100 is N11.25)

$$2, 000/100 \times 11.25/1 = 225$$

(Step 3 - For the fourth and each subsequent N1, 000 up to N20, 000 per N100 is N3.75)

$$17, 000/100 \times 3.75/1 = 637.5$$

(Step 4 - For the reminder without limit per N100 is N2.50)

$$19, 980, 000/100 \times 2.50/1 = 499, 500$$

(Step 5 – Addition of the total value of Step 1 – 4 to get what is due to the mortgagor's solicitor)

$$112.5 + 225 + 637.5 + 499, 500 = 500, 475$$

(Step 6 – Since the solicitor is entitle to half payment of what is due to the mortgagor's solicitor, the total value of Step 5 will be divided by 2)

$$500, 475/2 = \text{N}250, 237.50\text{k}$$

Mortgagee's Solicitor Fee

(Step 1 - For the first N1, 000 per N100 is N22.50)

$$1, 000/100 \times 22.50/1 = 225$$

NLS DRAFTS ON PROPERTY LAW PRACTIC

(Step 2 - For the second and third N1, 000 per N100 N22.60)

$$2,000/100 \times 22.60/1 = 452$$

(Step 3 - For the fourth and each subsequent N1, 000 up to N20, 000 per N100 is N7.70)

$$17,000/100 \times 7.70/1 = 1,309$$

(Step 4 - For the reminder without limit per N100 is N5.00)

$$19,980,000/100 \times 5.00/1 = 999,000$$

(Step 5 – Addition of the total value of Step 1 – 4 to get what is due to the mortgagee’s solicitor)

$$225 + 452 + 1,309 + 999,000 = \text{N}1,000,986$$

Final Answer

The total amount due to the solicitor who acted for both the mortgagor and mortgagee will be an addition of the total value gotten under mortgagor’s solicitor fee and mortgagee’s solicitor’s fee as follows:

$$\text{N}250,237.50\text{k} + \text{N}1,000,986 = \text{N}1,251,223.50\text{k}$$

SALE OF LAND

Total Value of Transaction – N32, 000, 000

Vendor’s Solicitor Fee

(Step 1 - For the first N1, 000 per N100 is N22.50)

$$1,000/100 \times 22.50/1 = 225$$

(Step 2 – For the second and third N1, 000 per N100 is N3.75)

$$2,000/100 \times 3.75/1 = 75$$

(Step 3 - For the fourth and each subsequent N1, 000 up to N20, 000 per N100 is N3.62)

$$17,000/100 \times 3.62 = 615.4$$

(Step 4 - For the reminder without limit per N100 is N2.80)

$$31,980,000/100 \times 2.80/1 = 895,440$$

(Step 5 – Addition of the total value of Step 1 – 4 to get what is due to the vendor's solicitor)

$$225 + 75 + 615.4 + 895,440 = \text{N}896,355.40\text{k}$$

Purchaser's Solicitor Fee

Since the scale for calculating what is due to the purchaser's solicitor is the same with that of the vendor's solicitor, the amount due to the purchaser's solicitor will also be ~~N~~896,355.40k. But considering the rule of computation, the solicitor will be entitle to only half of what is due to the purchaser's solicitor as follows:

$$\text{N}896,355.40\text{k}/2 = \text{N}448,177.70\text{k}$$

Final Answer

The total amount due to the solicitor who acted for both the vendor and purchaser will be an addition of the total value gotten under vendor's solicitor fee and purchaser's solicitor's fee as follows:

$$\text{N}896,355.40\text{k} + \text{N}448,177.70\text{k} = \text{N}1,344,533.10\text{k}$$

LEASE

Total Value of Transaction – N6,000,000

Lessor's Solicitor Fee

(Step 1 - Where the rent exceeds N1,000 – N37.50 in respect of the first N100 of rent)

$$100/100 \times 37.50/1 = 37.5$$

(Step 2 - Where the rent exceeds N1,000 – N25 in respect of each N100 of rent or part thereof up to N1,000)

$$900/100 \times 25/1 = 225$$

(Step 3 - Where the rent exceeds N1,000 - N12.50 in respect of each subsequent N100 or part thereof)

$$5,999,000/100 \times 12.50/1 = 749,875$$

(Step 4 – Addition of the total value of Step 1 – 3 to get what is due to the lessor’s solicitor)

$$37.5 + 225 + 749,875 = \text{N}750,137.50\text{k}$$

Lessee’s Solicitor Fee

(Step 1: The lessee’s solicitor is entitle to half of what is due to the lessor’s solicitor as follows:

$$\text{N}750,137.50\text{k}/2 = \text{N}375,068.75\text{k}$$

(Step 2: However, since the solicitor acted for both lessor and lessee, the solicitor is entitle to half of what is due to the lessee’s solicitor as follows:

$$\text{N}375,068.75\text{k}/2 = \text{N}187,534.375\text{k}$$

Or it can be calculated as one-quarter ($\frac{1}{4}$) of what is due to the lessor’s solicitor as follows:

$$\text{N}750,137.50\text{k}/4 = \text{N}187,534.375\text{k}$$

Final Answer

The total amount due to the solicitor who acted for both the lessor and lessee will be an addition of the total value gotten under lessor’s solicitor fee and lessee’s solicitor fee as follows:

$$\text{N}750,137.50\text{k} + \text{N}187,534.375\text{k} = 937,671.875 \text{ approximated as } \text{N}937,671.88\text{k}$$

Sample Draft of Solicitors Bill of Charges

EYEKE KENNETH & CO
BARRISTERS AND SOLICITORS
NO 7 TINUBU STREET IKEJA, LAGOS STATE
Eyekekennethsamuel@gmail.com
08102959631

Our Ref: _____ Your Ref: _____

Date: 16th December, 2020

To
Mr. Aguguo Austin
No. 15 Adoration Avenue
Ikeja
Lagos State

Dear Sir,

RE: PREPARATION OF WILL
BILL OF CHARGES

Sequel to your instruction to prepare your last Will, please find attached our Bill of Charges on the execution of the instruction.

| Date | Particulars of Principal Items | Amount (N) |
|-------------------|--|-------------------|
| 10 December, 2020 | Professional fees on Preparation of Will | 400,000 |
| 11 December, 2020 | Transportation to Probate Registry | 15,000 |
| 12 December, 2020 | Lodging of Will at Probate Registry | 11000 |
| | Total | 446,000.00 |
| | Less Deposit | 200,000.00 |
| | Amount Due | ₦246,000.00 |

TAKE NOTICE that you are expected to make the payment to the firm's Account No: 0156716161 with Guaranty Trust Bank, Ikeja Branch on or before 6th April, 2021.

