

Tony 001.

**UNIVERSITY OF PORT HARCOURT**  
**FACULTY OF LAW**  
**First Semester Examination 2021/2022 Academic Session**

**COURSE TITLE: FAMILY LAW (PUL 403.1)**

**INSTRUCTION: Answer Two (2) Questions from Each of the Following Sections**

**DATE: 21<sup>st</sup> July, 2023. DURATION: THREE HOURS**

**SECTION ONE**

Mr. Jones Obong and Mrs. Maryjane Obong married in 2012. They lived peacefully in their home in Port Harcourt until May, 2018 when Mrs. Maryjane Jones found out that her husband had a mistress in Uyo named Sharon Stone. Maryjane confronted Jones, who apologised with a goat and a 2017 Toyota Highlander car. Jones has promised to ever engage in adultery. Upon the 'sorry gifts' Maryjane forgave Jones and continued with the marriage. In 2019, Mr. Jones Obong's company transferred him to Lagos. He explained to the wife that the transfer involved an increment in salary and that would give them a better life. He also asked her to move down to Lagos with him but she refused. The refusal did not stop the husband from playing his role as he kept sending her monthly monetary upkeep. Due to the exigencies of his job, Jones was unable to visit his wife in Port Harcourt from 2020-2022. The Maryjane has since filed an action in court for the dissolution of their marriage upon the ground that the marriage has broken down irretrievably. A whole reading of the entire petition pointed to adultery, wilful and persistent refusal to consummate the marriage and desertion. However, the petition did not clearly and precisely state which of the facts upon which the petition was predicated upon. According to Mrs. Maryjane Jones, the court can put the evidence into one of the recognised facts evidencing the irretrievable breakdown. As a law student, identify the issues raised, discuss them extensively with legal and statutory authorities and advise the parties accordingly.

Legitimation is the process by which an illegitimate child acquires a legitimate status. Discuss Miss Uju Cappo and Miss Lebski Bonita are besties based in Lagos State. Miss Uju Cappo is 26 years old and Miss Lebski Bonita is 28 years old respectively. They love children and visit the orphanage monthly. On their last visit to the orphanage, they resolved to adopt a child from a less-privileged home, irrespective of his or her age. They finally decided to adopt Master Ayo Ejoke, a 19 year old boy from Ogun State who has been abandoned and neglected by his parents. Upon hearing of the adoption, the parents of Master Ayo Ejoke asked for a cash price of 500 thousand naira to be paid to them before they can consent to the adoption of their son. They claimed that the issue of neglect and ill-treatment of Master Ayo is no body's business and as his parents, their consent cannot be dispensed with by the court. Upon the payment of the 500 thousand naira, Miss Uju Cappo and Miss Lebski Bonita made an application for an adoption order in the prescribed form. However, upon the receipt of the form by the Registrar of court, the Registrar informed Miss Uju Cappo and Miss Lebski Bonita that they cannot succeed in the adoption process as they did not meet the basic requirements of the law on adoption. Miss Uju Cappo and Miss Lebski Bonita are aggrieved and have met you for legal advice. Advise them on the position of the law on whatever issue(s) identified in the scenario and back such advice with statutory authority(s) or otherwise.

**SECTION TWO**

Philips - money  
Adesua - baby

Miss Mary Chibueze and her long-time boyfriend, Mr Emmanuel Okagbue, decided to get married after their ongoing relationship of six years. The couple, who both live in Debenham England, both hail from Imo state. They have expressed their long held desire to marry in Imo State. Kindly advise them on:

- a. Contracting a valid legal marriage under Nigeria Law in Imo State;
- b. The preliminary steps to a valid marriage under customary in Imo State; and
- c. What are the proper requirements for a valid celebration of a marriage custom in Nigeria, if any  
and does it differ from your answer in (b) above?

An invalid marriage may be void or voidable. Now, with the use of relevant case law and statutory provisions. answer the following questions:

Distinguish between void and voidable marriage.

List and briefly explain the grounds for which a marriage maybe voidable.

List and briefly explain the ground for which a marriage maybe void ab initio.

Mrs. Jane Eze has been married to Boyo Eze. Their marriage took place at Jane's hometown where all the traditional rites were met and fulfilled. The couple have remained without child. Boyo wants children is considering the idea of terminating his marriage with Jane. Now:

Advise Boyo on how to terminate his marriage with Jane.

Describe the procedure NOT available in obtaining divorce under the Act and which is germane to divorce under only under customary law.

LLB 4 FIRST SEMESTER TEST: 2020/2021 ACADEMIC SESSION

Course: Law of Evidence I (PUL 401.1)

Instruction: Answer two Questions, but Question 1 is compulsory.

Duration: 1 Hour, 30 Minutes

Date: 11<sup>th</sup> November, 2021

Question 1

*Relevance & admissibility*

"The terms relevancy and admissibility are frequently and in many circumstances legitimately used interchangeably, but I think it makes for clarity if they are kept separate, since some relevant evidence is inadmissible and some admissible evidence is irrelevant".

- Lord Simon in *Director of Public Prosecutions v. Kilbourne* (1973) A.C. 729.

"Relevancy must be distinguished from admissibility, of which, though the primary, it is by no means the sole condition. Evidence may be relevant and yet on grounds of convenience or policy, inadmissible. Indeed, this exclusion of matter, otherwise relevant has been the distinguishing feature of the English law of Evidence. It is correct then, in deciding whether evidence is admissible, to ask first whether the evidence is relevant and thereafter, whether, there are any rules or discretions, based on convenience or policy, which nonetheless make this relevant evidence inadmissible".

*18<sup>th</sup> Edition of Phipson on Evidence, 18<sup>th</sup> Edition.*

- (a) Critically examine the above legal statements and underscore their importance to Nigerian law of Evidence.
- (b) Discuss the principles which underpin relevancy and admissibility in Nigeria and the exceptions applicable to them.

Question 2

*Lord Simon in Director of Public Prosecutions v. Kilbourne* (1973) A.C. 729.

Res Gestae and Dying Declaration have been described as identical concepts in the law of Evidence with analogous principles and requirements. Do you agree? Give reasons for your answer.

"Relevancy must be distinguished from admissibility, of which, though the primary, it is by no means the sole condition. Evidence may be relevant and yet on grounds of convenience or policy, inadmissible. Indeed, this exclusion of matter, otherwise relevant has been the distinguishing feature of the English law of Evidence. It is correct then, in deciding whether evidence is admissible, to ask first whether the evidence is relevant and thereafter, whether, there are any rules or discretions, based on convenience or policy, which nonetheless make this relevant evidence inadmissible".

Page 1 of 2

*Phipson on Evidence, 18<sup>th</sup> Edition.*

Wording: examine the above legal statements and underscore their importance to Nigerian law of Evidence.

Wording: discuss the principles which underpin relevancy and admissibility in Nigeria and the exceptions applicable to them.

### Question 3

Tijani, Tade and Tobe are Nigerian students schooling in the University of Exeter, England. At the end of their first semester exams, they decided to embark on a weekend-long road trip to London. As they proceeded on the trip, they went as far as London Colny, a quiet suburb in the outskirts of London when their taxi cab broke down. As a result of same, they had to move into an Inn at that place to spend the night. In the middle of the night, a group of local militia fighting for sexuality rights invaded the Inn and attacked all lodgers therein. Tijani died as a result of the attack, while Tobe and Tade sustained severe bodily injuries. While the attack subsisted, Tijani was heard shouting "*the Militia group activists are killing me*". At about the same time, the security guard at the Inn also screamed thus: "*I know all of you. You belong to the local militia group*". After their operation, the militia group members took to their heels but were arrested by the Police while attempting to escape to a close-by neighbourhood and were all brought back to the Inn. At the Inn, Tade identified three of the suspects as the persons who invaded his room and attacked him. Discuss the admissibility vel non of these pieces of evidence as res gestae evidence. Will your answer be different if the incident had happened at the Helena Haven hotel, adjacent to the Choba Police Station in Rivers State?

### Res gestae

Tijani, Tade and Tobe are Nigerian students schooling in the University of Exeter, England. At the end of their first semester exams, they decided to embark on a weekend-long road trip to London. As they proceeded on the trip, they went as far as London Colny, a quiet suburb in the outskirts of London when their taxi cab broke down. As a result of same, they had to move into an Inn at that place to spend the night. In the middle of the night, a group of local militia fighting for sexuality rights invaded the Inn and attacked all lodgers therein. Tijani died as a result of the attack, while Tobe and Tade sustained severe bodily injuries. While the attack subsisted, Tijani was heard shouting "*the Militia group activists are killing me*". At about the same time, the security guard at the Inn also screamed thus: "*I know all of you. You belong to the local militia group*". After their operation, the militia group members took to their heels but were arrested by the Police while attempting to escape to a close-by neighbourhood and were all brought back to the Inn. At the Inn, Tade identified three of the suspects as the persons who invaded his room and attacked him. Discuss the admissibility vel non of these pieces of evidence as res gestae evidence. Will your answer be different if the incident had happened at the Helena Haven hotel, adjacent to the Choba Police Station in Rivers State?

UNIVERSITY OF PORT HARCOURT  
FACULTY OF LAW

LLB 4 FIRST SEMESTER TEST: 2020/2021 ACADEMIC SESSION

Course: Law of Evidence I (PUL 401.1)

Instruction: Answer FOUR Questions in all.

QUESTION 1 is compulsory.

Duration: 3 Hours.

Date: 7<sup>th</sup> December, 2021

Question 1

In Olo town, there are two powerful families namely, the Ajah family and the Epe family. Both families have been having a perennial age-long dispute over the ownership of a vast piece of land in the town. Sometime in 1970, the head and elders of the Ajah family sued the head and elders of the Epe family in a representative action filed at the Olo High Court. In her judgment, the High Court found that the Writ of summons filed in that suit by the Ajah family was incompetent as it was not stamped and signed by the Registrar of the Court. Based on the above finding, the Court struck out the suit. Subsequently in 1990, the head and elders of the Epe family filed a similar representative action against the head and elders of the Ajah family before the Olo Customary Court over the ownership of the same disputed land. The Customary Court in its judgment, simply non-suited the parties. (Non-suit is a legal term which affords the parties to an action the right to start the case all over again before any forum of their choice).

In 2000, a prominent member of the Ajah family Chief James sued a member of the Epe family Chief Gilbert before the Olo Chief Magistrate Court over a plot of land within the disputed farmland and was granted ownership of that plot of land. With that judgment, Chief James caused the Police to charge Chief Gilbert to the same Chief Magistrate Court for the offences of Forcible entry and Malicious damage to property upon the said plot of land. While that Charge was pending, the State Attorney-General entered a *nolle prosequi* to discontinue the Charge and Chief Gilbert was accordingly discharged, while the Charge was struck out.

