



**NATIONAL OPEN UNIVERSITY OF NIGERIA**  
**PLOT 91, CADASTRAL ZONE, NNAMDI AZIKWE**  
**EXPRESS WAY, JABI - ABUJA**  
**FACULTY OF LAW**  
**DEPARTMENT OF PRIVATE AND PROPERTY LAW (JIL)**  
**OCTOBER/NOVEMBER EXAMINATION 2016**

**COURSE CODE: LAW 422 (PPLL 422)**  
**COURSE TITLE: LAND LAW II**  
**CREDIT UNIT: 4**  
**TIME ALLOWED: 2 ½ HOURS**  
**INSTRUCTIONS: ANSWER FOUR QUESTIONS ONLY.**  
**QUESTION ONE IS COMPULSORY**

**QUESTION**

- 1.a) “The methods of creating mortgages in Nigeria vary according to the applicable law and the nature of interest which forms the subject matter of the mortgage.” How far do you agree with this statement?
- b). Dele contacted the First bank Plc. for a loan of N20M on the assurance that he would use the money for the expansion of his information technology business at Computer Village Ikeja, Lagos State. He deposited a forged certificate of occupancy of his property consisting of a block of six flats at Opebi, Ikeja Lagos State as security for the loan. Dele further entered into an agreement to execute a legal mortgage in favour of FBN PLC. Dele in dire need of cash approached UBA Plc. and deposited the original Certificate of Occupancy of the property but further executed a legal mortgage with UBA Plc. to secure N50Million from UBA Plc. Two months later he approached Skye Bank for a loan of N6Million and executed a legal mortgage on the same Certificate of Occupancy as security for the loan. Dele became apprehensive on his inability to pay back any of the loans earlier taken from other banks, he approached Access Bank and secured another loan of N60M without informing Access of his indebtedness to FBN, UBA and Skye Bank. The said loan was secured with his shopping Complex at Surulere and block of 6 six flats at Opebi Ikeja without the consent of Lagos State Government. Dele’s ICT business is now in trouble and is unable to pay his creditors. FBN Plc. has applied to court for foreclosure of the mortgage while UBA Skye Bank and Access are desirous of selling the properties and has approached Oak Properties who offered to pay N150Million for the two properties.

**Advice the parties as to their respective rights and priorities of payment.**

2. The Supreme court decision in the case of *Union Bank of Nigeria Plc. & Ors V Ayodare and Sons Nigeria Limited* glossed over the fundamental rule that “Equity will not allow a statute to be used as an engine of fraud” which rule was applied by the same court in its earlier decisions as basis to hold that the holder of a statutory

right of occupancy should seek Governor's Consent .....it would be unconscionable of him to turn around and maintain that such consent was flawed having received valuable consideration.

Critically examine this statement with the aid of decided cases in line with your understanding of the statutory requirements of Governor's consent under the Land Use Act.

3. a) State the basic characteristics features of Joint Tenancy and Tenancy in common. What modifications (if any) have been introduced by the Land Use Act 1978 and the Property and Conveyancing Law of 1959 into the concept?  
b) Bolaji has assigned his right of occupancy comprised in a portion of land in Lagos to his children, Yemi, Bidemi, Kunle and Lekan in equal shares. Bidemi died and is survived by Kunle and Lekan, Kunle and Lekan want the property portioned so they can take possession of their deceased brother's share or alternatively the property sold and proceeds shared. Yemi is objecting. Advise Kunle and Lekan.
4. a.) Examine the essentials of a valid lease.  
b.) Musa created a 10years leave over a four bedroom flat in Favour of Dudu in March 2001. The lease agreement contained the following covenants amongst others:  
(i) That the lessee shall not assign or sublet the apartment.  
(ii) That the lessee may exercise an option to purchase the reversion at a price to be fixed by the lessor at the expiration of the term.

Sometimes in 2004, Dudu sublet a room to Chucks for 5 years and upon the expiration in 2010 Dudu notified Musa of his intention to purchase the reversion and asked Musa that the price be indicated. Musa contended that he was not bound to sell the reversion and that in any case, Dudu has breached the covenant in the lease for which he resolved to bring an action for forfeiture.

**Advice the parties.**

5. a) Exclusive possession is and always has been the determinant feature in deciding whether a lease or a license has been granted. Explain this statement with reference to decided cases and consider to what extent you agree with it?  
b) Emeka is the owner of a large house at Apapa. He has converted the top floor into a self-contained flat, consisting of two bedrooms, a bathroom, kitchen and a large living room, in December last year he placed an advert in the Castle Estate Magazine stating "Flat available for immediate occupation at N4000,00/month"  
Tina, Titi and Tessy applied. Each signed separate 'license agreements' on the same day with identical items including:  
A. the licensor reserves the right to increase the number of the occupants of the flat by one.  
B. The licensor will provide cleaning services to the licensee on a monthly basis and retains a key for that purposes  
C. The licensee shall be responsible to pay a license of fee of N2000 per month.

To date Emeka has not provided any cleaning services and has only used the keys to access the flat once in order to retrieve something from the flat, when he gave Tina, Titi and Tessy 24 hours' notice.

**Advice, Tina, Titi and Tessy as to their legal status.**

Would your answer be different if Tina, Titi and Tessy were strangers and they had replied to the advertisement independently of one another, signing the license agreement on different days?

6. The law relating to the prescriptive acquisition of easements is complex and confused. Radical reform is necessary; indeed, the abolition of prescriptive acquisition may be the best solution. Critically discuss this statement