Yours faithfully,

Eyeke Kenneth, Esq.
(Managing Partner)
For: Eyeke Kenneth & Co

Week 15

WILLS AND CODICILS I

A will is a testamentary document made voluntarily and lawfully executed according to the Wills law by a person called the Testator with a sound disposing mind on how his estate (real and personal) will be disposed upon his death or it is a directive of a person on how his things or his properties will be disposed of upon his death.

Highlights: T-Testamentary Disposition; E-Executed Lawfully; V-Made Voluntarily; By Testator with Sound Disposing Mind; Ambulatory In Nature (TEVSA)

A Codicil is an attachment or addition of a Will. It is dependent on the existence of a Will. Where there is a codicil to a Will, the Will cannot be read in full without the codicil. The codicil does any of the following to a Will:

1. Revoke the will,
2. Adds to the will, alters it,
3. Revives the will, or
4. Republish the will.

Everything applicable to the validity of a Will is applicable to it.

THIS IS THE FIRST CODICIL TO MY WILL of (name, address, occupation)
made _____day of ____2021

ETHICAL ISSUES

1. Counsel to represent client within the bounds of the law He should not contravene the law **Rule 15(2)(a) RPC.**
2. A lawyer should not collude with a Beneficiary to alter the Will.
3. Duty not to take undue benefit from a client's property - **Rule 23(1) RPC.**
4. Where a lawyer is a beneficiary under a Will, he should tell the testator to engage the services of another lawyer to do the Will.
5. Duty not to charge exorbitant fees - **Rule 48(2) RPC**
6. Duty to take instructions in writing
7. Duty to be devoted and not to be negligent - **Rule 14 RPC**
8. Duty of confidentiality - **Rule 19(1) RPC**
9. Duty to disclose any conflict of interest -**Rule 17(1) RPC**
10. Duty not to take instruction in client's house except in special circumstances - **Rule 22 RPC.**

WEEK 15 ASSIGNMENT

1. Mr Olubunmi Oluwadare, a businessman, resides at N0 33 Alhudahuda Street, New GRA, Sabon Gari, Abuja FCT. He has been happily married to his wife, Cecilia for the past 25 years and they are blessed with 5 children. Mr. Olubunmi has just survived a vehicular accident which almost took his life along the Kaduna- Abuja Expressway. He was hospitalized for 6 weeks. He has just been discharged and is now recuperating at home. The brush with death has made Mr. Oludare realize that life is transient and can be lost at anytime. He has therefore decided that he will settle his affairs so his family will not go through any crisis in the event of his demise. He has therefore approached Mrs. Angela Rotini, a new wig, to advise him on how to go about taking care of his affairs so that his vast estate, comprising of houses in different States of Nigeria and abroad, cash and other investments will be inherited by people he loves and cares about. Mr Oluwadare asked his pastor Mr Isreal Koko and his wife to attest the will.

Attempt the following questions-

- a) Advise Mr Oluwadare on the merits of making a will as against intestacy.
- b) Assuming that Mr. Oluwadare gave his house at the village to Miss Jane Kuko, the first daughter of Mr Isreal Koko, advise her on the validity of the gift.
- c) Would your answer in (b) be the same if the house was given to Mrs Israel Kuko
- d) Would your answer in (c) be the same if the house was given to Mrs Isreal Kuko (i) as a settlement of an indebtedness, (ii) as a Trustee, (c) if Mrs Israel Koku attested the Will 3 days before her nuptials to Mr. Israel Koku. Give reasons.
- e) Six months after making his Will, Mr. Oluwadare was paid his professional fees for a contract he had executed for the government. He used part of the money to acquire a Toyota Jeep and a 3 bedroom semi- detached flat at No. 3 Oduduwa Street, Wuse, Abuja-FCT. Who among his beneficiary would likely inherit those properties. State other categories of properties that may fall into the same estate.
- f) Mr Olorundare is desirous of having his Will executed appropriately, advice him on the different ways he could execute his Will.
- g) Assuming Mr Oluwadare was a soldier stationed inside Sambisa forest on military operation, advice him on how he could validly execute his will. Would your answer be the same if the testator was a pilot and was flying to Japan when he made the will. Give reasons.

2. Mrs Osarumen Oyikoko, an indigine of Bayelsa State, resides at No. 33 Abidjan Street, Badagry, Lagos State with her husband and 5 grown-up children. She was a successful business woman and has, in the course of engaging in the business of exportation, acquired landed properties in major cities of the world. Mrs Oyikoko had called her solicitor, Mr. Doall Allshine and intimated him of her intention of making her last Will and Testament. She had also told him that instructions for a befitting burial would be part of the Will seeing that she has worked so hard in her lifetime so feels she is entitled to be sent-off with all the fanfare and pageantry befitting a woman of her status. Mrs. Oyikoko was supposed to meet with the Solicitor on 13th March, 2018 for drafting of the Will but had to cancel because of some family emergency that necessitated her going to the village. Their meeting was therefore re-scheduled for 14th April, 2018 at 3:00pm. On the said date, Mr. Doall Allshine was in his office waiting for his client when he got a phone call from her husband informing him that Mrs. Oyikoko had died. That she died in the village and has since been buried. After her burial, her family was informed of a Will she had prepared while at the village. The Will was made and written in Mrs Oyikoko handwriting. In the said Will she had given all her landed properties in Nigeria to her cousin Miss Ungulu Mushe for taking care of her when she was sick in the village. She also gave the remainder of her properties to her Uncle who had helped in purchasing the medications she had needed.

