

FACULTY OF SOCIAL SCIENCE

DEPARTMENT OF LAW

FINAL EXAMINATION PAPER, MAY 2008

TITLE OF PAPER: **THE LAW OF PERSONS AND THE FAMILY**

COURSE CODE: **L203**

TIME ALLOWED: **3 HOURS**

INSTRUCTIONS:

- (1) ANSWER QUESTION ONE (1) WHICH IS
 COMPULSORY AND ANY OTHER TWO
 (2) QUESTIONS OF YOUR CHOICE**

- (2) MARKS FOR QUESTIONS OR PARTS OF
 A QUESTION ARE SHOWN IN
 BRACKETS**

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GRANTED BY THE INVIGILATOR**

QUESTION 1

Mr Maziya's will contains the following clause:

"My daughter Linda, inherits E50, 000 and her children who are alive at the date of my death, each inherits E20, 000."

Mr Maziya dies on 15th August 2006. Linda's third child, Lindo, is born on 15th May 2007. Linda has two other children, Lindz and Landy.

(i) Who will inherit from Mr Maziya?

[20 marks]

(ii) What would the position have been if Lindo died while his mother was giving birth to him?

[5 marks]

QUESTION 2

Mr X went missing for 10 years after the light aeroplane in which he was a passenger disappeared without a trace somewhere over the war-ravaged Darfur in Sudan. His wife

Y successfully applied for an order presuming his death in terms of the common law.

She

has now met Z, and would like to marry him. She also wants to know if Mr X's estate can

be divided amongst his heir without any repercussions.

Advise her and explain the legal position to her with reference to authority.

[25 marks]

QUESTION 3

Nonto and Soza, both Swazi citizens who are domiciled in South Africa, decide to get married in Norway during their holiday there.

(i) Which legal system determines whether Soza and Nonto may enter into a valid marriage? Explain your answer.

[8 marks]

(ii) Which legal system determines Soza and Nonto's matrimonial property system? Explain your answer.

[8 marks]

(iii) Suppose Soza and Nonto are validly married to each other and Soza is domiciled in Swaziland and Nonto has been resident and working in Pretoria for the past 11 years. Can Nonto, being a married woman, acquire a domicile of choice there? Briefly explain your answer with reference to authority.

[9 marks]

Total [25 marks]

QUESTION 4

David, a 20 year- old minor, lives and works in Pretoria while his parents live in Cape Town. He has a bank account in which his salary is deposited, and he fully supports himself. He rents a flat from Fritz and pays his monthly rental by cheque. The last two cheques were dishonoured when they were presented for payment. David refuses to pay for the rent because he is a minor and therefore does not have capacity to contract. Fritz now approaches you for advice.

Advise him with reference to authority.

[25 marks]

QUESTION 5

"No person can appear in a court of law without the necessary legal standing." This statement holds true in the case of a married woman subject to her husband's marital power. What are the exceptions to this general rule in the case of the aforementioned woman?

[25 marks]

QUESTION 6

Critically analyze the meaning and effect of the provisions of section 7 of the Marriage Act No. 47 of 1964. Is this section still desirable in our family law today?

[25 marks]