



NIGERIAN LAW SCHOOL

BWARI - ABUJA

BAR EXAMINATION-PART II FINAL

PROPERTY LAW PRACTICE

SATURDAY 17TH AUGUST, 2019

TIME ALLOWED: 3 HOURS

INSTRUCTIONS:

THIS PAPER IS DIVIDED INTO TWO SECTIONS. TWO ANSWER BOOKLETS ARE PROVIDED. QUESTIONS FROM EACH SECTION SHOULD BE ANSWERED ON A SEPARATE ANSWER BOOKLET. QUESTIONS 1 AND 4 ARE COMPULSORY. ONE OTHER QUESTION FROM EACH SECTION SHOULD BE ATTEMPTED.

WRITE YOUR EXAMINATION NUMBER ON EACH ANSWER BOOKLET.

SECTION A

QUESTION 1 (COMPULSORY)

The graduating Class of the College of St. Joseph Vom, Jos, Plateau State had their 45th Anniversary Reunion in June 2019. As part of the Re-union Programme, they had a Session on "Wills: Putting Your Home in Order" presented by a Law professor. Afterwards, some members of the Class undertook the following:

- (a) Dr. Isa Pam, married, drafted his Will and distributed his three houses, 2(two) cars and shares in two companies amongst his two children and wife. He asked his wife to attest the Will.
- (b) Mr. Elisha Davou brought out his earlier executed Will to go through and then cancelled his bequest to his son who offended him and wrote in its place the name of his fifth son.

(c) Dr. Ochi Inalewa instructed his lawyers to draft his Will. His lawyer on his instructions included the following:

(i) I give to my wife, Agnes, a Sony Model Television set.

(ii) I give to my sister Mary the sum of #500,000.00 to be paid from the estate I inherited from my mother.

(iii) I give the remainder of my estate to my children in equal proportion.

(d) Professor Eghosa Edoho resident in Benin gave instructions to his lawyer to bequeath all his properties to his two daughters to the exclusion of his first son born outside wedlock.

Answer the following questions:

(a) List four advantages of making a Will that you will advise the Law Professor to mention at the lecture.

(b) Comment on the validity of what Dr. Isa Pam drafted with respect to the provisions of the applicable Wills Act on execution and attestation.

(c) Draft the introductory part of Mr. Elisha Davou's Will including the revocation clause.

(d) What is the implication, if any, of Mr. Elisha Davou's alteration?

(e) What other way could he effect the alteration?

(f) Draft the charging clause for the executors in Mr. Elisha Davou's Will.

(g) What is the implication of Professor Eghosa Edoho's devises?

(h) Identify the types of legacies in Dr. Ochi Inalegwu's instructions.

(i) Draft the execution clause of Professor Eghosa's Will.

QUESTION 2

Chief Kenneth Ayekwe, Mr. Musa Adome and Mrs. Viola Dom respectively got the following properties in the testate estate of Mr. Dudu Osun who died on 11/11/2018:

- (a) A bungalow at Onitsha, Anambra State;
- (b) A warehouse at Wuse, Abuja; and
- (c) A block of 4 flats at Yaba, Lagos covered by the Certificate of Occupancy dated 11/11/2015 and registered as 111/111/2015B in the Land Registry.

Answer the following questions:

(a) Assuming Chief Ayekwe decides to sell off his own gift, answer the following questions:

- (i) State five(5) laws relevant to the proposed transaction
- (ii) State any three documents that may be prepared during the process of sale and state the purpose or purposes of each as well as the person responsible for preparing the document.
- (iii) Assuming you are solicitor to the prospective purchaser of Chief Ayekwe's property, state the reasons why pre-contract enquiries are helpful.
- (iv) Mention the contents of the operative part of the final document of the transfer in the transaction.
- (v) Draft the concluding part of the final document of transfer in the transaction.