Members of the Epe family including Chief Gilbert have recently broken into the said farmland and committed wanton acts of trespass and destruction thereon. The Ajah family have come to consult you to institute a fresh action for them before the Olo High Court against the Epe family. They also want you to commence a fresh private prosecution against Chief Gilbert for the offences of Forcible entry and malicious damage upon the plot of land earlier adjudged to Chief James. With the aid of statutory and judicial authorities discuss the previous court decisions between the parties and state whether all or any of them can ground a plea of *estoppel per rem judicatam*. Also discuss whether the fresh action or criminal prosecution they are seeking to be commenced will not be caught up by the plea of estoppel.

Chief Gilbert before the Olo Chief Magistrate Court over a plot of land within the disputed farmland and was granted ownership of that plot of land. With that judgment, Chief Gilbert caused the Police to charge Chief Gilbert to the same Chief Magistrate Court for the offences of Forcible entry and malicious damage to property upon the said plot of land. While that Charge was pending, the State Attorney-General entered a *nolle prosequi* to discontinue the Charge and Chief Gilbert was accordingly discharged. While the Charge was

Page 1

Members of the Epe family including Chief Gilbert have recently broken into the said farmland and committed wanton acts of trespass and destruction thereon. The Ajah family have come to consult you to institute a fresh action for them before the Olo High Court against the Epe family. They also want you to commence a fresh private prosecution against Chief Gilbert for the offences of Forcible entry and malicious damage upon the plot of land earlier adjudged to Chief James. With the aid of statutory and judicial authorities discuss the previous court decisions between the parties and state whether all or any of them can ground a plea of *estoppel per rem judicatam*. Also discuss whether the fresh action or criminal prosecution they are seeking to be commenced will not be caught up by the plea of estoppel.

## Question 2

- (a) Mr. and Mrs. Abiodun contacted Barrister Tunde to be their family lawyer and assist them with sundry legal issues and challenges. After working for them for about three years, Barrister Tunde became seised of several secrets relating to the couple including the persons whom they are indebted to. Owing to the inability of the couple to pay Barrister Tunde for his legal services, he and his staff became very infuriated with the couple. As a result of this, Barrister Tunde's bodyguard secretly went to the couple's creditors and offered himself to testify on their behalf in confirmation of the various debts owed to them by Mr. and Mrs. Abiodun. Upon the hearing of the suit filed against the couple by their creditors, counsel to the creditors compelled the couple to answer various questions intended to incriminate them in liability to the action. The said counsel also sought to compel the couple to produce and tender text messages between them wherein they acknowledged their indebtedness to the creditors. The counsel equally brought in an audio recording of admissions made by the couple during a pre-action settlement negotiation between them. Discuss the admissibility of the various pieces of evidence sought to be used against Mr. and Mrs. Abiodun.
- (b) You have been invited to a colloquium on the review of the Evidence Act 2011 and have been tasked with the responsibility of proposing reforms to the law on private privilege. Please prepare a memorandum on these reforms with reasons to justify same.

privilege

Private  
privile

Public  
privile

## ✓ Question 3

- (a) Discuss the law on public privilege as encapsulated under the Evidence Act, 2011.  
(b) Reconcile the law on public privilege under the Evidence Act with the duty of public disclosure of matters of public interest on public officers under the Freedom of Information Act.

Judicial self-representation

## Question 4

"A confession is an extra-judicial statement made by an accused person to the police containing assertion of admission showing that he participated in the commission of the offence of which he stands accused. Once an accused person makes a statement under certain circumstances saying or admitting the charge or creating the impression that he committed the offence charged, the statement becomes confessional".

Egbeyomi v. State (2000) 4 NWLR (Pt. 654) 559.

Confessional Statement

- a) Discuss the validity of the above statement under the provisions of the Evidence Act, 2011.
- b) Discuss the circumstances when a confessional statement may be inadmissible under Section 29 of the Evidence Act, 2011.
- c) Discuss the procedure to be employed by a Court when a confessional statement is alleged to be involuntary.

*Ans Sykes Skyes*

**Question 5**

*Similar fact Evidence*

- (a) Mr. Fineboy and his wife were charged with the killing of a child whom they had earlier adopted. The body of the child was found buried in such a condition that the cause of death could not easily be ascertained. Evidence that the accused persons had killed and buried other children earlier adopted in their garden were laid before the court. Discuss the law on similar facts evidence and the exceptions applicable to it.

*Admissions*

- (b) Compare and contrast between formal and informal admissions.

**Question 6**

- (a) Discuss the meaning and importance of the hearsay rule.
- (b) With the aid of statutory and judicial authorities, discuss in detail, four exceptions to the hearsay rule.

*Hearsay rule*

- Mr. Fineboy and his wife were charged with the killing of a child whom they had earlier adopted. The body of the child was found buried in such a condition that the cause of death could not easily be ascertained. Evidence that the accused persons had killed and buried other children earlier adopted in their garden were laid before the court. Discuss the law on similar facts evidence and the exceptions applicable to it.

- (b) Compare and contrast between formal and informal admissions.

**Ques 6**

- (a) Discuss the meaning and importance of the hearsay rule.

- (b) With the aid of statutory and judicial authorities, discuss in detail, four exceptions to the hearsay rule.

UNIVERSITY OF PORT HARCOURT  
FACULTY OF LAW

LLB 4 FIRST SEMESTER EXAMINATION: 2022/2023 ACADEMIC SESSION

Course: Law of Evidence I (PUL 431.1)

Instruction: Answer at least, One Question from each Section, but FOUR Questions in all.

Duration: 3 Hours.

Date: 18<sup>th</sup> July, 2023

SECTION A

Question 1

*Similar facts evidence*

(a) Sergeant Haruna was charged to court for extortion, bribery and corruption. The evidence adduced before the Court was that Sergeant Haruna was a good and upright man. However, the counsel on the opposing side tendered evidence of the previous acts of dishonesty of Sergeant Haruna and argued that Sergeant Haruna was guilty as charged. With the aid of statutes and case laws, discuss the particular instances where similar facts evidence could be admissible under our law.

(b) Peter James and John were charged for conspiracy to steal some bags of rice. James and John made statements to the police in the absence of Peter, incriminating him in the alleged theft. The accused persons were all convicted but Peter appealed on the ground that he was not present when the other two accused persons made their statements and this ought to render the statements inadmissible. Discuss the validity of Peter's claim.

*Relevance and admissibility*

Question 2

Critically discuss the various rules applicable to relevancy and admissibility and the exceptions applicable to them, and point out their relevance to the growth and effectiveness of the law of Evidence.

SECTION B

Question 3

Mr. James a commission agent duly appointed by Chief Nangibo made a statement in court to the effect that his principal failed to discharge his own part of the contract between him and the Claimant and agreed that the claimant is being owed Ten Million Naira by his principal the Defendant. Chief Nangibo is arguing that though Mr. James is his lawful agent, he never

B. Alabato  
Third

authorized him to make such statement on his behalf. Will his argument avail him of liability if Mr. James agency has been terminated? Again Mr. Nweke who was never appointed or nominated to represent, the Etche Assembly in a suit pending in the High court made a statement claiming to be acting in a representative capacity. The Etch Assembly is of the view that Mr. Nweke is on his own as he was never appointed to represent their interest in the said suit. In another case, Mrs. Ngozi sued Mr. Okon claiming to retain a wrist Watch as an administrator of the deceased owner of the Watch. The deceased in his life time made a statement to the effect that he has giving the Watch to Mr. Okon. Mr. Evans a notorious kidnapper in his evidence in chief at his trial informed the court that the purported statement the prosecution is relying on was not made by him voluntarily while in SARS custody. He claimed he was tortured and subjected to inhuman treatment, that he made that statement for fear of his life. Can the said statement be relied on and what will the court do before it could act on the said statement? Meanwhile his accomplice has made a statement stating that Evans is not only a kidnapper but also an armed robber and murderer. The court seems to agree with the prosecution and may act on the said statement. With Judicial and Statutory Authorities address the issues raised.

Mohammed  
Local Govt  
Police  
S21(3)(c)  
S29(2);  
Adekanbi  
ACI Water  
Niger  
Obudu State  
S27(4)  
R v. Iyayi

#### Question 4

#### Character Evidence

A popular Pentecostal Pastor is standing trial for the offence of Rape and Indecent assault of two members of his congregation. The Pastor denied the charges and during his examination in chief made a statement that as a man of God he incapable of committing such an offence. The prosecution is desirous of giving evidence of his past crimes of defiling a minor and raping two young ladies who visited him for counselling. Will the court admit such evidence? What will be the case if the Pastor in the first place did not make such a statement of claiming to be a man of God? The prosecution in another case gave evidence that a retired Bishop is a notorious fraudster who defrauded his former church of millions of naira. The Bishop in his defense informed the court as a man of integrity and honesty who served the Anglican Church for about 40 years. According to him, he refunded the Cathedral some millions of naira when he was overpaid for a job. Can the evidence of his honesty be admissible? Lastly, the Court in its recent judgment admitted an evidence of previous conviction of an accused person, when the said conviction is not related in substance to the offence charged. With Judicial and Statutory authorities, discuss the issues raised.

#### SECTION C

#### Question 5

#### Estoppe

Chief Cookey who is a well-known politician in Rivers State lays claim to the ownership of a large parcel of land consisting of about fifty plots of 100ft by 100ft each. Sometime in April, 2023, Dr. Alaba broke into two plots of land within the area claimed by Chief Cookey and deposited trips of sand and cement blocks thereon in preparation to erecting a building on same. Chief Cookey quickly sued Dr. Alaba before the Choba High Court claiming ownership of those two plots of land but his claim was eventually dismissed by the court. Subsequently in June, 2023, the Rivers State Government acquired the entire 50 plots of land claimed by Chief Cookey and seeing Dr. Alaba with his structure on a small part thereon, treated him as the owner of the land and paid him full compensation for the entire land. This

led Chief Cookey to file a fresh action before the Choba High Court against Dr. Alaba and the Rivers State Government claiming the compensation paid over the land. While all these were going on, Chief Cookey's son went into some portions of the land and started to farm and Dr. Alaba who has military friends caused him to be arrested by Soldiers from the Bori Camp in Port Harcourt. He was eventually arraigned before the Military Court Martial for forcible entry upon the land but was discharged and acquitted. Dr. Alaba has again prevailed on the Nigerian Police to file a fresh charge of Forceable entry against Chief Cookey's son at the Choba Magistrate Court. Carefully discuss the applicability or otherwise of the rule of Estopel to the above cases.

