

FACULTY OF LAW – UGANDA MARTYRS UNIVERSITY NKOZI

BACHELOR OF LAWS (LLB)

YEAR III - END OF SEMESTER FINAL EXAMINATION

Academic year: 2021/2022

CIVIL PROCEDURE I, LLB 3101

DATE: Tuesday 5th April 2022

TIME: 9:30 – 1:00pm

INSTRUCTIONS

1. This is a partially open book examination. Students are allowed to sit the exam with **clean copies of the Civil Procedure Act, Civil Procedure Rules and Reading List ONLY**.
2. Candidates must answer **Four 4** questions in total with two questions from each section.
3. Start each number on a fresh/different page.
4. Well-structured and precise answers coupled with relevant authorities shall make for good consideration in awarding marks.

SECTION A

QUESTION 1:

In 2019, Tweheyo Edison entered into a contract for the sale of land at Nabweru with a one Sempira John. He paid cash UGX 46,000,000/= to Sempira and he was promised that the title would be given to him in about 6 months. Around February 2022, Edison returned from Sweden and went to visit his land. He found people on the said land cultivating Mivule trees. The angry occupants chased him away, burnt his car and threatened to kill him should he ever step there.

Edison has been looking for Sempira since the incident but his phones are off and his last known address has been locked for the past 1 year. He intends to travel back to Sweden for another ten (10) years without returning here but desires to have the matter resolved as soon as possible as his flight is set for May 28th 2022.

- i. Advise him as to which forum to go to and the best way to do it. Give reasons why you would opt for that method? (8 marks)

- ii. Identify how Sempiira is expected to become aware of the suit and what should happen if he is not found? **(6 marks)**
- iii. Assume the people on the land were employees of Uganda Forestry Authority? How would you proceed? **(6 marks)**
- iv. Inform him of the challenges he may face in the process. **(5 marks)**

QUESTION 2

Ms. Nyinomuntu is a long time client of the firm you are attached to for internship. She comes with a legal issue and the managing partner asks you to attend to her.

Ms. Nyinomuntu was sued by Nkozi Millers Association for unlawful sand mining in Nabwewanga. You find out that the case was filed on 15th February 2022. The documents were brought Nyinomuntu's home Masaka last week on 1st April 2022. The documents were delivered by the office attendant of Nkozi Millers Association to the home of Nyinomuntu and served on her daughter who was putting on the uniform of Kakuuto primary school.

You check the Complaint and find that the affidavit attached to it sworn by the treasurer of Nkozi Millers Association and reveals that Nyinomuntu was undertaking sand mining without a permit from NEMA up to December 2020. Again you check the document and there is no stamp of the cashier showing payment of court fees as is the case with other files you have perused.

Nyinomuntu insists that true, she mined sand under Nyinomuntu and Sons Limited up until 2019 as the company had run insolvent at the time.

- a) What due diligence would you undertake on this file before going to Court? What information would you want to find out? **(5 marks)**
- b) How would you proceed to defend your client? **(15 marks)**
- c) What remedies would you seek from Court? **(5 marks)**

QUESTION 3:

Fully aware of the various modes of commencing suits, what do you consider as the procedural justification or the basis for choosing a certain model of commencing a suit in particular circumstances? Use appropriate authorities. **(25 marks)**

QUESTION 4

"Courts of law were set up to provide solutions to people. Ugandans should be allowed to file any case in any Court as they deem fit because the judicial officers use our tax payers money. Why should I not file my case where I want?" **As per Kakande Jordan, MP Butambala South.**

As a legal professional, respond to the statement of the Member of Parliament providing relevant law to support your reply. **(25 marks)**

SECTION B

QUESTION 5

Advise the following persons on the appropriate recourse, the law, procedure and forum in the following circumstances.

- i. Your client Ms. Nandawula entered into a contract with Stallion Hotel Limited for the sale of 100 computers model core i-7, Hp 3000. However, Nandawula supplied computers model core i-5, Dell 2000 since the two look similar and can still execute company work. They have used the computers for 9 months now and only recently, the son of the manager, a newly enrolled advocate, pointed out that the computers supplied are not what was ordered. The contract provided for arbitration in the event of any disputes. Stallion Hotel desires to go to Court since the manager's son is excited to crack his first case. He has served you with a notice of intention to sue. How do you proceed? **(7 marks)**
- ii. Semuyaba owns a bus company, SEMS Travels. On 1st February, 2022, one of his buses was involved in an accident with a Tata along Kamuli road. The bus was comprehensively insured by Excel Company Insurance. The owner of the TATA is a rich Indian man who has filed a case against SEMS Travels seeking for compensation for the damage caused to the tune of UGX 100 million. **Advise Semuyaba. (9 marks)**
- iii. Mutale Sheba is tired of the way Kakuuto Primary School is treating her. She was recently subjected to severe canes to the extent that she cannot walk or sit. She has been diagnosed with various trauma as a result and