QUESTION 3

Captain Tamuno Ajayi, a retired Army Officer took a loan of N10,000,000 from First Bank Plc Enugu in January 2013. He used his duplex at No. 30, Bank Road, Owerri to secure the loan. In April, 2014, he applied to the same Bank for

additional loan of N10,000,000.00 to be secured by the same security. The Bank declined his request contending that such a thing was not tenable in law. The initial loan was yet to become due when the bank advertised the property for sale by public auction. Captain Tamuno has approached you for advise.

Answer the following questions:

(a) (i) Assuming you are Peter Henshaw November of Henshaw Chambers, Independence Layout, Owerri, the lawyer Captain Tamuno approached, write a letter to your client, reacting to the Bank's response to his request for additional loan and stating the conditions under which the request may be possible.

(ii) State at least five other options available to First Bank PLC to recover a Mortgage Loan.

(b) Draft the execution and attestation clauses of the document the parties will prepare.

(c) (i) Assuming Captain Ajayi decided to grant a term of 10 years to Sight and Sound Centre, an NGO for (visually impaired and Deaf Teenagers) of 23, Amu Drive, Owerri, IMO State at an annual rent of N2 million. The NGO paid two years in advance.

Captain Ajayi wants his lawyer to also represent the NGO. The NGO is not sure if this is possible and has come to you. Advise the NGO.

(ii) Explain to the NGO how the legal practitioner who charge his fees for acting for both parties.

SECTION B

PLEASE USE ANOTHER ANSWER BOOKLET FOR THIS SECTION

QUESTION 4 (COMPULSORY)

Mr. Divine Olorunbe and his University roommate Mr. Collins Richard both live at No. 87 Iweka Road, Ikoyi, Lagos.

They jointly bought a plot of land at 13, Johnson Street, Ibeju-Lekki Jos, Plateau State. The plot of land was partitioned as Plot A13, Johnson Street and Plot B13 John's Street, Ibeju-Lekki Jos Plateau State. Mr. Olorunbe used his property to secure a loan of N400,000.00 (and interest rate at 10% monthly) from Bluezeal Bank of 13 Judr Street, Ring Road, Jos, Plateau State repayable within the duration of 12 months.

A document was executed by the parties in respect of the transaction. Mr. Olorunbe intends to use the loan to start snail business. Three months after Mr. Olorunbe collected the loan, he approached the Bank indicating his interest to pay off the entire sum but the bank refused vehemently.

Mr. Richard on his part, granted a term of 4 years in respect of his property to Purple Blaze Ventures of 3 Bonga Street, Ikoyi Lagos as a parking space.

Mrs Silva Jones, the owner of Purple Blaze Ventures paid N50,000.00 annually for the property, she paid for the entire four years.

Mr. Richard intends to further his education in South Korea as a result of which he retained the services of Miss Alheri Buba of 12 Ross Street Ikeja Lagos to manage the property on his behalf furiously his period of absence.

Answer the following questions:

(a) Assuming you are Mr. Olu Ozage of 2 Kole Street, Anthony Lagos a solicitor, write a letter to Bluezeal Bank:

(i) Stating the various modes of creating the transaction between the Bank and Mr. Olorunbe.

(ii) Commenting on the propriety or otherwise of the Bank's refusal to accept Mr. Olorunbe's outright repayment proposal.

(iii) Commenting on the propriety or otherwise of the Bank's refusal to accept Mr. Olorunbe's outright repayment proposal.

(b) Draft the concluding part of the document to be executed in respect of the grant of 4 years by Mr. Richard.

(c) Calculate the Legal Practitioners fee for Negotiating the transaction between Mr. Richard and Miss Alheri where the solicitor acts for both parties.

(d) Identify the various modes of making the transaction between Mr. Richard and Miss Alheri.

(e) Draft the document to be executed between Mr. Richard and Miss Alheri.

Assuming Mr. Richard has registered his property and obtained a C of O registered as 33/22/8857 and he intends to grant the unexpired residue in his property to University of Lagos of 3, Akoka Street, Yaba Lagos at the rate of 1 million Naira only.

