



NATIONAL OPEN UNIVERSITY OF NIGERIA
14-16 AHMADU BELLO WAY, VICTORIA ISLAND LAGOS
SCHOOL OF LAW
MAY/JUNE 2012 EXAMINATION

LAW 344 – FAMILY LAW II

TIME ALLOWED: 3 Hours

INSTRUCTIONS: Attempt any five questions. All questions carry equal marks.

- 1a. With the aid of relevant authorities differentiate between restitution of conjugal rights and jactitation of marriage.
- b. State the basic requirements for an order of jactitation of marriage
- c. Bobo desires to seek an order of restitution of conjugal rights. Advise him on the main elements which require proof under S.49 of the Matrimonial Causes Act.
2. With the aid of relevant authorities, discuss the bars to petitions for divorce or judicial separation
3. State the circumstances where a marriage purported to be celebrated under the Maliki School of Islamic Law will be deemed void ab initio.
4. Snoop and Minaj met in the US but chose to marry according to customary law to identify with their African roots. On the day of the marriage, it snowed terribly. As a result, Snoop's father was unable to accompany him. The marriage was also delayed for the same reason and finally took place at about 8.00pm. During the ceremony, Snoop was asked to kneel and formally ask for Minaj's parents' consent. He refused to kneel saying that he should only kneel when proposing to his bride. However, he asked and obtained Minaj's fathers consent but did not bother to ask her mother. When it was time to pay the bride price, Snoop said that payment of brideprice was an archaic custom akin to slave trade. He therefore refused to pay the brideprice but offered to sponsor Minaj's entire family on an all expenses paid trip to South Africa as compensation. After the ceremony, Minaj and Snoop left the venue of the marriage together in a horse drawn carriage. Minaj was heard telling her mother that she had heard of a tradition of escorting the bride to the groom's family home but did not see the need since she was already living with Snoop. 6 months after their marriage, Snoop found out that he was distantly related to Minaj. With the aid of authorities, state the implications of the following under customary law;
 - i. Snoop's father's failure to attend the marriage ceremony
 - ii. The time of celebration of the marriage
 - iii. Snoop's failure to obtain Minaj's mother's consent
 - iv. Snoop's refusal to kneel
 - v. Failure to pay the brideprice

- vi. Minaj and Snoop leaving the marriage together in a horse drawn carriage
 - vii. Minaj not being 'led home' to Snoop's family
 - viii. Snoop's promise of an all expenses paid trip for Minaj's family as compensation for the bride price
 - ix. Snoop's distant relationship to Minaj
5. DJ Samsung met Lady Zeejay at Silverbird Galleria on February 14th 2011, during the Valentine show and fell in love with her. He proposed to her on 1st March 2011 and she accepted and started to plan their wedding immediately. Having been advised, she obtained a registrar's certificate of notice of marriage on 14th March 2011. On 9th August 2011, DJ Samsung married Lady Zeejay at Silverbird Galleria. The wedding was conducted by Chaz B, a well known radio personality. Both the Registrar's certificate and their marriage certificate bore their stage names of DJ Samsung and Lady Zeejay and made no reference to their real names.
- a. Advise the parties on the validity or otherwise, of their marriage.
 - b. Would your answer be different if the Silverbird Galleria had been designated in a special licence as the venue of the marriage.
6. a. Differentiate between an application for leave of court and a petition for dissolution of marriage.
- b. Okpia and Omoge got married on 5th January 2011. Omoge noticed that Okpia was making inordinate sexual demands, even when she was sick and always flew into a fit of rage anytime she refused to have intercourse. On one occasion, he beat her severely when she refused and she was later hospitalised. Upon her return, she discovered that Okpia had committed adultery with their neighbour and transmitted venereal disease to her. She threatened to file for divorce but he begged her for forgiveness stating that he loved her and was willing to seek professional help for his inordinate sexual appetite. Omoge still loves Okpia and wishes to give him another chance. However, she would like to live apart from him for a while until she undergoes treatment and counselling. She has approached you to file a petition for an order of judicial separation on her behalf.
- i. What preliminary court order will you be required to obtain and
 - ii. Would your answer have been different if Okpia did not always demand sex and had not contracted venereal disease but only cheated with their neighbour because she had been abroad on official assignment for over 5 months.
7. a. Define settlement of property
- b. With the aid of relevant authorities, list the parties to settlement of property and the nature of property to be settled.
- c. In what circumstances may a court refuse to honour the agreements.
- d. Discuss the modes of settlement of property provided under the Uniform reached by parties to an ante nuptial settlement Marriage and Divorce Act.
8. Senator Big Shot has filed for divorce from his wife. Whilst Mrs. Big Shot is not opposed to Senator Big Shot's petition, she seeks sole custody of Tweety, their 9 year old child. Senator Big Shot has opposed her application stating that Tweety will do better with him as he has the financial means to ensure that she gets the best education in any part of the world and is 'spoilt' with all the good

things of life. He has gone on to point out that without him, Mrs. Big Shot will not be able to maintain Tweety's standard of living since she is a primary school teacher. With the aid of decided cases, advise the parties on the following:

- a. What is the paramount consideration when determining custody issues?
 - b. Who has the discretion to determine what is the best order to make in support of the child?
 - c. What factors may the court consider in determining who should be given custody of a child?
9. Define the following with respect to settlement of property
- a. Unconscionability
 - b. Mistake
 - c. Fraud or undue influence