

QUESTION 1

Your client, Ngwenya, tells you that he has read the Intestate Succession Act, 1953 and is very happy with its provisions with regard to the distribution of the estate of a deceased intestate to the beneficiaries. He informs you that being so satisfied with the law, he is not interested in executing a will because his “civil rites wife”, his “customary law wife”, and his children by both of them will adequately be provided for in the event of his death.

Advise Ngwenya on why it would be better for him to execute a will, rather than leaving his estate to be distributed according to what is provided in the Intestate Succession Act.

[25 MARKS]

QUESTION 2

Bheka, a widower with two children, made a will in the year 2000, leaving his entire estate to be divided equally on his death between his two children. In the year 2002, at the suggestion of his rascally advocate, under whose influence he had fallen, Bheka made a codicil to his will leaving E80,000.00 to the advocate. In 2004 Bheka married a Ms. Nomagugu Myeni. In 2005 Bheka passed away.

Advise his children who are now aged 25 and 27 years, respectively, on the legal issues arising out of this matter.

[25 MARKS]

QUESTION 3

(a) Describe the limitations, if any, which the law imposes on a testators' right to dispose of his property as he deems fits at his death.

(15 marks)

(b) “a will speaks only at death”. Discuss.

(10 marks)

[25 MARKS]

QUESTION 4

Langa Zondi has been appointed executrix testamentary of her husbands' estate in terms of a will which has been lodged with the Master of the High Court in Durban. Langa's husband, namely, Vika Zondi, died recently leaving an estate in South Africa and in Swaziland. The Master of the High Court in Durban, has issued letters of Executorship to Langa. Langa wishes to proceed without delay with the winding-up of the Swaziland portion of her husband's estate. Advise her.

[25 MARKS]

QUESTION 5

“The sole interest which the Master has in the administration of estates is to protect the interests of creditors, legatees and all other persons having any claim upon the estate”

Discuss fully.

[25 MARKS]

QUESTION 6

Discuss, with reference to case law, the common law duties of the Executor.

[25 MARKS]