(f) Identify 5 reasons why you as a solicitor will advise University of Lagos to investigate the title of the property to be acquired.

(g) Assuming Bluezeal Bank succeeded in selling Mr. Olorunbe's property, identify the appropriate steps to be followed in sharing the proceeds of the sale.

QUESTION 5

Simi Pam of No. 3 Raymond Road, Jos, is a beneficiary of the Federal Government Social Investment Programme and she is desirous of owning a property. She has agreed to buy a 2 bedroom duplex on a land measuring 2000 square metres situate at No. 20, Ahmadu Bello Way, Jos from Chief Williams Gyung for a consideration of N150/Million.

Instantly a 10% deposit of the total consideration was paid into the account of Mrs. Success Mercy domiciled at First Bank Plc who has agreed to act on behalf of Chief Williams Gyang in the transaction. As soon as Success Mercy got the Bank alert for the deposit, she handed over a conveyance dated 2nd June, 1980 to Simi Pam. Simi Pam is desirous of acquiring the property as soon as possible and has asked you to draft only the relevant final document to consummate the transactions.

Answer the following questions:

- (a) Advise Simi Pam on the need to draw up a formal contract before a deed of assignment.
- (b) Briefly explain to Simi Pam the stages in a contract of sale and the activities involved in each of the stages.
- (c) State or list the advantage(s) if any, of the payment of 10% deposit to Chief Williams Gyang.
- (d) Assuming Mrs Success Mercy handed over to you as solicitor to Simi Pam the following documents:
 - (i) Conveyance dated 2nd March, 1979 from one John Audu to Mr. Emeka Nwogu registered as 20/20/1969 at the land registry, Jos.
 - (ii) A Will dated 17th June, 1983 in which the property known No. 20 Ahmadu Bello Way, Jos was devised to Stephen Gyang.
 - (iii) A deed of Legal Mortgage dated 4th March, 2014 in which No. 20 Ahmadu Bello Way, Jos was mortgaged to Freedom Bank Plc.,

Answer the following questions:

- (a) State the steps you will take to investigate the title to the property known as No. 20 Ahmadu Bello Way, Jos.
- (b) After concluding the search mention matters to be included in the search report.

(c) List the laws applicable to this transaction

QUESTION 6

Princess Amina Obite bought a piece of land at plot 25 Abeni Drive, Abuja from Okoye Olafusi in 2001 for #1.5 Million. In 2008, she built three units of two bedroom flats and a corner shop on the land at a cost of #60 Million. After the death of her husband in 2014, she sold the property to Senator Momodu for #135 Million to raise funds to complete a capital project at Osogbo. She advertised the sale in "Amebo Voice" for #300,000, for Thousand, paid the estate values #1 Million, paid #1.5 Million to the solicitor who acted on the sale; sum of #500,000 Thousand was spent on renovation of the roof of the corner shop and a sum of #50,000 was spent on snacks and refreshments for the site workers at Abuja. The solicitor, Obaji Lynda, advised Amin's not to pay any tax in respect of the transaction. Senator Momodu wants the sale to be perfected as quickly as possible so he can apply for a Mortgage facility from Veritoz Bank Ltd. Tgr three units of flats are to be used as security for the loan. Senator Momodu and the solicitor conspired to evade the payment of consent and registration fees.

Answer the following questions:

- (a) List the applicable legislations to the above transaction.
- (b) Mention five taxes payable in respect of the transactions in the scenario.
- (c) Mention the effect(s) of Senator Momodu's failure to pay consent fee.
- (d) Who has the obligation to pay the Capital Gain Tax? Compute the Capital Gain Tax payable on the property.

(e) State what is regarded as allowable expenses in computing capital gain tax.

(f) State the appropriateness or otherwise of the solicitor's role in circumventing the payment of taxes.