### Presumptions

#### Question 6

Mr. Tony and Mr. Arinze were close friends who did a lot of things together. On a particular day, they were both reported to have taken a young girl on a date. It was also stated that the said girl was found dead shortly after the time of the date that day. The Police strongly suspects that Tony and Arinze must be complicit in the killing of the said young lady. The Police has arrested Mr. Arinze but Mr. Tony has been at large for almost six years and six months. While pleading innocence, Mr. Arinze maintains that he has a video recording of their date with the deceased young lady that fateful day until when she went back home, but has failed to make same available to the police or the court. Mr. Arinze also contends that the nominal complainant Engr. Reddy who claims to be the husband of the deceased girl, has not formally married her and therefore lacks the locus to pursue the charge against him. The Police has produced a copy of the voter' card of Mr. Arinze to show that the finger print found on the card was the same found on the dress of the deceased lady. Mr. Arinze in reply has argued that the card is void because even though it has the signature of the authorized officer, it does not contain the official stamp or seal of the issuing authority. Discuss the various presumptions whether of law or of fact applicable to the above scenario and point out whether they apply or not.

#### Legal inference

#### Definition

Idahosa v. Idahosa

Hajiag v. Hajiag

#### Conclusion

#### Legal consequence

#### Types

#### Presumption of law

Rebuttable

Irrebuttable

Example - s50 cc, S169(1) EA

1. REBUTTABLE

In 30 August 2017, Chief Emenike, the owner of a plot of land situated at No 12 Ogui Road, Enugu, Ibadan agreed in writing to convey the totality of his interest to Chief Olisa, an importer of motorcycle spare parts. However, Chief Olisa who was expecting his consignment of spare parts to clear from the Port, did not have the total sum of N 20,000,000.00 (twenty million) agreed by the parties as the purchase price. Since he was desirous of using the premises to build his ultra modern showroom, he offered to pay N10,000,000.00 (ten million) as part payment, while the rest would be paid on or before 15 September 2017, which was the date agreed by the parties for the completion of the contract. Chief Emenike refused, and said that he would rather wait for Chief Olisa to pay the full agreed sum on or before 15 September. A stipulation that was agreeable to Chief Olisa.

**UNIVERSITY OF PORT HARCOURT**  
**FACULTY OF LAW**  
**FIRST SEMESTER EXAMINATIONS 2021/2022 SESSION**

**PPL 403 –EQUITY & TRUST 1**

**Instructions: Answer any FOUR (4) questions** **Time Allowed: 3 Hours**

Discuss with the problem of Chief Olisa who approached to the University of Port Harcourt

**Question 1** *Chief Olisa, a business rival who simply wants to show that he is better off than Chief Olisa, approached Chief Emenike and made him an offer of N25,000,000.00 (twenty-five million) for the same plot of land. He further offered to pay the total purchase immediately. Chief Emenike agreed and immediately executed a deed assigning his interest in the property to Chief Okeke, who registered it in the Enugu State Land Registry at Enugu. On hearing of this development, Chief Olisa who is aggrieved accosted Chief Okeke. Chief Okeke simply brushed it off and told him that he was not informed of any prior existing sale agreement over the land, and neither did his diligent search at the Land Registry revealed any such interest. Advice the parties as to the following:*

*Yes, equitable interest *Kalsh v. Lonsdale* by sight of documents*

However, on hearing of such agreement, Chief Okeke, a business rival who simply wants to show that he is better off than Chief Olisa, approached Chief Emenike and made him an offer of N25,000,000.00 (twenty-five million) for the same plot of land. He further offered to pay the total purchase immediately. Chief Emenike agreed and immediately executed a deed assigning his interest in the property to Chief Okeke, who registered it in the Enugu State Land Registry at Enugu. On hearing of this development, Chief Olisa who is aggrieved accosted Chief Okeke. Chief Okeke simply brushed it off and told him that he was not informed of any prior existing sale agreement over the land, and neither did his diligent search at the Land Registry revealed any such interest. Advice the parties as to the following:

(a) Whether Chief Olisa has an interest in the land and the nature of such interest? (3½ marks)

(b) Whether any such interest is required to be registered under the relevant statutory instrument(s) in Enugu State in order to be protected? (3½ marks) *NO By prov. of IRL applied to f. estate contract is not included to be registered*

(c) In the event of the inability to rely on the provisions of the law(s) applicable to Enugu State, in protecting his interest, whether Chief Olisa would have a remedy in equity? (3½ marks)

(d) What if the land was situated in Akure, what is the legal consequence(s) of Chief Olisa's non-compliance with the law(s)? (3½ marks)

*Notice?*

(e) Whether Chief Okeke's subsequent registration of his legal interest would cure the defect in his title (assuming that there is any such defect)? (3½ marks)

**Question 2**

*The law seeks equity must do equity / Election*

(a) Otunba Balogun prior to his death was the owner of a block of flats located at Victoria Island (VI). He was also the father of both Tayo and Abiodun. Tayo, the older brother has his own block of flats located at Ikorodu. By his will, Otunba Balogun gives to Abiodun, the blocks of flats located at Ikorodu and which in fact belongs to Tayo. By another provision in the will, he gives his block of flats located at VI to Tayo. Tayo is perplexed by the provisions of the will and has approached for advice as to the validity of the gifts. Advice him. (12½ marks).

(b) Would your answer be different if the block of flats does not in fact belong to Otunba Balogun as it was his undivided share in a family property? (5 marks).

**Question 3**

*Assignment of chose in action*

(a) Mazi Enoch, a serial borrower, was given a loan of N100,000.00 (hundred thousand) by Mazi Abia, his best friend. After experiencing frustrations in his bid to recover the money, Mazi Abia decided to transfer his interest in the debt to Mazi Hart for the sum of N80,000.00 (eighty thousand). Subsequently, Mazi Hart issued a demand notice to Mazi Enoch for the sum of N100,000.00 (hundred thousand) which the latter did not honour. Mazi Hart has therefore instituted an action for recovery of the debt. Mazi Enoch is unhappy, and intends to oppose the action on the ground that he did not consent to the transaction between Mazi Abia and Mazi Hart. Advice him.

(b) Discuss the conditions for the validity of an equitable assignment of a chose.

1) *Intention to assign - B.P - Trust 39 3F Oct 2018*  
2) *Identified chose - Price - Bawali 378 (1) (c) PCL*

**Question 4** Would your answer be different if the block of flats does not in fact belong to Otunba Balogun as it was his undivided share in a family property? (5 marks).

Emmanuel, a five-star hotel owner, engaged Michael to re-design his business's website and assist in marketing the hotel for the Christmas season. Michael started work on this project but half way into completing the job as contained in the contract, he told Emmanuel he was not going to continue any longer as he had got a 'very lucrative job' in the United Kingdom. Emmanuel feels that it is too near to the Christmas season to engage anyone else and he wishes to obtain a court order to compel Michael to complete the work. In his bid to recover the money, Mazi Abia decided to transfer his interest in the debt to Mazi Hart for the sum of N80,000.00 (eighty thousand). Subsequently, Mazi Hart issued a demand notice to Mazi Enoch for the sum of N100,000.00 (hundred thousand) which the latter did not honour. Mazi Hart has therefore instituted an action for recovery of the debt. Mazi Enoch is unhappy, and intends to oppose the action on the ground that he did not consent to the transaction between Mazi Abia and Mazi Hart. Advice him.

(b) Discuss the conditions for the validity of an equitable assignment of a chose

Advice Emmanuel on the appropriate remedy available to him, explaining the nature and situations where this remedy would apply. Also mention to Emmanuel the likely defences available to Michael.

Injunction?

**Question 5**

Abigail, is owed the sum of N5,000,000.00 (Five million naira) by Kingsley. She intends to bring proceedings against him to claim this sum as the debt lingered for over two years beyond the agreed time of repayment. Abigail has learned that, very shortly, Kingsley intends to sell his two-storey building situated at 17 Casablanca road, D-line, Port Harcourt which he believes is his main asset. If it is sold, even if Abigail wins the case, Kingsley is likely to have no assets to satisfy the judgment.

Is there any action which Abigail can take to prevent the sale of the said property? Provide justification for your choice. *Mere injunction*

*Marra Compagnia Marium s.o*

*Sotimini*

*Int'l Bulkership's s.a*

*Ocean Steamship Corp.*

**Question 6**

It is trite law in Nigeria that "Nigerian court will always not allow a genuine complaint go unremedied".

With the aid of judicial authorities, discuss the above assertion in line with your knowledge of an equitable maxim bringing out the requirements and instances/jurisdiction for the application of the maxim.

*Equity will not suffer a wrong to be without a remedy*

*CONDITIONS*

*to just call randomly and check up on your case  
FOR MORE VS*

- 1) Real or imminent risk that the defendant may remove her from the jurisdiction thus rendering the judgment nugatory
- 2)

- 1) that the plaintiff has a cause of action
- 2) that the defendant has assets that can be frozen
- 3)  
3) Real or imminent risk that def may move.

# UNIVERSITY OF PORTHACOURT

57033534254

## FACULTY OF LAW

### DEPARTMENT OF COMMERCIAL AND INDUSTRIAL LAW

COURSE TITLE: EQUITY OF TRUSTS

COURSE CODE: PUL 421.1

CONTINUOUS ASSESSMENT: LLB IV

1. According to Asburner in his book 'Principles of Equity' 2<sup>nd</sup> edition 1933 Butterworth's Co.

'Equity came into existence in the 13<sup>th</sup> century when the court had frozen the type of claim they would entertain as well as the procedure for application and giving the hearing of those claim'.

- a. What is the propriety of this assertion? *History*
- b. With the aid of authorities highlight/explain:
- i. The conflict between common law and equity
  - ii. The development of equity in Nigeria.
2. Generally speaking, the effect of the Judicature Act 1874 was given in WASH V LONDALE (1882) 21 CH.D9. Yet, there are several arguments on whether or not the Judicature Act has positively impacted the legal system.  
With the aid of judicial authorities, explain the effect of the Judicature Act and its impact

## Judicature Act

PUL 421.1

### EQUITY OF TRUSTS Faculty

According to Asburner in his book 'Principles of Equity' 2<sup>nd</sup> edition 1933 Butterworth's Co.

'Equity came into existence in the 13<sup>th</sup> century when the court had frozen the type of claim they would entertain as well as the procedure for application and giving the hearing of those claim'.

What is the propriety of this assertion?

With the aid of authorities highlight/explain:

i. The conflict between common law and equity

ii. The development of equity in Nigeria.

Generally speaking, the effect of the Judicature Act 1874 was given by WASH V LONDALE (1882) 21 CH.D9. Yet, there are several arguments on whether or not the Judicature Act has positively impacted the legal system.

With the aid of judicial authorities, explain the effect of the Judicature Act and its impact

UNIVERSITY OF PORT-HARCOURT  
FACULTY OF LAW  
FIRST SEMESTER EXAMINATIONS 2020/2021 SESSION

PPL 403 -EQUITY & TRUST 1

Instructions: Answer any FOUR (4) questions

Time Allowed: 3 Hours

Question 1

Satisfaction?

