

FACULTY OF LAW – UGANDA MARTYRS UNIVERSITY NKOZI

BACHELOR OF LAWS (LLB)

YEAR III - END OF SEMESTER FINAL EXAMINATION

Academic year: 2022/2023

CIVIL PROCEDURE I, LLB 3101

DATE: 6th December 2022

TIME: 2:00pm – 5:30pm

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, Government Proceedings Act and attendant regulations, plus clean Reading Lists 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:

"A party is expected and is bound to prove the case as alleged by him and as covered in the issues framed. He will not be allowed to succeed on a case not so set up by him and be allowed at the trial to change his case or set up a case inconsistent with what he alleged in his pleadings...." As per **Inter-freight Forwarders(U) Limited v East African Development Bank (Civil Appeal No.33 Of 1992)**

With the help of relevant authorities, discuss the above statement. (25 marks)

QUESTION 2:

Critically examine the law, principles and practice relating to capacity to sue or be sued. 25 marks

QUESTION 5:

You are approached by Munno Mukabi women's group of Kicwamba in Fort portal that consists of over 206 participants. They have a big issue. The land they occupy for their farming activities is under threat of being taken away by a certain business investor Mr. Micheal Kiweewa. They seek to go to Court to enforce their rights.

Advise the women on the law, procedure and practice of how they can access Court. 25 marks

QUESTION 6:

You are legal intern at HK Advocates. Peruse these 2 files and prepare an opinion.

A. This file is Civil Suit No. 456 of 2017. The suit alleges that your client, Masaba Evans trespassed on land belonging to Bukedea District Local Government. The pleadings were brought by your client just last week on 25th November 2022.

- i. The plaint was filed on 6th October 2022 with a well drafted affidavit attached to prove their case. Your client was served on 1st November 2022 where the documents were served on his 86-year-old mother who lives in his village house in Bukedea. **(5 Marks)**
- ii. The documents served included the summons, the Plaint together with an affidavit attached and no other documents. They stated that Masaba definitely knew the land they were referring to and need not waste Courts time. The Plaint had not been signed by the Advocate but at least the affidavit was signed by the Chief Administrative Officer. **(5 Marks)**
- iii. In the Plaint, the district alleges that there was fraud and trespass but these were not specifically pleaded in a separate heading or paragraph. **(5 Marks)**

B. In another matter, before you as a legal intern, your client demands Spear Motors Limited UGX 112 million. This money arose from a contract for supply of a car but the car was never brought. Spear motors Ltd promised to return his money but to date has failed to do so. **Advise your client on the best remedy. Clearly explaining the procedure to follow until he gets paid. (10 Marks).**

THIS IS ONLY THE BEGINNING BEST OF LUCK!

QUESTION 3:

Write short notes about the following

- a) Jurisdiction of High Court in Employment Disputes. (5 marks)
- b) Limitation of Actions on matters of contracts. (5 marks)
- c) The case of Thomas A. K Makumbi (Through Next Friend Patrick Makumbi) Vs Josephine Katumba HCMA No. 316 of 2014 (5 marks)
- d) Discoveries (5 marks)
- e) Joinder of parties to a suit. (5 marks)

SECTION B

QUESTION 4

Ms. Waithera Mutungi filed a case for recovery of UGX 500,000,000 million from your client CRDB bank limited. The case was lodged in High Court of Mukono, Land Division since this Court is known to have impartial judicial officers.

The claim is that Waithera borrowed UGX 2 billion from your client and was only able to pay back UGX 500 million plus interest. When she defaulted, your client foreclosed on the property situate in Kawempe Bulalila zone measuring 2 acres that was deposited in the bank as security for the loan. The property was sold at a forced sale value of UGX 1.6 Billion. She asserts that her property should have been sold at 2 billion. She now wants to be paid UGX 500 million as money owing to her.

On perusing the plaint, you find that the plaintiff filed the case against CRDB bank and also FINCA Bank. This is because in 2020, FINCA bank also sold land she had mortgaged in a similar manner though it is located in Bwaise Zimula zone. She says she wants to deal with both matters expeditiously and at once. The Plaint also shows that fees were paid but only UGX 2,000 was paid as fees.

Your client informs you that true, it sold the land at 1.6 Billion but that Waithera in fact owed them more money for a further loan overdraft that was extended to her basing on the same land as security. This loan amounted to UGX 450,000,000 and that Waithera still owes then this money. He also says that this is the first time he is hearing of this matter as no notice of intention to sue was served.

As the advocates for CRDB, develop a response. 25 marks