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NIGERIAN LAW SCHOOL

BAR PT II EXAMINATIONS

AUGUST 2019

PROPERTY LAW PRACTICE

MARKING SCHEME

SECTION A

QUESTION 1

a. Four advantages of making a Will:

- To avoid the problem of intestacy
- To have the choice of appointing executors of his estate
- To confer extended powers on executors beyond that contemplated in the rules of administration of estates in the jurisdiction
- To select and appoint guardians to look after the testator's minor children
- Gives the testator opportunity to make a positive display or demonstration of his wishes and desires
- A Will saves time and money
- Will gives the testator peace of mind
- It empowers the personal representatives to act before obtaining probate

ANY FOUR 4 MARKS

b. A properly executed Will must be signed, acknowledged by the testator in the presence of at least two witnesses present at the same time. A Will attested to by less than two witnesses is invalid. In this case, Dr. Pam's Will attested to by only his wife is invalid. **Section 9 Wills Act**

2 MARKS

Furthermore, assuming the Will was validly attested to, a beneficiary ought not to attest a Will. Any gift to such attesting witness will fail. In the circumstances, the gift to the wife under the Will fails. **ROSS V. COUNTERS; S 15 WILLS ACT; S.8 WILLS LAW (LAGOS).**

2 MARKS

c. **THIS IS THE LAST WILL AND TESTAMENT OF ME, MR. ELISHA DAVOU of No. 123 Street, Aminu Road, Jos, Plateau State made this __day of__2019**

I REVOKE all former testamentary dispositions made by me.

2 MARKS

d. For an alteration of a clause in a Will after execution to be valid, the alteration must be properly executed by the testator in the same manner as a Will. The alteration therefore, is not valid. Not being valid, the Will will be admitted to probate in its original form. **See In Re Redding; In the Goods of Beavan.**

2 MARKS

e. Alteration of a Will being a technical issue, can only be effected by cancellation and execution in the presence of witnesses who should also attest the alteration. **Section 8 Wills Act**

However, since the essence of alteration is to change the beneficiary, Mr. Davou may execute a codicil or execute another Will.

1 MARK

11f. I DECLARE that my executors (executors of my Will) shall be entitled to charge and be paid the usual professional fees or charges for work done, services rendered and time spent by him or his in the administration of my estate.

g. The testamentary freedom of an individual subject to Bini Native Law and Custom is restricted because such a person cannot dispose of any property subject to customary law contrary to native law and custom. In this case, Professor Edosa Edoho was subject to Bini Customary Law, he is precluded from disposing of his Igiogbe to any person other than his first son. Therefore, the disposition of his Igiogbe to his daughter is invalid. **Section 3 Wills Law, Edo State.**

2 MARKS

IDEHEN V. IDEHEN; LAWAL-OSULA V. LAWAL-OSULA 1 MARK (½ mark for each case)

h. Clause (i) --- General legacy **1 MARK**

Clause (ii) ---- Demonstrative/ Pecuniary legacy **1 MARK**

Clause (iii) ----- Residuary legacy **1 MARK**

i. Execution clause

SIGNED by the Testator, Professor Edosa Edoho-----

in our joint presence of us who in his presence and that of each other later attested our names as witnesses

Name

(Witness)

Name

(Witness)

QUESTION 2:

i. The applicable laws are as follows:

- Conveyancing Act
- Land Use Act
- Wills Act, 1837
- Constitution of the Federal Republic Of Nigerian, 1999 As Amended, 12
- Legal Practitioners Act
- Stamp Duties Act
- Rules of Professional Conduct
- Case Law
- Administration and Succession (Estate of Deceased Person) Law of Anambra State, Cap 4, Revised Edition, Laws of Anambra State, 19991
- Personal Income Tax Act
- Evidence Act
- Capital Gain Tax Act
- Stamp Duties Act
- Legal Practitioners (Remuneration for Legal Documentation and Other Land Matters) Order, 1991
- Land Instrument Registration Law

ANY FIVE 2½ MARK

ii. The following documents may be prepared during the process of sale

a. Contract of Sale of land to be prepared by the vendor's solicitor

b. Deed of Assignment. It vests the legal title in the assignee. This is prepared by assignee/ his solicitor.

c. Epitome and Abstract of title to be prepared by vendor or the vendor's solicitor. This helps in ascertaining the history of the devolution of the property. This is prepared by the vendor/ his solicitor.