- (a) Chief Okoko-Oba, a wealthy businessman who died recently, made the following gifts in his will:

- (i) To Ogbe, from whom he borrowed the sum of N100, 000, he bequeathed the sum of N90, 000. *Talbot v. Duke of Shrewsbury*  
*Re Coates v. Coates*, *Christon v. Christon*
- (ii) To Nnamdi, his adopted son with whom he covenanted to set up a trust fund for his education to the tune of N300, 000, he bequeathed the sum of 150,000.

Both Ogbe and Nnamdi are desirous of suing the estate of Chief Okoko-Oba for the fulfilment of the late Chief's obligation to them. Advise them.

- (b) Would your advice be different if Chief Oko-Oba had bequeathed the sum of 100,000 to Ogbe? *Re Horlock, Fitzgerald v. National Bank*

- (c) What if Chief Okoko-Oba had a week prior to his death given the sum of N250,000 to Nnamdi without reference to the money he covenanted to set aside for his education?

+2 20, 4

Question 2

Mortgage

where sale  
sums excusable 125,

- (a) In March 2009, Bank XY Plc entered into a loan agreement with Chief Oyoyo, a businessman. Pursuant to this agreement, Chief Oyoyo conveyed his title in a two-storey building located at Yaba as security for the repayment of the debt. The date fixed for redemption was 30 June 2011. As at 1 March 2012, Chief Oyoyo, whose container-laden Ocean, had ship recently capsized into the Atlantic Ocean, had not been able to discharge his obligation despite repeated demands by Bank XY Plc. The Bank is desirous of securing the repayment of the loan by enforcing the mortgage. The lawyers in the legal department now to go about the Bank have now approached you on how to go about enforcing the bank's rights.

Advise them.

(b) Based on the facts in (a), after the sale had been concluded and the property auctioned, it is found that the Chief Oyoyo became unhappy. He alleges that the loan agreement did not provide for that the house has the power of sale in the event of default and that the house was auctioned for a price far below its market value. He therefore sued the Bank XY Plc, seeking to set aside the sale. Further advise the bank as to the validity of Chief Oyoyo's position.

Union of ACB Bank 1 section 19 CA, 1827

30/3

section 123, PCL 1151

Executive

On 1st March 2009, Bank XY Plc entered into a loan agreement with Chief Oyoyo. Pursuant to the agreement, Chief Oyoyo conveyed his title in a two-storey building located at Yaba as security for the repayment of the debt. The date fixed for

**Question 3**

*Notice*

In 30 August 2017, Chief Shodeinde, the owner of a plot of land situated at No 12 Shodeinde Street, Mokola, Ibadan agreed in writing to convey the totality of his interest to Chief Olisa, an importer of motorcycle spare parts. However, Chief Olisa who was expecting his consignment of spare parts to clear from the Port, did not have the total sum of N 20,000,000.00 (twenty million) agreed by the parties as the purchase price. Since he was desirous of using the premises to build his ultra modern showroom, he offered to pay N10,000,000.00 as part payment, while the rest would be paid on or before 15 September 2017, which was the date agreed by the parties for the completion of the contract. Chief Shodeinde refused, and said that he would rather wait for Chief Olisa to pay the full agreed sum on or before 15 September. A stipulation that was agreeable to Chief Olisa.

However, on hearing of such agreement, Chief Okeke, a rival businessman who has seeking for an opportunity to get his revenge on Chief Olisa for beating him to the purchase of a prime property two years earlier, approached Chief Shodeinde and made him an offer of N25,000,000.00 for the same plot of land. He further offered to pay the total purchase immediately. Chief Shodeinde agreed and immediately executed a deed assigning his interest in the property to Chief Okeke, who registered it in the Oyo State Land Registry at Ibadan. On hearing of this development, Chief Olisa who is aggrieved, accosted Chief Okeke. Chief Okeke told him that he was not informed of any prior existing sale agreement over the land, and neither did his diligent search at the Land Registry revealed any such interest. Advice the parties as to the following:

- Whether Chief Olisa has an interest in the land and the nature of such interest. (3½ marks)
- How Chief Olisa could have protected any such interest under the relevant statutory instrument(s) in Oyo State (3½ marks)
- The legal consequence(s) of Chief Olisa's non-compliance with the law(s). (3½ marks)
- In the event of the inability to rely on the provisions of the law(s) in protecting his interest, whether Chief Olisa would have a remedy in equity. (3½ marks)

(e) Whether Chief Okeke's subsequent registration of his legal interest would cure the defect in his title (assuming that there is any such defect). (3½ marks)

**Question 4** Chief Okwesie and *Maxims of Equity*

Chief Nweke's son who was executed before his appeal was heard, have been made to believe that nothing can be done to assuage his pains because the prosecution and execution was done by the state. Oroma Amadi, Chief Nweke's lawyer had told him not to worry and have assured him that the law is capable of compensating him or any other person in all circumstance. Oroma Amadi during court proceedings called in her Plaintiff witness no 2(PW2) who admitted in evidence that her evidence and that of some of her colleagues (witnesses called by Oroma) were

that they could have proceeded to 2 and arrest under the relevant statutory before arrest

Appendix  
Article 72(2)(a)

whether Chief Okwesie's non-compliance with the law(s). (3½ marks)

whether Chief Okwesie would have a remedy in equity on the permissibility of the arrest before his trial and have串連了 (3½ marks)

falsified. Ibuchi Chinda and Daniel wegwu laid competing and meritorious claim of No. 3 mission road, Choba . Ibuchi Chindah bought the property on the 10th April 2021 while Daniel Wegwu bought same property on the 12th May 2021. They are contemplating going to court to be declared lawful owners of the property

As a level 400 student of Law of Equity, identify the maxims of equity raised and with the aid of legal authorities, advise Chief Nweke, Oroma Amadi and the PW2, Ibuchi Chinda and Daniel Wegwu

Rice v Rice      Joseph v Dwyer  
Pearle v Hall Siegm ercontra aenea eamurac

Question 5 ✓

### Equitable Remedies / Injunction?

Mr Jabalato is a Nigerian citizen with business interest in Canada and the United States of America. In June 2020, Jabalato had a business transaction with Juliet Ogbuanyawhich ended unceremoniously. Both Jabalato and Juliet are based in Port Harcourt. In Juliet's calculation/estimation, Jabalato is indebted to her to the tune of ₦10billion. However, Jabalato does not agree and insist that he doesn't owe Juliet a damn. After several attempts, albeit unsuccessfully to get Mr Jabalato defray his alleged debt to her, Juliet, through her lawyer Tari filed a suit to recover the₦10billion she believes Jabalato is owing her. Jabalato is confident that the suit will come to nothing as he believes Juliet is just being delusional. Juliet has reasons to believe that Jabalato may be planning to relocate to Canada permanently and he is selling off his properties which will render her victory in court useless as there will be nothing to attach to recover her ₦10billion by the time the matter is concluded. Jabalato is furious and has promised that Juliet will pay dearly in the form of litigation cost for attempting to embarrass him.

- (a) With the aid of judicial/or statutory authorities, kindly advise Juliet on possible equitable remedy/or remedies that can come to her aid and the applicability of such remedy/or remedies in Nigeria.
- (b) Would your proposed remedy/or remedies still avail Juliet if fearing the extent of damages, she will be made to pay if the suit turns out to be frivolous, she refuses to give an undertaking as to damages?

Question 6

Dr Wisdom Ajienka is the owner of Shayo Lodge- a block of flats located in the Choba area of Port Harcourt. The Lodge is mainly occupied by students paying an annual rent of ₦200,000. Between June 2016 and December 2020, the National Union of academic staff in Nigerian Universities, ASUU, embarked on an indefinite strike action that lasted well over two years, leaving over half of the 50 flats Lodge unoccupied as most students returned home to their parents. Ms Prem, a 400-level law student however continued to occupy her flat as she was reluctant to return home to live with her parents. In order to encourage more students to occupy the property and in response to the plea of some of the occupants, Dr Ajienka, in January 2019 wrote to all the occupants of Shayo Lodge promising to reduce the rent to ₦100,000. Accordingly, Ms Prem and other occupants paid the ₦100,000 for 2019 and 2020 respectively. Identify the remedies that can assist in her aid and the applicability of such remedies in Nigeria.

respectively in line with Ajienka's promise. In January 2021, the strike was called off and students returned to school which naturally increased the demand for Dr Wisdom Ajienka's Shayo Lodge. Dr Ajienka has now written to all the occupants of Shayo Lodge demanding the arrears of rent for the past two years at the original rate of ₦200,000 and as the future rate going forward. Dr Ajienka's position is supported by his lawyer who argued that there are judicial decisions to the effect that payment of lesser sum is not sufficient for the discharge of greater sum unless there is fresh consideration? Ms Prem and other occupants insist that they will not pay any extra outside the ₦100,000 already paid for the previous years but are open to negotiate future rates.

- (a) With the aid of judicial authorities, kindly advise the parties on the likelihood of Dr Ajienka succeeding in an action against Prem and the other occupants for the arrears of rent using the original rate.
- (b) Would your answer be different if Ms Prem and others were the ones suing Dr Ajienka to enforce his promise to collect ₦100,000 as rent and if yes, why?

respectively in line with Ajienka's promise. In January 2021, the strike was called off and students returned to school which naturally increased the demand for Dr Wisdom Ajienka's Shayo Lodge. Dr Ajienka has now written to all the occupants of Shayo Lodge demanding the arrears of rent for the past two years at the original rate of ₦200,000 and as the future rate going forward. Dr Ajienka's position is supported by his lawyer who argued that there are judicial decisions to the effect that payment of lesser sum is not sufficient for the discharge of greater sum unless there is fresh consideration? Ms Prem and other occupants insist that they will not pay any extra outside the ₦100,000 already paid for the previous years but are open to negotiate future rates.

With the aid of judicial authorities, kindly advise the parties on the likelihood of Dr Ajienka succeeding in an action against Prem and the other occupants for the arrears of rent using the original rate.

Would your answer be different if Ms Prem and others were the ones suing Dr Ajienka to enforce his promise to collect ₦100,000 as rent and if yes, why?

**FACULTY OF LAW**  
**LLB YEAR IV LAND LAW TEST QUESTION**

1<sup>st</sup> November 2021

**INSTRUCTION:** Answer all questions. **TIME ALLOWED:** 45 Minutes

1. With the aid of decided cases explain the saying that 'once a pledge always a pledge'.
2. With the aid of any Judicial authority (ies) discuss the legal Right of a family member who has been allotted a family land under Customary Land Law.
2. Generally speaking, the effect of the Judicature Act 1874 was given in WASH X LONDALE (1882) 21 CH.D9. Yet, there are several arguments on whether or not the Judicature Act has positively impacted the legal system.  
With the aid of judicial authorities, explain the effect of the Judicature Act and its impact

**FACULTY OF LAW**  
**LLB YEAR IV LAND LAW TEST QUESTION**

1<sup>st</sup> November 2021

**INSTRUCTION:** Answer all questions. **TIME ALLOWED:** 45 Minutes

1. With the aid of decided cases explain the saying that 'once a pledge always a pledge'.
2. With the aid of any Judicial authority (ies) discuss the legal Right of a family member who has been allotted a family land under Customary Land Law.