Answer the following question

- 1) Assuming Mrs Oyikoko had made her Will as originally agreed to with Mr. Doall Allshine and it included her instructions for a befitting burial, advise her on the steps to take to ensure her burial instructions are adhered to.
- 2) The children of Mrs Osarumen Oyikoko are planning on opposing the grant of Probate the following grounds
 - i. that the document was not prepared by her solicitor, Mr. Doall Allshine
 - ii. that the document cannot be regarded as a Will because it was not typed
 - iii. that Miss Ungulu Moshe manipulated Mrs. Oyikoku into giving her the properties in the Will.
- 3) Assuming that when Mrs Oyikoko had suffered from delusion in her lifetime and this is one of the grounds on which her children are challenging the validity of the Will, advice the propounders of the Will on how to prove that Mrs Oyikoko had the requisite sound mind when making her Will.

Week 16

WILLS AND CODICILS II

Types of Gifts/Legacies under a Will

1. Specific gift which is subject to the rule of ademption (a situation where the specific gift bequeathed to a beneficiary is discovered not to be in existence and the gift will fail because of that)
2. General gift
3. Demonstrative gift
4. Substitutive gift
5. Annuity
6. Pecuniary gift
7. Residuary gift which is aimed at avoiding partial intestacy
8. Joint gifts or those given in common or equal shares
9. Contingent/conditional gift
10. Alternative gift
11. Accumulated gift

Order from which executors can use legacies to satisfy debts of the estate: residuary, general, demonstrative, specific legacy.

TYPES OF LEGACY

Specific Legacy: This is a gift of an identifiable property that is specific and distinguishable from the other properties owned by the testator. It must be properly and sufficiently described. The gift may be indicated by the use of the word “my” followed by a description of the gift.

Examples

1. A gift of my Toyota Camry car with Reg. No BQ232 AWK to my daughter Bimpe.
2. I give my diamond ring bought from Agoz Jewelleries UK to my niece Nkechi.
3. A gift of my 4 million shares in FBN PLC to my son Bala.

It is not a specific gift if it reads; “A Toyota car for my son Dayo”

In order to avoid the failure of a specific gift, alternative or substituted gifts are made to the beneficiary e.g. “a gift of my Mercedes Benz with Reg. No BQ232 AWK to my daughter Bimpe. If it fails, I make a gift of Toyota Hiace with Reg DF874 to her.”

General Legacy: It a general legacy, there is no specific description. It does not refer to a particular piece of the testator’s estate. The testator intends that the gift

should be satisfied from the general assets of his estate. There is nothing distinctive about the gift. The use of the word 'my' is not a decisive factor (e.g. a gift of my walking stick to my son Ebuka – could be general if testator has many walking sticks or specific if he only has one).

Examples

A gift of a walking stick to my son Joel. If the testator does not own a walking stick at his death, the Executors/Personal Representative will provide for it from the testator's general estate. Note: gifts of shares and stocks.

Demonstrative Legacy: This may be in form of general legacy but directed to be satisfied from a specific fund or particular pool of property (not restricted to property) i.e. testator will demonstrate to the executors the source from which the gift is to come from- usually payable from a bank account.

Example

1. I give N50, 000 to Bimpe to be drawn from my savings account No. 2345678910 at Diamond Bank. Gift + Description + Source = Demonstrative legacy.
2. A gift of 2 million naira to be paid out of my account with Zenith Bank Plc Okpara Avenue Enugu Branch to Johnson.
3. A gift of my Honda car with Reg. No BC345 parked in my garage at No. 5 Park Lane Independence Layout Enugu to Killi.

Residuary Legacy: This is the remainder of the property belonging to the estate after payment of all other gifts and debts, expenses taxes and liability of the testator have been fulfilled, cleared or paid. It is made up of personal or real property. A residuary clause is usually inserted in the Will to transfer all remaining residue and remainder. The beneficiaries are called 'Residuary Legatees'

Such remainder may have been derived from the following:

1. Property acquired by testator after making his will or codicil
2. Properties acquired after testator's death.
3. Gifts that lapsed by the death of the beneficiary or lack of substitution clause
4. Gifts that failed.

Example

All my properties as shall be vested in me at the date of my death, not specifically given out in my will or such that fails or lapses by the death of the beneficiary, to my children in equal part.

Week 17
WILLS & CODICILS III

Under the Wills Act, a testator can freely dispose of his properties and make his will without any hindrance prescribed by statutes, custom and religion. In **Banks v Goodfellow**: Ct affirmed the right of testamentary freedom of a person. However, overtime, it was felt that the absolute right to dispose any property to any beneficiary occasioned hardship on the relatives of the testator and dependants.

FORMAL PARTS OF A WILL& CODICIL

Formal Parts of a Will

1. **Commencement:** Describes the document and the maker of the document as his act.

THIS IS MY LAST WILL OR THIS IS THE LAST WILL OF ME...

2. **Date:** States the day the will was made/executed. This helps in proving due execution.

MADE THIS 5TH DAY OF JANUARY 2020

3. **Revocation Clause:** This annuls any earlier Will or codicil made by the testator and assists in affirming the present Will a last testamentary act of the testator (must be in all wills even if client says he has never made a will before)

I REVOKE ALL FORMER TESTAMENTARY DOCUMENTS OR DISPOSITIONS MADE BY ME...

4. **Appointment Clause:** This clause appoints the personal representatives and trustees of the testator.

I APPOINT...

5. **Charging Clause:** This clause permits and mandates the Personal Representatives and any person acting in that capacity to charge for the services they render otherwise their services would be taken to have been rendered gratuitously.

I DECLARE THAT MY EXECUTORS SHALL CHARGE OR I AUTHORISE MY EXECUTORS TO CHARGE...

- 6. Disposition Clause (Gifts):** This is the clause that bequeaths gifts (Legacies and devices) to respective beneficiaries

I GIVE TO...