- d. Pre-contract enquiries- This is a document sent by a prospective purchase to the vendor requiring him to supply certain preliminary information relating to that property. The prospective buyer/ his solicitor prepares this.
- e. Completion statement- This is a financial statement prepared by the Assignor and Assignee stating the outstanding funds required for the transaction. This is prepared by both parties.
- f. Requisitions of title- This raises questions on doubts arising from investigation of the vendor's title. The purchaser/ his solicitor prepares this.
- g. Search Report- It gives the purchaser the update on the investigation conducted in respect of the property. The purchaser's solicitor prepares the document.
- h. Answers to requisition- this contains the Assignor's response to the requisition raised and the Assignor/ his solicitor prepares it.
- i. Receipt- evidence of payment issued by the purchaser after payment of deposit/ consideration. It is used to enforce specific performance of the contract. It is prepared by the vendor's/ assignor's solicitor.

ANY THREE 1½ MARKS FOR EACH POINT (5 MARKS IN ALL)

iii. A Pre-Contract Enquiry is helpful based on the following:

- a. It helps to disclose certain defects on the property.
- b. It ascertains the suitability or otherwise of the property based on the proposed use.
- c. It helps in deciding on whether to enter negotiation or not.

1½ MARKS

iv. CONTENT OF AN OPERATIVE PART INCLUDE THE FOLLOWING:

- a. Testatum
- b. Consideration Clause
- c. Receipt Clause
- d. Covenant of Title
- e. Words of Grant
- f. Parcel Clause
- g. Habendum

ANY SIX 1½ MARKS

v. IN WITNESS OF WHICH THE PARTIES HAVE EXECUTED THIS DEED IN THE MANNER BELOW THE DAY AND YEAR FIRST ABOVE WRITTEN

OR

IN WITNESS OF WHICH the parties have set their hands and seals the day and year first above written.

1½ MARKS

SIGNED, SEALED & DELIVERED by the within-named ASSIGNOR

Mr. Anyakwe

1½ MARKS

IN THE PRESENCE OF:

NAME:

ADDRESS:.....

OCCUPATION:.....

SIGNATURE:.....

1½ MARKS

SIGNED, SEALED & DELIVERED by the within-named ASSIGNOR

Assignee

IN THE PRESENCE OF:

NAME:

ADDRESS:.....

OCCUPATION:.....

SIGNATURE:.....

1½ MARKS

QUESTION 3:

a (i)

HENSHAW CHAMBERS, INDEPENDENCE LAYOUT, OWERRI.

Our Ref:

Your Ref:

e-mail:

Telephone:

Date:

Captain Tamuno Ajayi,

No. 30 Bank Road,

Owerri.

Dear Sir,

REFUSAL TO GRANT ADDITIONAL LOAN BY FIRST BANK PLC/ ADDITIONAL LOAN OF N10,000,000.00 BY FIRST BANK PLC ETC

Above subject refers

We have carefully perused the letter from the Enugu Branch of First Bank PLC in which the bank declined to grant your application for an additional loan of N10,000,000 on the ground that your request was untenable in law.

We wish to state categorically that the grounds upon which your request was turned down was erroneous

The conditions for the grant of additional loan by a bank to you as an existing mortgagor relying on the same security are:

- (a) the security provided by you can conveniently take care of the loans and interest.
- (b) there would be proper up-stamping of the additional loan after it is granted and
- (c) re-registration of the mortgage instrument after up-stamping.

Your request for an additional loan may still be denied, subject to the discretion of the bank if the value of the property can accommodate the existing and new facility.