Generally speaking, the effect of the Judicature Act 1874 was given in WASH X LONDALE (1882) 21 CH.D9. Yet, there are several arguments on whether or not the Judicature Act has positively impacted the legal system.  
With the aid of judicial authorities, explain the effect of the Judicature Act and its impact

UNIVERSITY OF PORT-HARCOURT

FACULTY OF LAW: FIRST SEMESTER EXAMINATIONS 2020/2021 SESSION

CLASS: LL.B YEAR 4

SUBJECT: Property Law (PPL 301)

DATE: 1<sup>st</sup> December 2021,

TIME: MORNING PAPER (10: A.M.)

TIME ALLOWED: 3 HOURS

INSTRUCTIONS: ANSWER QUESTION 1 AND ANY OTHER TWO (2)

QUESTIONS FROM SECTION A AND ANY ONE (1) QUESTION FROM SECTION

B. ALL QUESTIONS CARRY EQUAL MARKS.

SECTION ONE

*Family Land*

Question 1.

Chief NWORLU of Alakahia Village is a benevolent Son of the Soil and thus against all forms of injustice against families and family Landed Properties by individuals and corporations. Meanwhile, the various families in the Alakahia Community are submerged in Land disputes touching on alleged alienation of their family Lands to both individuals and companies for all purposes including developments without the necessary Consents. The NNWALI Family are worried because their alleged vast Landed Property located at Rumualogu Road junction has been alienated by a Known Elder and Member of the Alakahia Community, Chief Tom Dike to Midwestern Food Company for Business purposes.

UNIVERSITY OF PORT-HARCOURT

The NNAMDI family of Alakahia are not also left out in the ugly challenges touching on the handling and alienation of Family Land; Mr Jumbo, the 1st Son and Eldest Man of the said NNAMDI Family without the prompting of the 5 other younger siblings has also alienated the only Land which their late Father who died intestate left behind.

(a). Discuss the rights of chief NWORLU to maintain an action to recover the said Family Property against Chief Tom Dike and Midwestern Foods. Will your answer be different if Chief NWORLU is a son or Child of the NNWALI Family? Discuss with the aid of judicial authorities if any?

(7Marks)

SECTION ONE

(b). Chief NWORLU and his other Siblings are the other 5 children of the late NNAMDI and younger sibs to Mr. Jumbo and they have come to consult you as their Solicitor; with the aid of judicial authorities advise them on their Rights against the purported alienated Family land. (7Marks)

(c). what are the necessary ingredients to be established for the creation of family Property ownership, support your answer with authority (ies). (3. 5 Marks)

Iwowari deforested and acquired a vast parcel of virgin forest in Green Iwo Ama of Rivers State according to customary law. He had 5 children. Tonye (Male), Iyene (Male), Alali (Female), Iwowariba (Female) and Sopakirite (male) in order of seniority. In the year 2000 Iwowari died and was survived by these 5 children. In 2003, both Tonye and Iyene died without any children. In 2005, Sopakirite died and was survived by Sodenye and Ibiso both males. In 2007 Iwowariba and Sodenye died without children. Alali had 3 sons aged 29, 27 and 25 respectively as at 2019. Alali sold a parcel of the land inherited from their father to Julius Berger when all her 3 sons were in London. Alali's 3 sons returned from London and ordered Julius

QUESTION 2

Iwowari deforested and acquired a vast parcel of virgin forest in Green Iwo Ama of Rivers State according to customary law. He had 5 children. Tonye (Male), Iyene (Male), Alali (Female), Iwowariba (Female) and Sopakirite (male) in order of seniority. In the year 2000 Iwowari died and was survived by these 5 children. In 2003, both Tonye and Iyene died without any children. In 2005, Sopakirite died and was survived by Sodenye and Ibiso both males. In 2007 Iwowariba and Sodenye died without children. Alali had 3 sons aged 29, 27 and 25 respectively as at 2019. Alali sold a parcel of the land inherited from their father to Julius Berger when all her 3 sons were in London. Alali's 3 sons returned from London and ordered Julius

Berger to return the land as their mother had no right to sell family property. As counsel for Julius Berger, you have been called upon to advise on the following issues:

- i. The ownership of the virgin forest by Iwowari 4 Marks
- ii. The headship of the Iwowari family as at 2003. 3 Marks
- iii. The Right of Alali to sell the parcel of land to Julius Berger. 4 Marks
- iv. The Right of Alali's sons to challenge her with respect to the sale of land to Julius Berger 3 Marks
- v. The nature of title acquired by Julius Berger. 3.5 Marks

✓ **Question 3**

- a. Comment on the assertion: "Long Possession is Nine-Tenth the Law" *Awuo v cookley*
- b. Akpan is the head of the head of the Archibong Family in Etinan Local Government Area of Akwa Ibom State as the eldest surviving male in the family. He sold (as family head) a parcel of land to Umoren in the year 2010 without the consent of the other members of the family. In 2011, Akpan joined Udeme, Itoro and Itowo the 3 principal members of the Archibong family to sell the same parcel of land to Edet. Neither Edet nor Umoren entered into possession. In 2012, Udeme, Itoro and Itowo sold the same parcel of land to Alhaji Dr Jubril. The family did nothing about these sales until the year 2020 by which time Alhaji Dr Jubril had already obtained a certificate of occupancy in respect of the said land. Alhaji Dr. Jubril intends to build a 3 storey building and has been challenged by both Edet and Umoren as to his authority to put up the 3 storey building which each claims belongs to him. Advice Umoren, Edet and Alhaji Dr Jubril.
- c. The nature of title acquired by Julius Berger. 3.5 Marks

QUESTION 4 ✓

- a. Define and Describe the term Land 9 Marks
- b. Write short notes on the following: Land Tenure, Ownership, Possession, Title and Estate 8.5 Marks

✓ b. Akpan is the head of the head of the Archibong Family in Etinan Local Government Area of Akwa Ibom State as the eldest surviving male in the family. He sold (as family head) a parcel of land to Umoren in the year 2010.

**SECTION B**

QUESTION 5 ✓ b. Without the consent of the other members of the family. In 2011, Akpan joined Chief Aka Okpara of Kojo Family, Ika Community, Ahoda East Local Government

Area of Rivers had three Sons namely John Akas, Chiosom Akas and Budu Akas

and died intestate in 2000, and his property situate at 9 Market Square, GRA Port

Harcourt devolved on the three surviving children. In exercise of their right of

inheritance obtained letter of administration over their late father's estate in

2005. In 2010, John Akas and Chiosom Akas while travelling for a family meeting

in the village had a fatal accident and died in the process remaining only Budu

Akas. Budu Akas in 2015 applied and obtained a certificate of occupancy in

respect of the property. And in 2020, Budu Akas assigned the property to Mr.

Gogo Edem. Aggrieved by the sale of the property, the surviving children of late

John Akas and Chiosom Akas filed a suit for declaration of title and injunction

and damages. 8.5 Marks

76m OKOK v edem et al

**SECTION B**

John Akas and Chiosom Akas threatened and indeed instituted an action against their uncle Budu Akas contending that the property in question is a family property to be held in trust by their uncle for late Chief Akas Okpara's family from generation to generation and not to be sold and particularly without their consent.

- (a) With the aid of decided and statutory provisions, discuss the success of the action instituted by the children of John Akas and Chiosom Akas against Budu Akas, their uncle? 10 Marks
- (b) Will your answer be different if the property devolves on the three sons of Chief Akas Okpara under a WILL made by their late father and in equal shares? 4 and half Marks.
- (c) Will you maintain a different position if at the time of their death both John Akas and Chiosom Akas had given their interest in the said property to their surviving children under a will or by gift *intervivos*? 3 Marks.

#### QUESTION 6

The Families' of Amadi Uche and Kpalukwu Kio of Chioba Community in Obio/Akpor Local Government Area of Rivers State had a long aged land dispute over the ownership of a piece of land known and traditionally called Mini Farmland situate at Chioba Community in Abio/Akpor Local Government Area of Rivers State. The Amadi Uche family contended that the land in question was deforested by their ancestor Amadi and they have been in possession and use of the land from time immemorial without any let or hindrance from the intruding Kpalukwu family till the present time. Whereas, the Kpalukwu Kio Family took the stand that the land in controversy was their land which their late grandfather gave to the Amadi Uche Family members to farm as customary tenant because of their late settlement in Chioba Community. Over the years, there had been attempts of settling the two families by the Chioba Council of Elders and Chiefs but to no avail. In 2005, the Kpalukwu Family summons Amadi Uche Family before the Amadioha Juju Shrine over the rightful ownership of the land. The parties voluntarily agreed for oath taking which was administered by the Amadioha Juju in accordance with the native law and custom as applicable to Chioba Community. The Kpalukwu Kio Family survived the oath and certificate of victory was issued to them by the Juju people confirming their ownership of Mini Farmland. Notwithstanding the oath, the Amadi Uche Family instituted an action at the High Court of Rivers State and rely heavily on the evidence of traditionally

*Customary tenant /*

family till the present time. Whereas, the Kpalukwu Kio Family took the land in controversy by way of gift which they began to

history and acts of long possession and enjoyment; while the Kpalukwu Kio Family placed reliance on the success of the oath.

- (a) With the aid of decided cases discuss the legal implication of the oath over the traditional evidence adduced by the Amadi Uche's Family. 9 & half Marks
- (b) What are the key things a party relying on traditional evidence must plead in establishing his case? 5 Marks
- (c) Land granted to a customary tenant is in perpetuity subject to good behaviour. List the various acts amounting to misbehaviour. 3 Marks.

Library Copy

UNIVERSITY OF PORT-HARCOURT

FACULTY OF LAW

LLB YEAR 4 1<sup>ST</sup> SEMESTER CONTINUOUS ASSESSMENT TEST 2022/2023 SESSION

COURSE: Property Law I

TIME: 1 Hour

DATE: Friday 16<sup>th</sup> JUN

INSTRUCTION: You are expected to attempt the two questions and each question carries 15 marks.

**QUESTION 1**

Okpu Family of Igwuruta Community is the deemed holder of customary right of occupancy over a large piece of land traditionally known as Ikoshi farmland. In 2020 Nigerian Agip Oil Company approached the family to acquire part of the land to build its camp site. The parties negotiated and agreed on the amount and before payment could be made by the company, William Family brought an action against Okpu Family contending that they are the owners of the land in question from time immemoria which made the company to decline from making payment to Okpu Family.

The Okpu Family in defending the suit filed against them by William Family has approached you. With the aid of decided cases, advise them on the common law methods of proving title to land. [15 Marks].