- 7. Residuary Clause:** This states the person who will be entitled to the residue (remainder) of the estate of the testator.

I DECLARE THAT THE REMAINDER OF MY ESTATE SHALL... I GIVE TO ...

- 8. Substitution Clause:** In case any gift fails or ceases to exist at the death of the testator

- 9. Testimonium:** This links the testator with the Will.

IN WITNESS OF WHICH...

- 10. Execution and Attestation Clause:** the execution clause satisfies the basic requirement in Wills that the testator must sign the Will as indicative that the document is his act. To prevent fraud, the law requires attestation of witnesses. The attestation clause confirms the presence of persons who witnessed the execution of the Will by the testator.

SIGNED AS HIS LAST WILL BY THE ABOVE NAMED TESTATOR IN OUR JOINT PRESENCE AND THEN BY US IN HIS PRESENCE.

SIGNED BY THE ABOVE NAMED TESTATOR IN THE JOINT PRESENCE OF US AND EACH OTHER WHO IN HIS PRESENCE AND THAT OF EACH OTHER HAVE SUBSCRIBED OUR NAMES AS WITNESSES.

SAMPLE DRAFTS

Specimen Will

THIS IS THE LAST WILL of me, Mr. Eyeke Kenneth Samuel of 42 Umoji Street, Abakaliki, Ebonyi State (The Testator) made on the 10th day of December, 2020.

1. I REVOKE all previous testamentary dispositions made by me, and I DECLARE this Will to be my last Will.
2. I APPOINT Barr. Ndubueze Ekene of 14 Osibanjo Avenue, Ikorodu, Lagos and Mr. Olorunniyi Adeboyin Ifeoluwapo of No. 39 Abacha Street Ikoyi Lagos State to be the Executors (Trustees) of my Will.

NLS DRAFTS ON PROPERTY LAW PRACTIC

3. I DECLARE that my Executors or any Professional or person engaged in proving my Will and administering the estate may charge reasonable fees for their services.
4. I GIVE my three storey building at 5 Saint Thomas Avenue Ikorodu Lagos to my son, Dr. Ikenna Eyeke of 10 Nkaliki Street, Abakaliki, Ebonyi State.
5. I GIVE my Toyota Camry 2015 model to my son, Kennedy Eyeke.
6. I GIVE my 100, 000 shares of Nancwat Microfinance Bank Plc to my wife, Blessing Eyeke of 42 Umoji Street, Abakaliki, Ebonyi State
7. I GIVE the remainder of my estate to my son Dr. Ikenna Eyeke and my daughter Mrs. Precious of 18 Light Street Ikoyi Lagos in equal share.
8. I GIVE _____
- 9.

IN WITNESS OF WHICH I, Mr. Eyeke Kenneth (The Testator) have executed this Will in the manner below the day and year first above written.

Mr. Eyeke Kenneth.....
(Sign)

SIGNED by the Testator, in the presence of us both and at the same time who at her presence subscribed our names as witnesses.

.....
Chukwuemeka Queen O.
(Witness)

.....
Henrietta M Ekefre
(Witness)

CODICILS

This is otherwise known as a miniature or supplemental Will attached to a previous valid Will. For there to be a codicil, there must be an earlier Will. All the formalities for a Will to be valid apply to a codicil. The testator must possess the testamentary capacity and the codicil must be executed by the testator in the presence of two witnesses who must be present at the same time and who shall attest to the codicil. There could be a Will without codicil but there can never be a codicil without a Will. The Commencement of a codicil is as follows: "THIS IS THE FIRST CODICIL TO THE LAST WILL of me, Mrs. Jones Emeka of No.2 Ejure Street Isolo Lagos made the 13 day of June 2020".

Specimen Codicil

THIS IS THE FIRST CODICIL to the last Will and testament of me, Mr. Eyeke Kenneth Samuel of 42 Umoji Street, Abakaliki, Ebonyi State (The Testator) made on the 4th day of January, 2021.

1. I REVOKE clause 5(five) of my Will made on the 10th day of December, 2020.
2. I GIVE all my residuary Estate to my wife, Blessing Eyeke 42 Umoji Street, Abakaliki, Ebonyi State, Dr. Ikenna Eyeke, my son and Mrs. Precious Agubata of 18 Light Street Ikoyi Lagos in equal share.
3. I confirm my Will in all other respects.

IN WITNESS OF WHICH I, Mr. Eyeke Kenneth (The Testator) have executed this Will in the manner below the day and year first above written.

Mr. Eyeke Kenneth.....
(Sign)

SIGNED by the Testator, in the presence of us both and at the same time who at her presence subscribed our names as witnesses

.....
Chukwuemeka Queen O.
(Witness)

.....
Henrietta M Ekefre
(Witness)

PRE CLASS ASSIGNMENT

Mr. Mat Musaba a Benin traditional Chief lived all his life in Lagos and a very successful plank seller. He was married to Adekemi and had five children namely, John 20 years, Jide 16 years, Jumai 8 years, Jolaade 6 years and Jumoke 3years old. Before his death on 20th July, 2020, he was diagnosed with prostate cancer at the Lagos State University teaching hospital and he was told he had few months to live. He instructed Aboki Audu Esq to write his Will. The Will was executed on 4th May, 2020 where he bequeathed his three-bedroom bungalow situate at Ahmadu Bello way, GRA Ikeja, Lagos to his first son John. He equally gave all other properties situate in Lagos to his girlfriend Tayothat stood with him during his trying period. After his death, the Will was found by his

wife Adekemi. She read the Will and felt betrayed by her husband despite her true love for him and her sacrifice in the marriage. She has approached you for legal advice. Answer the following questions.