The bank was therefore wrong in refusing to grant you application for an additional loan as its reason for the refusal was not justifiable in law.

Yours faithfully

Sign.....

Peter Henshaw

(Designation of lawyer)

5 MARKS

(ii)

- Appointment of receiver over the mortgaged property
- Action in court to recover the principal and interest
- Application to court for an order of foreclosure
- Taking of possession of the mortgaged property

SIGNED, SEALED & DELIVERED by the within-named Mortgagor

Captain Tamuno Ajayi

In the presence of:

Name:

Address:.....

Occupation:.....

Signature:.....

1½ MARKS

The Common Seal of First Bank Plc (the Mortgagee) was affixed to this Deed and the Deed was duly delivered in the presence of:

Director

Secretary

1½ MARKS

(c) (i)

Captain Tamuno Ajayi's lawyer may also represent the NGO (the lessee) in the transaction in the following cases:

- Where the consideration is small
- Where terms have been agreed to
- Parties have consented to his representation
- Title to the property is sound
- Where there is no likelihood of conflict of interest on the part of the lawyer. **See Smith v. Mansi 1½ MARKS**

(c) (ii)

Where a solicitor acts for both lessor and lessee, he is entitled to the full charge due to the lessor's solicitor and half of the fees of the lessee's solicitor. (i.e One quarter of the lessor's lawyer's fees). **See Scale II Part III of the Legal Practitioners (Remuneration for Legal Documentation & Other Land Matters Order) Order 1991.**

3 MARKS

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AUGUST 2019

PROPERTY LAW PRACTICE

MARKING SCHEME

SECTION B

QUESTION 4:

(a) LETTER HEAD PAPER

No. 2 Kole Street

Anthony Lagos

Phone Nos.

E-mail Address:

Our Ref:

Your Ref:

Date: (any date including date of examination)

The Managing Director

Bluezeal Bank

13 Jude Street

Ibeju- Lekki

Jos

Plateau State

Dear Sir,

**LEGAL ADVICE IN RESPECT OF LOAN TRANSACTION BETWEEN YOUR BANK AND
MR. DIVINE OLORUNDE**

Please refer to the above subject.

The options open to the bank in creating a legal mortgage are as follows:

- ✓ Assignment-- the transfer of the entire unexpired residue of Mr. Olorunbe's property to the bank with a proviso for reassignment on redemption.
- ✓ Sub-demise-- the sublease of the terms that Mr. Olorunbe has in the property, less at least by one day with a proviso for redemption when fgr loan is paid
- ✓ Charge by way of Statutory Mortgage --mortgage made by deed expressed to be by way of statutory mortgage.

On the proprietary or otherwise of the bank's refusal to accept Mr. Olorunbe's outright relays proposal, it is improper for the bank to refuse outrightly the repayment proposal made by Mr. Olorunbe.

Rather, the bank should be concerned about repayment of the principal sum and interest. The right of a mortgagor to redeem is exercisable anytime, on or before the expiration of the legal due date.

I trust you would find the above useful.

Yours faithfully,

Olu Ozage

Solicitor

5 MARKS

(b) IN WITNESS OF WHICH the parties have set their hands and seals the day and year first above written.

1 MARK

OR

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

SIGNED, SEALED & DELIVERED

by the Lessor

.....

MR. COLLINS RICHARD

IN THE PRESENCE OF:

Name:

Address:.....

Occupation:.....

Signature:.....

2 MARKS

SIGNED, SEALED & DELIVERED by the Lessee MRS. SILVA JONES carrying on business under the name and style of PURPLE BLAZE VENTURES

.....

MRS. SILVA JONES

IN THE PRESENCE OF:

Name:

Address:.....

Occupation:.....

Signature:.....