**QUESTION 2**

It has been alleged that ownership is the most superior interest capable of existing in the land and all other interests are inferior to it.

Mrs. Ojo, your Neighbor and who's Ownership to a large parcel of Land at Elibrada Community, Emuoha L G A; is not in doubt but what a market Woman of her Like wants tis to know her interest and rights in whatever is affixed (including but not limited to Economic Plants and buildings) to the said Mrs. Ojo's Land in the contemplation of law.

(A) With the aid of Authorities, Please Discuss the Principle of Law in support of Mrs. Ojo's interest / rights and the Exceptions if any.

(B) In *UWAIFO Vs UWAIFO* the apex court held that it is against Bini Customary law to disinherit the eldest son of "Igiogbe" as was done in that case or to share allot / Partition it to others.

Please discuss the difference if any in Allotment and Partitioning of Family Land.

UNIVERSITY OF PORT-HARCOURT  
FACULTY OF LAW: FIRST SEMESTER EXAMINATIONS 2022/2023 SESSION  
CLASS: LL.B YEAR 4  
DATE: 10<sup>th</sup> JULY 2023,  
TIME ALLOWED: 3 HOURS  
INSTRUCTIONS: ANSWER 3 QUESTIONS FROM SECTION A AND 1 QUESTION FROM  
SECTION B. ALL QUESTIONS CARRY EQUAL MARKS.

SECTION A (Answer any three question)

**QUESTION 1**

- a. There are debates on whether family property can devolve to individuals. *whether*  
*Discuss 9.5 Marks*
- b. Discuss the importance of the following to customary land: (a.) receipt. (b.)  
Ishakole c. Good Conduct 7.5. Marks *(Obi + Folani)*  
*Ebonyi*

*Should be be done mutually  
allege must prove  
agents or witnesses*

**QUESTION 2**

*Customary tenancy*

- a. Umuofia and Amaraofia are 2 neighbouring communities in South-East State.  
As a result of serious flooding, Umuofia had fewer portion of land to cultivate compared to Amaraofia. In the year 2010 Umuofia council of chiefs led by Igwe Eze (their King) approached Amaraofia community for a parcel of land to enable Umuofia community cultivate cassava and yam. Obi Eze King of Amaraofia community, in collaboration with his council of chiefs agreed to this request on the understanding that Umuofia would bring 500 tubers of yam and a jar of native Dry Gin every year. Umuofia paid this tribute from 2011 to 2014 and then stopped. In the year 2015, Igwe Eze, King of Umuofia in collaboration with his council of chiefs rented out a portion of the land given to them by Amaraofia community to some farmers from Ebonyi state and started collecting rent from them as customary landlord of the land. When Obi Eze the King of Amaraofia community approached Igwe Eze in the year 2017 and inquired about his act, he told him that the land belongs to Umuofia by virtue of long usage and that the Ebonyi farmers were there tenants.
- b. Briefly distinguish between a customary pledge and an English Mortgage.

*Pledge*

**QUESTION 3**

- a. H.R.H. Abiye II was the traditional King of Anana Village in Opu Community of South-South State from 1930 to 1970. Anana Village is the owner of a large expanse of land by the bank of the River Niger after acquiring the land by conquering the Feni Village (also in Opu Community) in 1900. This land is known as Amaogono Land. In 1950 H.R.H. Abiye II by virtue of his position took a loan of 100 Pounds from Igbiki – Alabo. He gave Igbiki-Alabo a part of Amaogono land on the understanding that when he (H.R.H. Abiye II) repays the loan he would take back the land. By 1970 H.R.H Abiye II died and was

succeeded by his son H.R.H. Tonye I. In 1985 Igbiki-Alabo died and his estate devolved to his son Gold-Alabo. In 2001, H.R.H. Tonye I, offered to pay back the 100 Pounds to Gold-Alabo. This offer was rejected by Gold-Alabo who said he would only accept it if H.R.H. Tonye I repaid the equivalent of 6500 Pounds to take account of interests. H.R.H. Tonye I has filed a law suit at the South-South State High Court. Gold Alabo is arguing that the one time payment of 100 pounds should be deemed an outright sale in the eyes of the law. He is also contending that in Opu community, the custom is that once land has remained with a person for more than 25 years it belongs to him. He also notified the court that he sold part of the land to Sharp-Sharp Oil Company in 1999. H.R.H Tonye I is arguing that Gold-Alabo should be made to account for the rich agricultural yield he had harvested from the land from 1950 to 2001. You have been invited as *animus curie* of the court. Advise the parties.

- b. Write short note on any 2 (two) sources of Land Law.

**QUESTION 4**

- a. Elele community of Ikwerre Local Government Area of Rivers State is made up of 3 major families namely: Dike Family, Ndaa Family and Ojo Family. Ndaa family has a large expanse of land at Alimini Road and has over the years exercised all rights of ownership and possession therein including but not limited to farming. Chief Okocha, a business man from Dike Family has without the prompting of members of Ndaa family alienated a large parcel of land belonging to Ndaa family to a construction company (R.C.C.). Chief Emeka another business man from Ojo Family and a very close friend to the Ndaa family members is not happy with the actions of Chief Okocha. Chief Emeka in his personal capacity has concluded all necessary financial plans to sue the said Chief Okocha at the Isiokpo High Court. He has come to you for advice. With the aid of judicial authority(ies) advise Chief Emeka.
- b. Abiola is the head of Fayose family in Emure in Ekiti State. In 2001 he sold a piece of land lying and situate at Emure in Ekiti State to Segun. Segun paid the purchase price and other traditional rites including "Bush entry fee" in the presence of Lawal. Segun was also put into possession of the land. 4 days after the transaction, Abiola died. Segun approached the Fayose family which issued him a receipt. The receipt is unregistered. In an action for declaration of title, Segun is seeking your advice. Advise him with relevant authorities. 9 Marks.

*Tenogbadde v. Obadina, Esq & Partners*

**SECTION B (Answer any one question)**

**QUESTION 5:**

The Families' of Jumbo and George of Elele Community in Ikwerre Local Government Area of Rivers State had a long aged land dispute over the ownership of a piece of land known and traditionally called Agbaminikpo Farmland situate at Elele Community in Ikwerre Local Government Area of Rivers State. The George

Family contented that the land in question was deforested by their ancestor and that they have been in possession and use of the land from time immemorial without any let or hindrance from the intruding Jumbo family till the present time. Whereas, the Jumbo Family took the stand that the land in controversy was their land which their late grandfather gave to the George Family to farm as customary tenant because of their late settlement in Elele Community. In assertion of their claim, in 2000, Jumbo Family summons George Family before the Agbara Juju Shrine, Obosi Town, over the rightful ownership of the Agbaminikpo farmland. The parties voluntarily agreed for oath taking which was administered by the Agbara Juju Shrine in accordance with the Ikwerre native law and custom as applicable to Elele Community. George Family survived the oath and certificate of victory was issued to them by the Juju people confirming their ownership of Agbaminikpo Farmland. Notwithstanding the oath, the Jumbo Family instituted an action at the High Court of Rivers State and relies heavily on the evidence of traditionally history and acts of long possession and enjoyment; while the George Family Counter claim and placed reliance on the success of the oath.

- (a) With the aid of decided cases, comment on the success of the action of the Jumbo Family over the evidence of the oath survived by the George Family? [12 & half Marks]
- (b) What are the key things a party relying on traditional evidence must plead in establishing his case? [3 Marks]

QUESTION 6:

*Customary tenancy*

Ake Johnbull of Omoku Community granted a piece of land called Uchi Farmland to late Okpara Adams of Omoku Community for use as his customary tenant subject to payment of traditional tribute in every 5 years. After the death of their father, the children of late Okpara Adams maintained the relationship and continued to use the land. In 2010, the children of Johnbull trespassed into the land claiming ownership and possession to the surprise of late Okpara's children. In view of the trespass, the children of late Okpara have approached you for legal advice. With the aid of decided cases:

- (a) Advise them on what constitutes mishaviour in customary tenancy [7 marks]
- (b) The right of customary tenant [7 marks]
- (c) On whether a customary tenant can maintain an action for declaration of title [3 half marks]

Onyugu v Eberu

78

**UNIVERSITY OF PORT-HARCOURT**  
**FACULTY OF LAW**  
**SECOND SEMESTER EXAMINATIONS 2020/2021 SESSION**

**PPL 403 -EQUITY & TRUST II**

**Instructions:** Answer Question 1 and any other (3) questions

**Time Allowed: 3 Hours**

**Question 1 (COMPULSORY)**

Eze, Ayo and Gbenga are trustees of a trust created in respect of a four storey building at Onikan Lagos. The trust was created by the late Chief Salami Okoko, a wealthy contractor who in his Will stated that the building should be held on trust for the benefit of the two youngest sons of his second wife, David and Ayomide. Eze, Ayo and Gbenga fraudulently contrived amongst themselves and sold the building to their bosom friend, Chief Dakuku, an oil magnate. He demolished the building and erected a 15 storey building to serve as the new headquarter of his oil company. Chief Dakuku knew that the building was a trust property, but decided to buy it out of spite as the late Chief Okoko once cheated him in a business transaction.

- (a) David and Ayomide are aggrieved and have approached you to advise them on the remedies available to them particularly as against Chief Dakuku. (10 marks)
- (b) Would your answer be different if Chief Dakuku was a bona fide purchaser for value? (4 marks). YES
- (c) Being unsure of the financial status of Eze, David and Ayomide successfully sued Ayo and Gbenga for breach of trust. Advise Ayo & Gbenga as to their remedy if any against Eze (3-5 marks). Cartouche liability.

**Question 2**

Chief Osuego, a multi-millionare businessman and construction magnate is desirous of continuing his philanthropic gestures even after his death. Hence, he seeks to provide for the establishment of some charitable trusts. As his lawyer, advise as the validity or otherwise of the following proposed trusts as contained in his draft will.

- (a) As an ardent follower of Sat Guru Maharaj, an Ijesha man who styles himself "the Living Master", he proposes a trust for the promotion and dissemination of the religious doctrines as being propagated by "the living master". (3 marks).
- (b) As a believer in both the education and spiritual growth of man, he proposes a trust for the maintenance of the Parish priest of St Mulumba Catholic Chaplaincy, situated at the University of Lagos, Akoka. (3 marks).

- (c) He further proposes a trust for the promotion of the game of netball at University of Nigeria, Nsukka. (3 marks). ✓
- (d) Being a giver in his large extended family, he wishes to establish a trust for the alleviation of the indigent children of his paternal grandfather. (3 marks). ✓
- (e) Finally, he proposes a trust for the education of the children of Mrs Brown, his dearest sister who is married to an Ijaw man. (2.5 marks). ✓

### Question 3

Equity regards the trustee as a volunteer. Hence, the general rule is that he acts gratuitously, and is not entitled to any remuneration for his services, notwithstanding that those services of a professional nature: Discuss. (17.5 marks).