- a. Comment on the validity of his bequest to his girlfriend.
- b. Advise Adekemi on how she can protect her children in the circumstances.
- c. Assuming the testator being a Benin traditional Chief and his eldest son John(born out of wedlock) has been disinherited of his dwelling house in Benin and the Will contained the following clause:
“I DECLARE that I make the above demise and bequest when I am quite sane and well. It is my will that nobody shall modify or vary this Will. It is my will that the native law and custom of Benin shall not apply to alter or modify this Will” Comment on the validity of the bequest and as well as the clause containing the above declaration.
- d. Assuming the testator resided in Ilorin and was subject to Islamic Law. Advise him on the way and manner in which he can dispose of his property.
- e. If you were the testator's solicitor, in drafting his Will what information would you require from him?
- f. Draft the following clauses of the testator's Will
 - i. Commencement,
 - ii. Appointment
 - iii. Revocation.
- g. Assuming Mr. Mat Musaba is not sure of how to compensate his executors for carrying out the work of executorship and he wants to ensure his executors do not decline the execution of his estate. Advise him on what to do.
- h. Draft any clause you deem fit to actualize your advice in (f) above.
- i. Assuming the witnesses to testator's Will are Audu Ali of No. Ali Street Ikeja Road Lagos and Ladi Sani of No. 41 Ahmadu Bello Way Victoria Island Lagos.
 - a) Draft the execution and attestation clauses to be included in the Will.
 - b) Assuming the testator is a blind man, draft the execution and attestation clauses to be included in the Will.
 - c) Assuming the testator had authorized Mr. Ahmed Musa to sign the Will on his behalf. Draft the execution and attestation clauses.

As a legal practitioner engaged in drafting this Will. List 7 professional responsibilities you must be conscious of in the course of your professional services.

Week 18
PROBATE & LETTERS OF ADMINISTRATION

Probate practice comprises of the procedure for the grant of probate and letters of administration both in contentions and non contentions cases. Until probate or letters of administration is granted, the executor or administrator who interferes with the state of the deceased person is inter-meddler. See *Bank of West Africa LTD. V Ricket (1959 NRNLR 125)* Probate is an official verification of a Will; admitting the Will. It is granted only where there is a valid Will and Executors were appointed in the Will.

STEPS

1. Search for the Will at the Probate Registry or Bank etc.
2. If the Will is found, send it within 14 days to the Court within the jurisdiction where the testator died.
3. The Will is to be read after 7 days of the testator's burial in the presence of persons interested.

TYPES OF GRANT

- 1. GRANT OF PROBATE** – This grant will be given when the deceased died testate leaving a valid Will with executors validly appointed in the Will.
- 2. GRANT OF ADMINISTRATION WITH THE WILL ANNEXED:** This grant will be given when the deceased died testate either without appointing executors or those appointed renounce probate or minors are appointed as executors.
- 3. GRANT OF SIMPLE ADMINISTRATION** This grant will be issued where the deceased died intestate either wholly or partly. Where he died partially testate, the part of his estate not covered in the Will would be administered by the grants of simple administration.

SAMPLE DRAFT: APPLICATION LETTER FOR THE GRANT OF PROBATE

EYEKE KENNETH & CO
BARRISTERS AND SOLICITORS
NO 7 TINUBU STREET IKEJA, LAGOS STATE
Eyekekennethsamuel@gmail.com
08102959631

Our Ref: _____ Your Ref: _____

Date: 6th December, 2020

To
The Probate Registrar
High Court 2
Ikeja Judicial Division Lagos State.

Sir,

IN THE MATTER OF THE ESTATE OF LATE MRS OLORUNNIYI DIVINE DESMOND
APPLICATION FOR GRANT OF PROBATE (RE-SEALING OF PROBATE/
LETTERS OF ADMINISTRATION)

We are Solicitors to Dr. Abdulkareem Abdulhamid, Mrs. Ogah Ogechi Lovelyn and Gunat Nansat who are the Executors of the Will of Mrs Olorunniyi Divine Desmond (now deceased) of No. 12 Aduke Street Ikeja Lagos, who we will refer to herein as 'our clients'.

It is our clients' instructions that we apply for the grant of Probate on the Will of Mrs Olorunniyi Divine Desmond (deceased) who died on the 10 day of January 2020 and before her death she lived at No. 12 Aduke Street Ikeja Lagos and within the jurisdiction of this Court.

Please find attached the following documents for your kind consideration:

1. Certified true copy of the Will of Mrs Olorunniyi Divine Desmond dated 14 March 2016.
2. Copy of the death certificate of Mrs Olorunniyi Divine Desmond dated 14 January 2020.

We will appreciate if the necessary Forms to process Probate are made available to us. Thank you.

Yours faithfully,

Eyeke Kenneth Esq
(Principal Partner)
For: EYEKE KENNETH & CO.

WEEK 18 ASSIGNMENT PROBATE & ADMINISTRATION OF ESTATE 1

Mr. Mat Musaba, a seasoned comedian, is a native of Kofadandoya, Kano State and resident at Plot 48 Rikos Avenue, Abuja.

He lived all his life and died in Abuja on March 28, 2020 at the age of 72 as a result of complications from covid-19 at the Round Life Specialist Hospital, Abuja leaving a Will dated July 24, 2019. Musaba was survived by his wife, Mrs. Adekemi Musaba, two sons and three daughters namely: John (32), Mrs. Jumai Musaba-Dangana (30), Jolaade (27), Jumoke (27) and Jide (24).

Musaba, in his Will, appointed his wife (Adekemi), his first son, Eng. John Musaba of No. 43 Allen Road, Ikeja-Lagos as Executors of his last Will.

He owned a 4-bedroom duplex at No. 9 Konga Avenue, Apapa, Lagos; a 3-bedroom bungalow at No. 15 Ore Street, Benin City; a 2-bedroom flat at Plot 16 Ogui Drive, Abuja; 3-bedroom duplex at No. 25 Orange Street, Garki-Abuja and a 4-bedroom duplex with boys' quarters at No. 48 Kings Drive, G.R.A. Kano.

He also owned a Toyota Prado Jeep (2014 model- KJA-214 AA), Honda Accord car (2014 model- EKY- 902 ST), Silver lining Rolex wrist watch, Kawazaki power bike (2012 model- GWA-432 DX) and BMW X5 SUV (2015 model- ABC 523-AG) and other personal properties as contained in his said Will.