2 MARKS

(c) The legal practitioner's fee for representing both parties in the transaction between Mr. Richard and Purple Venture is:

The Lessor's Solicitor=

Stage 1-- for the first N100 =37.50k

Stage 2--- for the subsequent N100 up to N1,000 =

$$\begin{array}{r} 900 \\ \hline 100 \end{array} \times 25.00$$

$$= 9 \times 25.00$$

$$= 225.00k$$

2 MARKS

DISCOURTENANCE OTHER STEPS

(d)

There is no special mode of making a power of Attorney, but it is required to be writing. It must be by deed where a donee is authorised to execute a deed- Abina v. Farhat; Powell v. London Provincial Bank. A power of Attorney executed outside Nigeria for use in Nigeria or vice versa, should be attested to by a Notary Public. Where given in respect of a family property, it should be executed by the head of the property and provincial members as donors.

2 MARKS

(e)

BY THIS (DEED) POWER OF ATTORNEY made this ____day of ____20, I, Mr. Collins Richard of No. 84 Iweka Road, Ikoyi, Lagos ("Donor") HEREBY appoint Alheri Buba of No. 12 Ross Street, Ikeja, Lagos ("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 B 13, Johnson Street, Ibeju-Lekki, Jos, Plateau State.

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

AND I HEREBY DECLARE THAT this Power of Attorney shall be irrevocable for 12 months from the date written above.

IN WITNESS of which I have executed this Power of Attorney in the manner below the day and year first above written.

SIGNED, SEALED AND DELIVERED

By the "Donor"

MR. COLLINS RICHARD

IN THE PRESENCE OF:

Name:

Address:

Occupation:

Signature:

6 MARKS

(f) The reasons I would advise University of Lagos to investigate the title to the property are:

1. To know whether the boundaries correspond with the description given by the vendor.
2. To ascertain if there is any indication of dispute relating to occupation..
3. To determine whether there are other persons in possession.
4. To see if property is developed whether it complied with town planning regulations
5. To ascertain the state of social facilities and restrictions, e.g. Road, electricity, water easements e.t.c
6. To know if there is any patent defect

7. To ascertain if the beacon numbers are correct by cross checking them against the coordinates in the plan given by vendor (if undeveloped)
8. To ensure that the use follows that stipulated in title document
9. To know the owners of adjoining or adjacent plots
10. To make enquiries on latent defects.
11. To ascertain the vendor's title
12. To investigate if there's any pending litigation in respect of the property. (Lis pendis)

ANY FIVE 2½ MARKS

g)

The mode of distribution of proceed of sale of a mortgaged property are as follows:

- Settle prior encumbrances
- Payment of cost of sale
- Discharge of mortgage money and interest
- Payment of balance to the mortgagor or the person entitled to the mortgaged property

SECTION 21(3) CA 2½ MARKS

QUESTION 5

a) Drawing up a formal contract before a deed of assignment is of great importance to both the vendor and the purchaser in the following ways:

- i. It makes the position of both parties more certain
- ii. It affords the purchaser opportunity to conduct thorough investigation without fear of losing the property.
- iii. None of the parties can withdraw midstream from the transaction.
- iv. The vendor cannot unilaterally increase price (gazumping)
- v. It affords the parties the opportunity to confer special privileges on each other such as allowing the purchaser to take possession before completion and the vendor retaining the risks and liability over the property even after exchange of the contract.
- vi. It could be used to take care of fixtures and fittings and thus reduced the stamp duty payable on the property at perfection stage.
- vii. the death of any of the parties will not prevent the completion of the transaction.
- viii. Property can be used to obtain a loan.

ANY FIVE 2½ MARKS

b) The stages in contract of sale and the activities involved therein are:

i. The Pre-Contract Stage

- Preliminary inquiries
- Negotiation of price

ii. The Contract Stage

- Agreeing on terms of the sale
- Preparation and execution of the Formal Contract of Sale
- Exchange of contract

iii. The post-contract stage

- Deducing of title by the Vendor (or his solicitor)
- Investigation of the title by the Purchaser (or his solicitor)
- Raising requisitions if necessary

iv. The Completion Stage

- Preparation and execution of the Deed of Assignment
- Transmission of all original and relevant documents from the Assignor to the Assignee.