### Question 4

- (a) Rukani, a 90 year old man, does not want his wife, Sobulachim, to solely inherit his estate situated in First Mechanic, Choba. He is confused on how to ensure that his estate is properly passed on to his wife, children, church and the poor at the right proportions. He has appointed his wife as a guardian of his children, and hence, left all his properties to her with the belief that she will guard her children properly, as well as judiciously distribute his properties amongst his children, the church and the poor due to the fear of God in her.

As an LLB IV student, kindly advise Rukani on the proper thing to do. (9 marks)

- (b) Ovunda, the last son of Rukani, who have only spent FOUR weeks receiving lectures in LLB IV, boasted to his friend, Nwojje, that of all the courses in LLB IV "Law of Trust" is the simplest. His argument is premised on the fact that, Trust could be defined with a few sentences.

With the aid of Legal and judicial authorities, kindly advise Nwojje on the correctness of the above assertion on the definition and nature of Trust. (8.5 marks)

### Question 5

Mina is the owner of No 26 King Perekule Street in the GRA area of Port Harcourt. Due to some financial challenges she approached Ogbonge Bank Nigeria Plc for a mortgage using the said property at No 26 King Perekule Street. The bank then advanced ₦50m to Mina after perfecting the mortgage agreements which provided for a 24 month repayment plan. 24 months has since past and Mina failed to repay the loan as agreed. The bank decided to exercise its power of sale

and sold the property for ₦200m. Mina, with the aid of a Valuer's Report, argues that the force sale value of the property is ₦300m and as such the bank must find a proper price for the property and account for every money in excess of the ₦50m, since according to her that despite the absence of the formalities for the creation of a Trust, the bank must realise that the circumstances in the present case makes the bank a trustee. The bank on their part argues that no trust has been created and they are not obligated to account for monies in excess of the ₦50m and have gone ahead to appropriate the funds recovered from the sale.

- (a) With the aid of statutory and judicial authorities, kindly advise the parties. (12.5 marks)
- (b) Would your answer be different if the bank had accounted for the monies in excess of the ₦50m to Mina and Mina's only issue was the value of the property was sold? (5 marks)

#### Question 6

A protective trust and a discretionary trust are similar in nature but have certain features that distinguish one from the other. Discuss (17.5 marks)

# UNIVERSITY OF PORT HARCOURT

## Faculty of Law



ACASPER  
OLASPI

### Continuous Assessment Test – 2<sup>nd</sup> Semester, 2020/2021 Academic Session

**Course:** Oil & Gas Law II

**Instruction:** Answer both questions

**Duration:** 1 hour, 20minutes

**Date:** 20<sup>th</sup> December 2022

#### QUESTIONS

1. Using the head past, present and future challenges, comment on the factors hampering an effective legal framework for oil refining.
2. Environmental degradation resulting from oil pollution in Nigeria has continued unabated despite repeated promises by government to tackle the menace. With the aid of your understanding of oil and gas law, discuss the statutory measures for the control of oil pollution in Nigeria.

1977

**UNIVERSITY OF PORT-HARcourt**  
**FACULTY OF LAW**  
**SECOND SEMESTER EXAMINATIONS: 2020/2021 SESSION**

CLASS: LL.B YEAR 4

DATE: 23<sup>rd</sup> January 2023

TIME ALLOWED: 3 HOURS

SUBJECT: Oil and Gas Law (JIL 404)

TIME: MORNING PAPER (9am-12noon)

**INSTRUCTIONS: ANSWER ANY ONE (1) QUESTION FROM EACH SECTION AND AN ADDITIONAL QUESTION FROM ANY OF THE SECTIONS. ANSWER ONLY FOUR (4) QUESTIONS IN TOTAL.**

**SECTION A**

1. There is a trending debate among students of Unique UNIPORT about the importance of state oil companies. Considering the poor performances of the Nigerian National Petroleum Corporation, some students are arguing that state oil companies are not significant to resource-rich oil producing developing countries; whereas, due to good performances of other state oil companies around the world, the rest of the students are arguing otherwise. In the circumstances, as a UNIPORT Law Faculty activist Oil and Gas Law student, the UNIPORT Students' Union Government (SUG) has invited you to address the entire Unique UNIPORT students, during the UNIPORT 2023 SUG Students' Union Week, on the significance of state oil companies, using the case of the Nigerian National Petroleum Company Limited, based on relevant provisions of the Petroleum Industry Act, 2021, and the example of oil companies of other oil producing countries. Present your written address to Unique UNIPORT students here.
2. It may be asserted that state participation in the petroleum industry benefits host governments of resource-rich countries, as well as citizens and resource-rich communities and regions of these countries. Therefore, using oil-rich Nigeria as an example, and the aid of the Petroleum Industry Act, 2021, and the Nigerian Oil and Gas Industry Content Development Act, 2010, discuss the foregoing assertion.

**SECTION B**

3. Enumerate on the political and legal factors that led to the set-up of OPEC and discuss the powers and functions of three (3) of its principal organs. ✓
4. Discuss the legal fiscal mechanisms put in place by the Federal Government of Nigeria for Revenue generation in the Petroleum industry. ✓

**SECTION C**

5. Zeta Exploration & Production Company Limited, the operator of OML 134 has been operating in Okrika, in Okrika Local Government Area of Rivers State for 30 years. The Petroleum Industry Act (PIA) which was signed into law in 2021 came with some major changes. Over the years, Zeta's operations has resulted in the flaring of gas with the company reluctant to take concrete action to prevent or minimise gas flaring. The thinking within the company is that a simple cost and benefit analysis shows that it was cheaper to flare gas than to invest in the processes that will eliminate gas flaring. The company also considers the penalties for flared gas to be tax deductible and eligible for cost recovery. The people of Okrika-the host community who bear the brunt of the environmental issues associated with gas flaring have been left with nothing despite the millions of dollars

collected as gas flaring penalties and fines over the past 30 years. The Minister of Petroleum, Mr Ebikefe, on the 20<sup>th</sup> of Jan 2023 instructed that the penalties for Zeta's flaring of gas in Okrika for the year 2022 be paid into the federation account to help the government with the payment of salaries of civil servants due to paucity of funds. Mr Sabinus, a renowned environmental activist has petitioned the Petitioned the President and Commander in Chief of the Armed Forces of the Federal Republic to intervene to halt the flaring of gas in okrika, arguing that under the PIA, gas flaring ought to have stopped. Sabinus also argues that it is illegal to use the penalties/fines from gas flaring to pay civil servants under any condition and that such penalties are not eligible for cost recovery or tax deductible. With the aid of statutory authorities, kindly advise the parties.

6. The menace of environmental degradation resulting from oil pollution in Nigeria is been addressed with statutory provisions but with the common law also playing a major role. Discuss two (2) key common law principles known to you, in this regard.

8A

*Sent  
David  
1/10/2023*

**UNIVERSITY OF PORT-HARCOURT**  
**FACULTY OF LAW: FIRST SEMESTER EXAMINATIONS 2020/2021 SESSION**  
CLASS: LL.B YEAR 4 SUBJECT: Property Law (PPL II 302)  
DATE: 17<sup>th</sup> January 2023, TIME: AFTERNOON PAPER (1: P.M.)  
TIME ALLOWED: 3 HOURS  
**INSTRUCTIONS: ANSWER ANY TWO (2) FROM SECTION A AND ANY TWO (2) FROM SECTION B.**

**SECTION A**

**QUESTION 1**

- a. "The Land Use Act of 1978 has variously been described as 'revolutionary' and 'radical.' This is because it *prima facie* expropriates land from the owners. Nevertheless, the expropriation of land in the Act has been described by some as theoretical." Examine this assertion. 10 marks
- b. Using statutory authorities and judicial authorities (if any), examine the relationship between the Land Use Act of 1978 and the 1999 Constitution of the Federal Republic of Nigeria. 7.5 marks

**QUESTION 2**

Chief James Iwowari is governor of South - South state and is a strong member of the APC Party. He is desirous of building a pleasure park akin to the one in Port Harcourt in Peace valley the capital of South-South State. The Pleasure Park plan indicates that the pleasure park would cover property belonging to one Senator Joyce Sekibo at number 9 City Centre road Peace Valley. This property is covered by a Certificate of Occupancy, dated 10<sup>th</sup> January 2010. The Certificate of Occupancy was given on the condition that Senator Joyce Sekibo pays ground rent annually. Senator Joyce Sekibo has never paid the ground rent. The Pleasure Park also covers several hectares of land belonging to Dr. Amachree which he plans to use in the future to build Life Clinic. On the 1<sup>st</sup> of February 2021, Chief James Iwowari issued a notice revoking the right of occupancy of both Senator Joyce Sekibo and Dr Amachree. The notice was signed by Bola Chicago the APC chairman of South-South state. The notice of revocation was served on Senator Joyce Sekibo's Personal Assistant and Dr Amachree's wife. Chief James Iwowari has vowed not to pay compensation to both Senator Joyce Sekibo and Dr Amachree because they are ardent members of the PDP Party. Chief James Iwowari loves a Year 4 Uniport law student (pioneer set) by name Alali. He gave a small portion of Senator Joyce Sekibo's land to Alali as her 25<sup>th</sup> birthday present. (2)  
Advice Chief James Iwowari, Senator Joyce Sekibo and Dr Amachree on their rights and Liabilities in the above incidents. 17.5 marks

**QUESTION 3**

Chief Ibifribo Dan-Jumbo is owner of 150,000 Hectares of Land in Rivers State which he called Iwo-Ama. In the year 2023, he sold 100,000 Hectares of the land to African Properties Ltd which renamed the part it purchased as Diamond Estate and covenanted for itself, its successors in title and other assigns as follows:

- i. That in carrying out the development of Diamond Estate it shall not build more than 50 1-storey duplexes so as to conform to the building permit obtained by Chief Ibifribo Dan Jumbo from Rivers State Ministry of Lands which authorized him to build a maximum of 75 1 storey duplexes on Iwo-Ama.