Mr. Mat Musaba maintained Current accounts with Zenith Bank PLC, Ikeja Branch, Lagos (Account NO: 0020150318) and Access Bank PLC, Wuse Branch, Abuja (Account NO: 0320150180).

Answer the following questions:

1. (a) Advise Mrs. Adekemi Musaba on what the family needs to do in order to legally administer the estate of the deceased.
- b. State the procedure the family would adopt to achieve this purpose.
- c. Would your answer be different assuming that Mat Musaba's brother, Badiru, wants to protest the validity of the Will? If yes, advise the parties on steps to take in this direction.
- d. Assuming John Musaba was not in the country when probate was granted. He has now come back and wants to take part in the administration of his father's estate. Advise him on what he should do.
- e. Assuming that the executors of Mat Musaba have applied for and obtained probate, advise them on the step/s they need to take to be able to deal with his property in Kano, Cotonou, Lagos and Benin City.
- f. Assuming Mat Musaba did not appoint anyone to act on his behalf in the Will. Saratu, his wife's niece (who recently got admitted to the University of

Abuja but who spent three months as an intern in a Law firm) told her aunty that her husband's Will was as good as not writing a Will. Mrs Musaba is confused and wants your opinion. Advise her. State other instances when this advice would be applicable.

2. Assuming that Musabalived and died in Lagos without leaving a Will, advise his family on:
 - (a) The document/s they would need to obtain in order to legally administer the estate of the deceased.
 - (b) The person/s to whom the document could be issued.
 - (c) State the procedure to be adopted to obtain the document/s mentioned in 2(a) above.
 - (d) State other instances when such document/sin 2(a) above may be applied for at the probate registry.
 - (e) Advise the family on the step/s to take to administer Mat Musaba's estate where he dies without leaving a Will but has personal properties without any realty.

Scenario & Tasks

Mr. Mat Musaba lives in Benin City. Mr Mat Musaba is married to Adekemi and they have five children --- John, Jide, Jumai, Jolaade, and Jumoke. Mr. Mat Musaba owns the following personal and real properties, among others:

- 1) A 3-bedroom bungalow at 15, Ore Street, Benin City, (his residence) which he purchased from his business partner, Chief Damien of 45, Sapele Street, Benin City for N15 million in 2009;
- 2) A 40-feet-wide warehouse at 17, Dolapo Street, Okota, Lagos, which Mr. Musaba bought from Madam Kareem in 2010;
- 3) A 5-rooms bungalow at, Obalende Road, Ikoyi, Lagos, which Mr. Musaba inherited from his mother, Chief (Mrs.) Arinne who died intestate in 2015;
- 4) A Toyota Prado jeep;
- 5) The sum of Two Million Naira in his account domiciled at Jaiz Bank Plc.

Mr. Musaba has been diagnosed with a prostate cancer and he has been told he has few months to live. He instructed Aboki Audu Esq. to write his will. The will was executed on 1st December, 2019 with the following clauses:

1. I give my 3-bedroom bungalow at 15, Ore Street, Benin City to my son John.
2. I give N 2million from my account No. 34342424 domiciled at Jaiz Bank to my daughter Jumoke.
3. I give my 5-rooms bungalow at Obalende Road, Ikoyi, Lagos to my son Jide.

4. I give my Toyota Prado Jeep to my son Jolade.
5. I give my 40-foot-wide warehouse at 17, Dolapo Street, Okota, Lagos to my daughter Jumai.
6. The remainder to all my children to be shared equally.

Answer the following questions:

- a) Identify the type of gifts in clauses 1, 2, 3, 4 and 5.
- b) Are there any implication(s) on the gifts in clauses 4 and 5?
- c) Assuming clause 6 is not inserted in the will, what are the likely consequences?
- d) What properties will add up to the gift in clause 6?
- e) Two days after the testator's death, it was discovered that the Lagos State Government had acquired the 5-rooms bungalow at Obalende Road, Ikoyi, which had been bequeathed to his son Jide on ground of public interest to be used as COVID 19 isolation center. Comment on the legal implication of the gift to his son Jide.
7. It was also discovered that the testator had mortgaged his 40-foot-wide warehouse at 17, Dolapo Street, Okota, Lagos to secure a loan to contest for a Senatorial seat which he lost and had not redeemed before his death. Comment on the effect of the mortgage on the gift to his daughter Jumai.
- f) Assuming John died one hour before the testator's death, state legal implications on the gift to him?
- g) Would your answer in (f) above be different if John is survived by a 5 years old son?
- h) List other exceptions to the effect on a gift to a beneficiary who predeceased the testator?
- i) Assuming after the Will had been executed and the testator decided to change his mind about the bequest to his daughter Jumoke and he cancelled it and in its place name his Son Jide who graduated with a first class from the Nigerian Law School.
- j) Comment on the implication of such alteration.
- k) Assuming after the alteration the bequest to Jumoke is still visible on the face of the will. Comment on the legal implication.
- l) By what other means the testator could have achieved the same result in (j) above?
- m) Assuming before the testator's death he had asked for your advice on how he could revoke his Will. Advise him.

Week 19
PERSONAL REPRESENTATIVES AND ASSENT

The term when used includes Executors and Administrators. They are the ones appointed or granted the authority to administer the estate/properties of a deceased. An executor if appointed under the will. An administrator where done by operation of law/court outside the act of the deceased. Where deceased appoints executors, he could also appoint trustees. An executor is expected to act in good faith but he is not a trustee so he has no power to assign his duties, function and powers of office of executor. If executor is also appointed as trustee, he can appoint someone else and transfer the duties of trusteeship to that person and retire from the trust - **Adeniji v Probate Registrar.**

Sample Draft of an Assent

WE, DR. ABDULKAREEM ABDULHAMID OF 43 USMAN STREET IKEJA LAGOS AND MRS. OGAH OGECHI LOVELYN OF 27 CHRIS CLOSE IKEJA LAGOS, THE PERSONAL REPRESENTATIVES (EXECUTORS) OF MRS OLORUNNIYI DIVINE DESMOND (Deceased) of 12 Aduke Street Ikeja Lagos who died on the 10 day of JANUARY 2020 and whose Will was proved on the 10 day of APRIL 2020 in the Probate Registry of the High Court of Lagos State:

