

**OLABISI ONABANJO UNIVERSITY, AGO-IWOYE**

**FACULTY OF LAW**

**DEPARTMENT OF PRIVATE LAW**

**NAME OF EXAMINATION:** RAIN SEMEMSTER, 2017/2018 SESSION

**COURSE:** LAW OF TRUSTS AND REMEDIES

**COURSE CODE:** PRL 412

**INSTRUCTIONS: ANSWER FOUR QUESTIONS IN ALL.**

**ANSWER AT LEAST ONE QUESTION FROM EACH SECTION.**

**TIME ALLOWED:** 2<sup>1/2</sup> HOURS

**SECTION A**

1. Mr. Bens, a Nigerian, lived in the Netherlands for 30 years during which period, he became a passionate human rights activist. On his return to Nigeria this year, Mr. Bens decided to set up a trust fund of N50,000,000:00 (Fifty million naira) to pay the full tuition fees of young Nigerians who support gay, lesbians, bisexual and transgender (LGBT) rights and are ready to campaign for the recognition and enforcement of LGBT rights in Nigeria. This is based on his firm belief that promoting LGBT rights is a way of promoting human rights in Nigeria as it obtains in Europe and America. Advise him on the propriety or otherwise of the trust he wishes to set up, taking note of the general attitude of the courts to such charitable intentions.
2. Alhaji Kudi, a Nigerian multi-billionaire who owns several companies dealing in petroleum, natural gas, cement manufacturing, spaghetti and sugar processing as well as engineering construction with a combined work force of over two hundred thousand (200,000) employees set up a trust fund to cater for the welfare needs of all present and future employees of his stated companies. Alhaji Kudi believes that such a trust fund amounts to a charitable trust as many families will benefit from the trust and on that basis, applied to the Board of Inland Revenue for tax exemption. The Board of Inland Revenue however rejected Alhaji Kudi's application and Alhaji Kudi has decided to institute action to claim the tax exemption. Advise Alhaji Kudi on the likely outcome of the legal proceedings.
3. Chief Owonofari paid N500, 000,000:00 (Five hundred million naira) for 5 plots of land at Lekki. However, Chief Owonofari instructed that the name of his teenage son, Olowolayemo, a secondary school student, be indicated as the purchaser on the deed of assignment. Two years after the transaction, Chief Owonofari sold the 5 plots of land to Mr. Johnson, an estate developer who constructed a mini estate on the land. Eight years later, after Chief Owonofari's death, Olowolayemo visited the said land, claimed the 5 plots of land as his own and tendered the deed of assignment indicating his name as the purchaser and rightful owner of the land. He therefore demanded immediate possession of the five plots. Mr. Johnson contends that Olowolayemo cannot possibly own the land as Olowolayemo could not afford the price of the land, being a secondary school student at the time of the transaction. Mr. Johnson further contends that notwithstanding Olowolayemo's name on the deed of assignment, Chief Owonofari was the rightful owner of the land being the actual person who supplied the initial purchase price. Write a legal opinion to guide Mr. Johnson and Olowolayemo on the next course of action to take.



## SECTION B

4. On the 12<sup>th</sup> of December 2006, Pa James made a will in which he established a trust fund to the tune of Three Million Naira in favour of his son, Friday, a 17yr old, 200L Law student of Akube University, Ghana. Chief Abe (aged 50), Mr. Joe (aged 45) and Mrs. Adu (aged 40) are the trustees. Pa James' will came into force on the 21<sup>st</sup> of January 2017. On the 9<sup>th</sup> of March 2017, Mrs. Adu travelled to the USA to attend a conference on Women Affairs. She has since remained in the USA. Chief Abe was involved in a ghastly motor accident and has since been buried. Mr. Joe has approached you for legal advice on the state of the trusteeship and whether new trustees could be appointed.

Examine the following issues raised from the above scenario and proffer your advice with the aid of relevant statutory and judicial authorities.

- Whether Chief Abe, Mr. Joe and Mrs. Adu being three in number are sufficient as the trustees
  - Whether any vacancy has occurred in the number of the trustee
  - Whether new trustees could be appointed and by whom. (17½ marks)
5. "Equity will not suffer a Trust without a Trustee, hence the administration of trusts cannot be short circuited as a result of depletion in the number of trustees"
- Discuss the statement above with special reference to the circumstances that will occasion a depletion in the number of trustees and the mode(s) of appointment of trustees. (17½ marks)

6. Chief Ojoge left a vast estate of realty and personality under his will in the care of his trusted friend, Chief Akogun to manage in trust for his twelve year old son, Beloved. Chief Akogun has proved the will and probate has been granted to him as the sole trustee. Advise Chief Akogun on the following facts:
- The manager of Accord Microfinance Bank has approached Chief Akogun to invest in Accord Bank's stocks and securities.
  - Chief Akogun has approached an insurance company for the purpose of taking out an insurance policy on the fleet of buses in Chief Ojoge's estate.
  - Chief Akogun is desirous of buying one of the choice plots of land in Chief Ojoge's estate situate at Lekki, Lagos State.
  - A firm of Solicitors has approached Chief Akogun on behalf of Beloved asking that Beloved be vested with the legal estate in Chief Ojoge's estate. (17½ marks)

7. "The trustee occupies a fiduciary position in relation to the trust. He must neither profit from the trust nor is he remunerated for his trouble."
- Examine the above statement in line with judicial and statutory authorities. (8½ marks)
  - Are there any exceptions to the above rule? (9 marks)

N.B. ALL JOTTINGS MUST BE DONE ON THE ANSWER SCRIPT(S) ONLY.