- ii. To maintain the garden at the entrance of Diamond Estate as an open garden in the same way it had been when it was Iwo-Ama.
  - iii. To vote Labour Party in the 2023 elections
  - iv. To make an annual contribution of N800,000.00 for the maintenance of the entrance road to the estate
- a. Identify the beneficial land and the burdened land in the above scenario 2 Marks  
b. Using judicial and statutory authorities comment on the above covenants 10 marks  
c. The Land Use Act creates a statutory right of occupancy that is akin to a lease. Comment. 5.5 marks

## SECTION B

### QUESTION 4

Mr. Johnbull Jumbo is a known business tycoon based in Abuja. He was awarded the contract of constructing Law Students' hotel at the University of Port Harcourt, Rivers State, by the Federal Government of Nigeria worth Thirty Million (₦30, 000, 000) Naira only. Due to paucity of fund to commence the construction, he approached First Bank of Nigeria Plc for a loan of Twenty Million (₦20, 000, 000) Naira only which the bank agreed to advance him subject to providing security for the loan. In conclusion, he used his property situate at No. 7 Tombia Street, GRA, Port Harcourt valued at Fifty Million (₦50, 000, 000) as security and the loan to be repaid within a period of six months. A deed of mortgage was entered between the parties to authenticate the transaction. A clause was inserted in the agreement to the effect that if the loan is not discharged within the time limit of six months, the Bank shall pay an extra Five Million (₦5, 000, 000) only to Mr. Johnbull Jumbo and the property automatically passes to the Bank. Two months after the due date, the Bank instead issued the required notice to Mr. Johnbull Jumbo to repay the loan and including the accruing interest and failure of which, the Bank will sell the property to recover the loan and the interest thereto. Upon the default of Mr. Johnbull Jumbo, the Bank sold the property to Mr. Amadi for ₦50, 000, 000 only. On his part, Mr. Johnbull Jumbo threatened the validity of the transaction alleging that the consent of the Governor was not obtained as required by law and the sale by the Bank invalid and thus instituted an action against the sale at the High Court of Rivers State.

In view of the above scenario and with the aid of decided cases comment on the:

- (a) On the issue of consent raised by Johnbull Jumbo and the success of his action? [5 Marks]
- (b) Validity of the Clause inserted in the agreement? [5 Marks]
- (c) The Validity of the sale of the property to Mr. Amadi? [2 Marks]
- (d) On the proceed of the sale? [2 Marks]
- (e) Will your answer be different if the Bank opted for an order of foreclosure instead of selling the property? [3 Marks]

Sr 28  
Reverent  
Addo

**QUESTION 5**

Discuss the evolution of State Control of Mineral Resources and the Impact in the Present Nigeria. Support your answers with authority(ies) if any. 17.5 marks ✓

**QUESTION 6**

- (a) A lease is a document creating an interest in land for a consideration called 'Rent' and not in perpetuity, discuss. [8 Marks]
- (b) Mrs. Kent is the owner of the property situate at 2 Nelson Mandela Crescent, Port Harcourt. Following the strategic position of the property, the Obio/Akpor Local Government Council has approached her to lease the property as a training centre for its teaming youths in various skills. Being confused as to the functioning of a lease, she has approached you for an explanation as to the working of a lease. With the aid of decided and statutory provisions kindly explain the validity of a lease. [9 Marks]

**UNIVERSITY OF PORT HARCOURT**  
**FACULTY OF LAW**  
**LL.B YEAR 4 1<sup>ST</sup> SEMESTER CONTINUOUS ASSESSMENT TEST**  
**COURSE: PROPERTY LAW**  
**COURSE CODE: PPL 406. 2**

**DATE: WEDNESDAY 21/12/2022**

**DURATION: ONE HOUR**

**INSTRUCTIONS:**

1. Answer the two questions and each question carries 15 Marks.
2. Write your name and Matric No. in bold letters

**Question 1:**

*Spar v. marr  
Balk v. Daniel*

Mr. John Koko is the owner of a petrol station situate at No. 2 Choba Street, Port Harcourt. He entered an agreement with Mrs. Ngozi Lambert wherein she was permitted under the agreement only to enter upon the petrol station "to operate the underground petrol tankers, pump and other fittings". In an attempt to make use of the entire premises, Mrs. Ngozi Lambert was stopped by the owner of the premises, Mr. John Koko and warned her to restrict her use of the petrol station to the underground petrol tanks, pump and other fittings only. Mrs. Ngozi Lambert insisted she leased the entire premises and entitled to its use. She thereafter sued Mr. John Koko for unlawful interference.

With the understanding of a lease and decided cases, discuss the chances of Mrs. Ngozi Lambert succeeding in the suit.

**Question 2**

The indigenous people of Ogoni Kingdom have woken up to the disturbing realization that their natural inheritance including but not limited to forestry, water, and vast lands have been taken over by crude oil spillages from the seismic pressure, mineral activities and discovery. The situation above has ignited protest and the Ogoni Kingdom is now heavily charged up thus the people are angry and waiting to engage the Government over the situation, management and control

of the mineral resources and the spills. The elites of the Kingdom have called for a conference amongst the Ogoni People and representatives of the Rivers State Government to determine the ownership, how to control and manage the natural resources in their domain considering the fact that they suffered the impact of such spills and discovery (ies). The Government of Rivers State is deeply concerned and at the same time worried about the health and well-being of the Ogoni People and thus stating that the Government will do everything possible including going to court to seek redress on behalf of the people of Ogoni.

You are the legal representative to the people of Ogoni Kingdom and equally invited to the conference of the Ogoni People. Advice the people of Ogoni Kingdom and the Government of Rivers State on their respective rights as touching on the ownership, management and control of mineral resources in Ogoni land of Rivers State.

**UNIVERSITY OF PORT HARCOURT  
FACULTY OF LAW**

**LLB YEAR 4 SECOND SEMESTER EXAMINATION - 2020/2021  
ACADEMIC SESSION**

**Course: Law of Evidence II (PUL 402)**

**Instruction: There are two Sections in this paper. Answer TWO Questions from each of the SECTIONS to make it FOUR Questions in all.**

**Duration: 3 Hours.**

**Date: 20<sup>th</sup> January, 2023**

**SECTION A**

**Question 1**

1. Tom Peter is a popular youth activist in Choba town who contested for the position of Councillor in the councillorship election organized by the Rivers State Independent Electoral Commission in Obio/Akpor Local Government Area in which he lost. The final results were contained in two computer print-outs forms EC8C and EC8D. For the purpose of contesting the election, he took a loan of 1,000,000.00 from his bank and was paying 100,000.00 every month in liquidation of the facility which the bank was deducting from his account. Even after completing the payment of the loan, the bank has continued with the monthly deduction for over four months. Tom Peter recently obtained an account statement from the bank which confirmed the continued deduction and intends to use same to file an action against the bank. All efforts by Tom Peter to obtain a certificate of authentication of the printed account statement from his bank have proved abortive. Tom Peter has briefed you as a lawyer to file an election petition for him as well as a suit against his bank.

- (a) Discuss the admissibility of the election results forms EC8C and 8C8D in the election petition proceedings under Section 84(2) of the Evidence Act, 2011. *Electronic Evidence*
- (b) Discuss the circumstances under which Tom Peter could still tender the bank account statement in his suit against his bank in the absence of the certificate of authentication from the bank. *Exceptions* *Exceptions*

**Question 2**

Chief Alagba and Alhaji Abiola have a protracted land suit before the Port Harcourt High Court. From the evidence given, Chief Alagba's vendor has been at large since the past six years and nobody seems to know his whereabouts. His only surviving son Tony who was even a witness to the transaction with Chief Alagba is around but could not be called on the ground that he sometimes goes berserk and talks like one in a state of non compos mentis. On one of such occasions, Tony assaulted the Orderly of a Magistrate and without putting him to any form of trial, the Magistrate simply sentenced him to two years imprisonment. Chief Abiola contends that Chief Alagba has deliberately withheld material evidence and the court should hold same against

him, but Chief Alagba however countered that his agreement with his vendor was duly executed by all the parties and their witnesses and was duly attested to by a Chief Magistrate and registered with the Lands Registry.

Discuss the various presumptions of law discernible from the above state of facts and their applicability or otherwise to the matters to which they relate.

### Question 3

- (a) "The life of an affidavit is the declaration on oath. What makes that piece of paper an affidavit (competent to support the motion on notice) is the attestation or swearing before the Commissioner for oaths. Once the document is not sworn to, it is a mere piece of paper, not an affidavit. Therefore, without oath, there is no affidavit". – Nwodo, JCA in Onujabe v. Idris (2012) 2 NWLR (Pt. 1284) 285 at 308 paragraphs A-C.

With the aid of statutory and judicial authorities, discuss the formal and essential requisites of a valid affidavit.

- (b) Examine the admissibility of documents under Section 83 of the Evidence Act, 2011.

## SECTION B

### Question 4

Mr. Tonye is standing trial for conspiracy to commit murder and murder respectively. The prosecutor is doing all he can to make it mandatory for Tonye's wife to testify against her husband. Can the prosecutor succeed in making her testify for the prosecution against her husband? Will your position be different if it is a civil matter? Secondly, Dr. Eric who is of unsound mind witnessed the killing of his neighbor's wife. The husband to the deceased is of the opinion that Dr. Eric's infirmity cannot prevent him from doing so. What will be your position if Dr. Eric is dumb, or if the incident was witnessed by his thirteen (13) year old daughter.

With the aid of judicial and statutory authorities address the issues raised. Also briefly address the categories of witnesses that cannot be compelled to give evidence in court.

### Categories of Witnesses

### Question 5

Mr. Daibi a persecutor has failed to prove the ingredients of the offence of rape against Tamunoala. Tamunoala on his part has also failed to establish his innocence. The learned trial judge gave judgment hinging his reason on the failure of the defense to prove his innocence. He went further to conclude that the accused has not established any defense that will exculpate him. According to him, where the prosecutor fails to prove his case beyond reasonable doubt, the onus shifts to the accused person to prove his innocence beyond same standard of proof.

In another scenario, James is standing trial for the murder of Hon. Kabaari. In his defence, he gave evidence, claiming to be in Abuja, the day the murder took place at Bori. In his address, he submitted that the onus of proving that he was at Abuja lies on the shoulders of the prosecution. He also stated further that the standard of proof for the offence of murder is the balance of probability. Are these positions correct?

Lastly Mr. Sotari was found lying beside his wife in a pool of her blood. An eye witness narrated that Mr. Sotari came back and met his wife washing some dirty clothes and ordered her to go in and prepare him his lunch. She pleaded with him to allow her finish the washing as she is almost done, but he refused and instead used the machete in his hand to inflict serious cut on her head, which resulted to her death. He further stated that Mr. Sotari was stinking with alcohol when he committed the act. Mr. Sotari Instead of running, laid down beside her, the Machete in his hands. What defence can he raise in his defence and can such defence avail him? If he is entitled to any defence in law, upon whom lies the evidential burden of establishing such a defence?

With the aid of judicial and statutory authorities, discuss the various issues raised in the question.

#### Question 6

To establish a case in court, whether criminal or civil, the court can rely on the evidence of a single witness so long as the evidence is relevant and admissible and credible. This is true because as a general rule, no particular number of witness is required for the proof of a fact. This view was restated by the supreme court through Oputa JSC (of blessed memory) in *Ademola v. The state* (1988) NSCC 465 at 472, when he held that 'the truth is not discovered by majority votes nor by counting of heads' and that it is the quality of evidence and not quantity that counts. Nevertheless, there are number of exceptions where corroboration is required. When then is corroboration required by Law and practice and what is the effect of absence of corroboration where it is required by Law and practice?