1. DO HEREBY on this 26th day of April 2020 as such personal representatives, ASSENT to vesting in Dr. Nansat Mark of No. 10 Ikorodu Road Surulere Lagos State (the Beneficiary) ALL THAT two storey building at 56 Awolowo Avenue Ikeja Lagos covered by a certificate of Occupancy No. 876534 dated 12/11/2004 and registered as No.24 page 45 and volume 5647 of the said Mrs Olorunniyi Divine Desmond at the time of her death.
2. WE DECLARE that we have not previously given or made any assent or conveyance in respect of any legal estate in the property or any part of it.
3. WE ACKNOWLEDGE the right of Dr. Nansat Mark (the Beneficiary) to the production of the Probate of the Will (the possession of which is retained by us) of the deceased and to the delivery of copies.

IN WITNESS OF WHICH we, Dr. Abdulkareem Abdulhamid and Mrs. Ogah Ogechi Lovelyn have executed this Assent the day and year first above written.

SIGNED AND DELIVERED

By the within named

.....
Dr. Abdulkareem Abdulhamid

IN THE PRESENCE OF:

Name:

Address:

Occupation:

Signature:

Date:

SIGNED, AND DELIVERED

By the within named

.....

Mrs. Ogah Ogechi Lovelyn

IN THE PRESENCE OF:

Name

Address

Occupation:

Signature:

Date

WEEK 19 ASSIGNMENT ON PERSONAL REPRESENTATIVE

Mr. Mat Musaba lived and died in Abuja on March 28, 2020 at the age of 72 following complications of covid-19 at the Round Life Specialist Hospital, Abuja leaving a Will dated July 24, 2019. Musaba was married under the Act and was survived by his wife, Mrs. Adekemi Musaba, two sons and three daughters namely: John (32), Mrs. Jumai Musaba-Dangana (30), Jolaade (27), Jumoke (27) and Jide (24). Musaba appointed as executors his first son, John Musaba and Master ChuksMusaba aged 12yrs old, a love child from his Mistress of 25 years. Mr. Musaba's Will contains the following clauses:

'I give N2Million from my account No 34342414 domiciled at Jaiz Bank to my daughter Jumoke'

'I give my Toyota Prado Jeep to my son Jolade'

'I give N2Million to my childhood friend Chief Yekovie in settlement of my long-standing debt to him'

It is now five months since Mr. Musaba died and probate was granted to his estate. Mr. John Musaba refuses to distribute the estate to the beneficiaries

despite all entreaties. The beneficiaries have now consulted you as a new wig for advice on options open to them.

Answer the following questions:

1a. Advise the beneficiaries on the position of the law In respect of MrJohn's refusal to distribute the estate.

1b. Would your advice in (a) above apply to Chief Yekovie?

2a. The executors in the above Will sent a bill of N8 Million to the family of Mr. Mat Musaba as their professional fees for the task of administering the estate. Advise the family on the position of the law regarding the issue.

2b. Would your advice in (2a) above be affected if Mr. Mat Musaba's Will had the following execution/Attestation clause. Give reasons for your answer

Signed:

Mr. Mat Musaba (Testator)

Signed:

John Musaba (Witness 1)

Signed:

Devon Engel (Witness 2)

3a. John Musaba remembers all the mid night pains his dad had caused his mother in the later years of their marriage and vows not to have anything to do with Mr. Musaba both in life and death. Advise John on steps he needs to take to avoid liability of any sort.

3b. Assuming John Musaba sought and obtained a valid advice and had taken the requisite steps to avoid liability, and that he was the sole executor, advise the family of Mr. Mat Musaba on the next steps to take.

3c. Mr. John Musaba attended an all-night vigil of the Gathering of Angels Church, Kawuka,Taraba State in which the Church's General Overseer ministered the Word of God. He now has a change of heart and wishes to comply with MrMusaba's instructions in his Will. He wants to know if he has lost the opportunity forever. Advise him.

4a. Mr. Musaba's first daughter, Mrs. JumaiMusaba-Dangana, who had been estranged from her husband and had been living in one of Mr. Musaba's houses in Gwarinpa, finds to her excitement that Mr. Musaba had devised the same property to her. Being in critical need of money, she immediately began to rent out the rooms and collect rents. Advise her on the propriety or otherwise of her action

4b. Mr. John Musaba got wind of Mrs. JumaiMusaba-Dangana's action and immediately took out writ seeking an order of injunction to restrain her. Infuriated, Mrs. Jumai argues Mr. John is acting ultra vires without grant of probate. Advise the parties.

5a. The Executors, in a bid to offset debts of Mr. Mat Musaba, sold his 40 Feet wide warehouse at 17 Dolapo Street, Okota Lagos to Chief Onwalchide. Advise Chief Onwa on the validity of the transaction.

5b. Despite the sale of the ware-house, the estate is short of cash to satisfy the pecuniary gift of N2 Million to Jumoke. The executors decide to augment the available cash with the Toyota Prado Jeep to Jumoke. Advise the executors on the propriety or otherwise of this contemplated action.

6a. Mr. Mat Musaba had a bakery factory 'Mat Musaba Bakeries'. The executors want to sell the bakery business. The executors consider offers made so far very ridiculous. What would be your advice to them?

6b. Mr. Mat Musaba's estate is found not to be sufficient to cover all the Testator's debts and devises under the Will. There are competing demands from both the beneficiaries and Mr. Musaba's creditors. Advise the executors on how to proceed in the seeming confusion.

6c. The executors have now fully administered the estate. Each beneficiary was taken to the property gifted to him or her. However, there is contention as to who keeps the Will in the event of future dispute as to ownership of their newly acquired properties. Advise them.

WEEK 20 PROPERTY LAW TAXATION

Tax is a compulsory charge by the government on the income of an individual, corporation, trust as well as the value of an estate. An amount of money levied by a government on its citizens and used to run the government, the country or state.

