

AUGANDA MARTYRS UNIVERSITY
NKOZI

UNIVERSITY EXAMINATION JULY 2022
FACULTY OF LAW

BACHELOR OF LAWS (LLB) YEAR 2 END OF SEMESTER 2 FINAL ASSESSMENT
ACADEMIC YEAR 2021/2022

FAMILY LAW II
LLB 2208

DATE: Tuesday 12th July, 2022
TIME: 9:30 AM– 1: 00 PM
DURATION: 3 & HALF HRS

Instructions:

1. This is a closed book exam. No materials are allowed in the exam room.
2. A total of **FOUR** questions should be answered. Each question carries 25 marks.
3. **Questions 1 & 4 are COMPULSORY, one other question from each section should be picked at will.**
4. No **names** should be written anywhere on the examination book.
5. Ensure that your **Registration Number** is indicated on all pages of the examination answer booklet.
6. Take time to carefully think about the questions, the issues involved and the planning of your answers.
7. Marks will be awarded for answers that are well thought-out. Effective use of authorities drawn from statutory and case law will earn you extra credit.

- legal - custody
- maintenance
- guardianship
- adoption

SECTION A: THE LAW RELATING TO CHILDREN

QUESTION 1 (Compulsory)

In 2009, Georgina and Michael were in a serious intimate relationship. Although they planned to start a family together, they agreed to put off having children until they had constructed a residential house. But feeling anxious that her biological clock was ticking, Georgina schemed to trick Michael into impregnating her. She took him out on a romantic date and got him drunk and they had sexual intercourse without protection. On learning of the pregnancy, Michael immediately ended his relationship with Georgina. Later, Georgina gave birth to a baby girl that she named Tendo. She gave custody of Tendo to her mother Kemigisha Teresa. In order to survive and provide for her baby, Georgina began working as a sex worker.

12 years have passed and Michael has become an established Engineer. His only regret is that he has failed to sire any children of his own, so he is seeking legal guardianship of Tendo. He claims to have become "born-again" and repented of all his sins. He also argues that Georgina is a sinner living with different men and jeopardizing Tendo's life by introducing her to different men. He further claims that Georgina is misusing the property that his father gave to Tendo by using the proceeds to maintain her numerous boyfriends. In the meantime, Kemigisha Teresa seeks to adopt Tendo whom she has raised as her own since she was a baby.

You are a legal intern in Kampala Associated Advocates, one of the leading law firms in Uganda and one of the Partners in the law Firm dealing with the above file has requested for your written opinion on all relevant issues. (25 marks).

* QUESTION 2

a) You have been introduced to Mr and Mrs. Wellington an American married couple. They wish to adopt Jhieng Xi a three-year-old Chinese child who has been living in Sanyu Babies Home located in Mengo since June 2020 when the baby was found abandoned near the gates of Rubaga Cathedral. **Advise the couple. (15 marks)**

b) Discuss the rescission of an adoption order by a competent court of jurisdiction. (10 marks)

*rescinded, whether Michael is liable for legal guardianship of Tendo.
rescinded, whether Kemigisha Teresa is liable to adopt Tendo
rescinded, whether Michael failed to maintain Tendo.*

*whether the child is legitimate - adoptive parent
whether Tendo is legitimate - adopted child
- parental consent - parent of adopted child
- age - 2
- sex - minister in charge of intercountry adoptions
- intercountry adoptions - any person who is concerned
- consent of the parent - any person who is involved in the adoption proceedings
- consent of the child
- foster care*

QUESTION 3

Write short notes on the following:

- Declaration of Parentage of a child (10 marks)
- The Distinction between Custody and Maintenance of a Child (15 marks)

SECTION B: THE LAW OF SUCCESSION

QUESTION 4 (COMPULSORY)

- Mr. Wameli who was extremely wealthy and yet selfish belonged to a wealthy men's club known as "Kwagalana." Mr. Wameli lived in Lweza with his wife and 3 school going children aged 10, 13 & 17. In addition, his elderly parents too lived with him as they were sick and he paid their medical expenses. He asked his youngest sister Mukooli Milly to take care of their parents while at his place and she moved in with her 5-year-old daughter. All were wholly dependent on Mr. Wameli.

As a result of his nature, part of his Will read; *The product of my sweat must bear my names for eternity; therefore, no person is permitted to sell any of my property after I join my ancestors.* The Will bore no date except for the words, "signed on this joyous day of my birthday" and it was never attested. He named his wife Nambooze Agnes and Tadeo his friend, executrix and executor, respectively of his will. Five days ago, Mr. Wameli was shot dead as he entered his new Mercedes Benz C Class. Since his death, a woman named Nauma Rose has claimed that Wameli was her boyfriend with whom she bore a set of twin girls aged 8 years and these bore a remarkable resemblance to the deceased Wameli. In addition, it is discovered that Mr. Wameli had property had been hidden away from his family; a house and land in Manafwa district.

Nambooze Agnes, Mr. Wameli's widow is confused after the shocking death of Mr. Wameli and comes to you Law Chambers for advice with regard to this will and subsequent advice also to the administration of the estate of her deceased husband.

Advise her accordingly; taking into consideration the amendments to the Succession Act Cap 162. (15 marks)

- Critically analyse the process of obtaining letters of administration to administer the estate of an intestate. (10 marks)

- whether the property Wameli had hidden from his family will devolve under his will,
- whether Nauma Rose will benefit from the estate of Mr. Wameli
- whether Mr. Wameli's elderly parents, sister and daughter (her sister Mukooli and her daughter) are considered to be dependent relatives.

QUESTION 5

Write brief notes on the following:

- a) How are wills revoked? (10 marks)
- b) The *Banks v Goodfellow* Test (5 marks)
- c) The ambulatory nature of wills (5 marks)

★ QUESTION 6

The law pertaining to testate succession as enshrined in the Succession Act Cap 162 permits a person to dispose of his property as he/ she wishes without following defined rules.” per Katwesigye Mukama, a 2nd Year LLB Student at the Faculty of Law in Uganda Martyrs University Nkozi.

Discuss the veracity of this statement. (25 marks)

- will
- ambulatory

- Writing
- Testator's signature
- Two or more witnesses
- Witnesses' signature