v. The post-completion stage (Perfection)

- Governor's consent
- Stamping
- Registration 27

c) The advantages of the payment of 10% deposit are:

- i. It is an evidence of the parties' commitment to perform the contract.
- ii. The 10% operates as deposit to secure the performance of the contract. **UBA V. TEJUMOLA & SONS LTD.**

d)

a. The steps to investigate the property known as No. 20 Ahmadu Bello Way, Jos are:

- i. Conduct search and the land and probate registry Jos.
- ii. Make physical inspection of the property
- iii. Examine court judgment (if any)
- iv. Investigate the family background of the vendor
- v. Examine the abstract of document submitted by the vendor
- vi. Raise requisitions on areas that appear not to be clear
- vii. Make observations on reply to the requisitions .

ANY FIVE 2½ MARKS

b. The matters to be included in the search report are:

- i. Date of search
- ii. Place of search
- iii. Nature of interest
- iv. Owner of property
- v. Encumbrance
- vi. Comment
- vii. Name and signature of solicitor.

ANY SIX 1½ MARKS

c. The applicable laws are:

- i. Rules of Professional Conduct 2007

- ii. Land Use Act
- iii. Stamp Duties Act
- iv. Land Instrument Registration Law
- v. Land Instrument Preparation Law
- vi. Conveyancing Act
- vii. Constitution of the FRN
- viii. Personal Income Tax Act
- ix. Capital Gain Tax Act
- x. Wills Act
- xi. Legal Practitioners Act
- xii. Evidence Act.

ANY FOUR 2 MARKS

QUESTION 6

(a)

- ❖ Constitution of the FRN
- ❖ Capital Gain Tax Act
- ❖ Land Use Act
- ❖ Stamp Duties Act
- ❖ Legal Practitioners Act
- ❖ Rules of Professional Conduct 2007
- ❖ Evidence Act
- ❖ Conveyancing Act
- ❖ Mortgage Institutions Act
- ❖ Value Added Tax Act
- ❖ Personal Income Tax Act

ANY FIVE 2½ MARKS

(b)

- ❖ Capital Gain Tax
- ❖ Stamp Duties
- ❖ Personal Income tax
- ❖ Consent fee
- ❖ Development levy
- ❖ Registration fees
- ❖ Tenement rate

ANY FIVE 2½ MARKS

(c)

- ✓ The legal effect of not paying consent fee and obtaining consent is that the transactions becomes inchoate (Legal title does not pass).
- ✓ The Minister of FCT Abuja will not give consent to the transaction.
- ✓ The purchaser will only get equitable title to the property.

SAVANNAH BANK V. AJILO; S. 26 LUA.

2½ MARKS.

(d) Princess Amin's Obite (Assignor) has the duty to pay Capital Gains Tax. 1 MARK

Consideration Received:	135,000,000
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Allowable Expenses

(Cost of purchase):	1,500,000
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Gain made:	133,500,000
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Allowable income

Cost of Building project:	60,000,000
Cost of advertisement:	300,000
Estate Valuer's Fees:	1,000,000
Solicitor's Fees:	1,500,000
Renovation:	500,000
Site Workers:	50,000
	= 63,350,000

Capital Gain Tax = (133,500,000-
64,850,000)

10% of (70,150,000)

N7,015,000

3½ marks

(e) Allowable income refers to income that is wholly, exclusively and necessarily incurred for the acquisition of the asset together with the incidental costs. Allowable income generally includes cost of acquisition, incidental cost of acquisition, expenditure incurred in enhancing the value, expenditure incurred in establishing and defending title, incidental cost towards disposing

the asset fees, commission and remuneration paid to professionals.

1½ MARKS

(f) A solicitor is expected to uphold the rules of professional conduct and not to encourage his/her clients to breach the law. In the circumstances, the solicitor's role in circumventing payment of taxes contravenes **Rule 15(3) RPC**

1½ MARKS