Types of Taxes

1. Stamp Duties
2. Personal Income Tax
3. Value Added Tax
4. Tenement Rates
5. Capital Gains Tax
6. Ground Rent
7. Consent Fee
8. Company Income Tax
9. Withholding Tax on Companies

Applicable Laws

1. Land Use Act – e.g. consent fees
2. Value Added Tax Act Cap V1 LFN 2004
3. Stamp Duties Act Cap S8 LFN 2004
4. Land Instrument Registration Laws (LIRL) of the various states
5. Capital Gains Tax Act Cap C1 LFN 2004
6. Personal Income Tax Act (PITA) Cap P8 LFN 2004
7. Companies Income Tax Act (CITA)
8. Land Use Charge Law Lagos – all properties and land based rates in one uniform body in Lagos State **AND** Tenement Rate Laws of the States

Note:

Section 12 Personal Income TAX

Every person other than a Government employee must keep record of his personal incomes for tax purposes.

Default attracts fine; **N100,000.00 for individuals N500,000.00 for corporate bodies.**

Withholding Tax: There is a duty imposed on individuals to deduct tax and remit same to the government. Failure to do so is called withholding.

EXERCISE

Chief Clifford Sanusi brought a plot of land from state government in 1970 for N100,000. He completed building consisting a block of four flats (3 bedrooms each). He spent N900, 000 to complete the project. In 2007, he sold the block of flats to Alhaji Rita Odia, the Sebe-Sebe of Oyo State for N5 million after renovating the building with N500,000. Vike Idris Esq. is the solicitor handling the sale on behalf of the parties. He advised Chief Clifford Sanusi to pay his capital gain tax. Assuming the Solicitor was paid N500,000 compute the capital gain tax to be paid.

Answer

- | | |
|---|-------------|
| 1. Consideration received | N5 million |
| 2. Cost of purchase of property | N100,000 |
| 3. Gain = 5,000, 000 – 100,000 | = 4,900,000 |
| 4. Allowable income | |
| Building Cost | 900,000 |
| Renovation | 500,000 |
| Solicitors Fees | 500,000 |
| Total | 1,900, 000 |
| 5. Gain less total allowable income | 4,900,000 |
| | 1,900,000 |
| | 3,000,000 |
| 6. 10% of (total Gain – Total allowable income) | |
| = 10/10 x 3,000,000 | |
| Capital Gain Tax = N300,000.00 | |

REVISION QUESTIONS

Scenario 5

Amount property was sold for: 4,000,000

Allowable expenses:

1. Amount vendor acquired the property: 50,000
2. Building of block of 4 flats: 950,000

Total = 1,000,000

Capital gain: 4,000,000 -1,000,000 = N3,000,000

Capital gain tax: 10% x 3,000,000 = N300,000

Under Governor's Executive Order = 0.5% x 4,000,000 = N20,000

1. **Effect of the Constitution on Tax Jurisdiction:** Nigeria being a Federation, the tax jurisdiction is influenced by the division of legislative powers under the CFRN, a unit of government can only impose tax on matters it can legislate on –**Section 4(1) CFRN 1999.**
2. **If an Estate Valuer Sells Property, Will He Pay CGT:**No, he will not. Such taxes will be paid by him as Personal Income Tax or a Companies Income Tax. This is because such property sold (or selling such property) is his stock-in-trade which sale does not qualify as a disposal of assets to warrant the charging of capital gains tax.
3. **Who Takes the Proceeds of Capital Gains Tax and Stamp Duties:** Where CGT and stamp duties are collected by state, they will be deposited into a consolidated fund of the state. Even where the Federal Government collects CGT and stamp duties, it is expected to remit it back to state based on Duration formula i.e. based on how much was collected from each state. There must be an Act of the National Assembly specifying how such tax is to be shared.

WEEEEK 20 ASSIGNMENT ON PROPERTY LAW TAXATION

Mrs. Adekemi Musaba bought a parcel of land at No. 34 Leah Road, Asokoro-Abuja from Engr. LanreMomodu in 2004 for N1.3million. She built two blocks of 3-bedroom flats and a large corner shop on the land at a cost of N35m. After the death of her husband, Mr. Mat Musaba, in 2019, she sold the property to Chief Rufus Adigwe for N120 to raise funds to complete a specialist hospital project, in memory of her late husband, in Benin City, Edo State. She advertised the sale in “Tatafo National Magazine” for N300, 000.00; she paid the estate agent sum of N1m, paid the sum of N1.2m to Uzor Akande, the Solicitor handling the sale for the parties. Thesum of N800, 000.00 was spent to renovate the roof of the corner shop; the sum of N150, 000.00 was spent by Mrs. Adekemi Musaba on food and beverages and N60,000.00 on drugs and first aid for the site workers while building the property at Asokoro.

Uzor Akande advised Mrs. Adekemi Musaba not to pay any tax in respect of the transaction. Chief Rufus Adigwe wants the sale to be perfected as quickly as

possible as he wants to apply for a mortgage facility from Stanbic Royal Bank PLC and the property is to be used as security. Chief Rufus Adigwe and Uzor Akande, who acted as solicitor for both parties, connived to do everything possible to evade payment of consent fees and registration.

ANSWER THE FOLLOWING QUESTIONS:

1. List the taxes required to be paid in respect of the transactions in the scenario.
2. State the items in the scenario that constitute “allowable expenditure” in computing Capital Gains Tax.
3. Using the scenario above, compute the Capital Gains Tax payable on the property and state the person responsible for the payment.
4. Assuming Adekemi Musaba refused to pay stamp duties, state the effect(s) of refusal on the document executed in relation to the transaction between her and Chief Rufus Adigwe.
5. Mention the effect(s) of Mrs. Adekemi Musaba’s failure to pay consent fee.
6. State the propriety or otherwise of Uzor Akande's role in circumventing the payment of taxes.

State the ethical responsibilities of a solicitor engaged in transactions involving payment of property tax.

EYEKE KENNETH SAMUEL