



NATIONAL OPEN UNIVERSITY OF NIGERIA
14/16 AHMADU BELLO WAY, VICTORIA ISLAND, LAGOS
FACULTY OF LAW
JANUARY / FEBRUARY 2018 EXAMINATION
COURSE CODE: LAW 522
COURSE TITLE: LEGAL DRAFTING AND CONVEYANCING 11
TIME ALLOWED: 2 ½ hrs
INSTRUCTION: ANSWER FOUR QUESTIONS IN ALL

QUESTION 1 IS COMPULSORY AND ANY OTHER THREE QUESTIONS

Question 1 carries 25 marks and others carry 15 marks each, total 70marks

1. Mr. Bello Nasir of No 9, Woji Lane, Maitama, Abuja wishes to send his Son to United Kingdom for his Master's degree. Unfortunately, he cannot afford to do so. To raise the money, he intends to take a loan of N50 Million from Goodness Microfinance Bank, using his property at Osogbo as security for the loan. Mr Bello, your client has approached you and requested for your advice on the following:

- a. How can a mortgage be created in respect of the property at Osogbo? what are the advantages of legal mortgage?**
- b. Discuss the basic difference between creating a Legal Mortgage by Sub-demise under the Conveyancing Act, 1881 and the Property and Conveyancing Law, 1959.**
- c. Assuming the mortgage was an equitable mortgage, list the various ways an equitable mortgage may be created in respect of Mr. Bello Nasir's property.**
- d. List four rights available to Goodness Microfinance Bank if Mr. Bello Nasir defaults under the mortgage.**
- e. Distinguish between Equity of Redemption and Equitable Right to Redeem.**

2. Due to his desire to sponsor his child's education in China, Mr. John Stone decided to lease his 2-storey building at No 9, Asoro Road, Benin City. He has been approached by one Phil Jones to lease the property for a period of Seven years with a down payment of five years rent in advance.

Mr. John Stone though happy that the property at No 9, Asoro Road is to be leased to Mr. Phil Jones, is very concerned about the reversionary interest and is considering having a say about the use of the property, the type of person in occupation at all times, the state of the property when it is handed over at the expiration of the lease and in case of a fire outbreak, how he would be protected. As a solicitor to Mr. John Stone, he has engaged your services to advice him on the following:

- a. (i) State five Covenants you should insert in the lease to alleviate the fear of Mr. John Stone.**
(ii) List four matters to be contained in a Covenant to Insure.
- b. (i) Make a distinction between rack rent and ground rent.**
(ii) Briefly distinguish between the following concept:

Leases and Tenancy

Leases and Assignment

3. Dr. Abdul Garba, a medical consultant of 81 Uselu Road, Dutse Sokoto has completed negotiation with Hon. Chris Smalling and his wife, Mrs. Becky Smalling, of No 786 Taiwo Road, Sokoto to buy the couple's four (4) bedroom bungalow covered by a Certificate of Occupancy dated 21st October, 2017 and registered as 52/52/2017 at the Sokoto Land Registry, Sokoto and located at No 74 Murtala Mohammed Way Sokoto for N100 million. Dr. Abdul Garba has requested for your advice on the following:

- a. Why he should enter into a formal Contract of sale before the Conveyance. Give reasons in support of your position.
- b. Enumerate rights and obligations of the parties under the Contract
- c. Assuming the parties were represented by separate solicitor, what is the procedure for making the contract binding
- d. Distinguish between patent defects from latent defects

4. Mr. Clay Martins was appointed to act for Chief Nicolas Cage by virtue of Power of Attorney dated 17th October, 2016 and registered as 55/55/1225 at the Lands registry London Street, Sapele Road, Benin. The Power of Attorney provides as follows: -

- i. To create tenancies and collect rent in respect of my property at 16 Upper Sakponba, Benin.
- ii. To do all things necessarily incidental to powers created in this deed.

On 31st of December, 2016, Mr. Clay Martins sold No 16 Upper Sakponba to Honorable Mike Ashley for N50 million. However, Chief Nicolas Gage has sold the property to one Mr. Antonio Gray.

- a. With the aid of judicial authorities, comment on the validity of the sale Mr. Clay Martins to Honorable.
- b. Mr. Clay Martins is aggrieved by the act of Chief Nicolas Gage and wants to institute an action against Chief Nicolas Gage for usurpation of his duties under the power of attorney. Advice him.
- c. Assuming Chief Nicolas Gage died, explain the effect on the Power of Attorney given to Mr. Clay Martins.

5. Prof Johnbull Okon wants to sell his duplex at 59, Murtala Muhammed Way, Ikeja, Lagos to Papa Ajasco. The parties have settled for N50 million as purchase price.

- a. Explain why you as solicitor to the purchaser would need to conduct physical inspection on the property
 - b. State the appropriate order for perfection of the title to the property.
- 6 a. Distinguish Certificate of Occupancy from Right of occupancy
- b. What are rights and duties of a Holder of a Certificate of Occupancy?