

**UNIVERSITY OF SWAZILAND**  
**FACULTY OF SOCIAL SCIENCE**  
**DEPARTMENT OF LAW**  
**MAIN EXAMINATION PAPER, MAY 2009**

**TITLE OF PAPER** : **CONVEYANCING AND NOTARIAL PRACTICE**

**COURSE CODE** : **L501/L 603**

**TIME ALLOWED** : **THREE (3) HOURS**

**INSTRUCTIONS** : **ANSWER ALL QUESTIONS.**

**DO NOT OPEN THIS PAPER UNTIL PERMISSION HAS BEEN GRANTED BY THE INVIGILATOR.**

**QUESTION 1**

Samuel Sifiso Dlamini, a cattle farmer, is the registered owner of Farm 556, measuring 11, 3245 hectares under Deed of Transfer No. 287/2000 dated 15<sup>th</sup> march, 2000 with diagram annexed. The said property is mortgaged in favour of Swaziland Building Society under Mortgage Bond No. 222/2000 dated 15<sup>th</sup> March, 2000 to secure a debt in the sum of E508,000.00. The said Dlamini has subdivided his property and took out a portion measuring 1,4089 hectares represented on sub-divisional diagram S.G. No. S 122/2008 approved by the Surveyor General on the 5<sup>th</sup> September, 2008. The value of the portion is E108,000.00. On the 14<sup>th</sup> October 2008 the said Dlamini donated the portion to his daughter Thembisile Glory Dlamini, whose husband died on the 3<sup>rd</sup> August, 2008. The said donee is the registered owner of Lot No. 344 Ngwane Park Township, Manzini District. The said Dlamini instructs you, a Conveyancer, to effect transfer of the portion to the donee.

- a) State your Principal (2 marks)
- b) Advise your Principal on the requirement to be satisfied before you would effect transfer of the portion, citing relevant authority (4 marks)
- c) Inventing the necessary particulars, draft the following clauses of the Deed of Transfer you would prepare in favour of the donee:
- i) The Recital; (4 marks)
  - ii) The vesting clause; (5 marks)
  - iii) The Property and Extending clauses; (15 marks)
- d) Specify the document upon which you would effect transfer of the portion and state what you would do with such document. (3 marks)
- e) What expression is used to describe the deed you would prepare in favour of the donee? (2 marks)
- f) Calculate the amount of transfer duty payable in respect of the transaction. (4 marks)
- g) Calculate the amount of stamp duty payable in respect of the transaction. (3 marks)
- h) List the documents you would lodge in the Deeds Registry together with the draft deed of transfer you would prepare in favour of the donee. (8 marks)

**[Total: 50 Marks]**

**QUESTION 2**

Mfana Boy Fakudze is the registered owner of Farm No. 241 held under Deed of Transfer No. 403/2006 dated 5<sup>th</sup> September 2006. Situated on the said property is a house. The said Fakudze has agreed with

Peter Menzi Dlamini that the latter may use the house with his family as a dwelling. The said Fakudze and Dlamini have consulted you, a notary public, for advice on the deed to be prepared in respect of the agreement, and to prepare the deed.

- a) What right is created in terms of agreement between the parties? (2 marks)
- b) Specify the holder of the right you stated in (a) above. (2 marks)
- c) Advise on whether or not the right you stated in (a) above can be transferred to any other person, citing relevant authority. (3 marks)
- d) What deed would you prepare for the parties, and in what form? (3 marks)
- e) Inventing the necessary particulars, describe the property that is encumbered. (4 marks)
- f) Draft the execution clause of the deed you would prepare in respect of the agreement between the parties. (8 marks)
- g) Advise on the manner of execution of the deed you stated in (d) above, citing relevant authority. (3 marks)

**[Total: 25 Marks]**

**QUESTION 3**

- (a) What is a deed of cession? (2 marks)
- (b) What does the term "owner" mean in relation to immovable property, in terms of the Deeds Registry Act, 1968? (4 marks)
- (c) Define the term "general clause" in relation to bonds. (4 marks)
- (d) Distinguish between a notarial deed and an underhand deed. (4 marks)
- (e) Distinguish between a protocol and a protocol register, in relation to the notarial office. (4 marks)
- (f) Distinguish between an application in terms of Section 37 and an application in terms of Regulation 40 of the Deeds Registry Act, 1968. (4 marks)
- (g) What requirement must be satisfied by any person seeking to perform any act in the Deeds Registry on behalf of any other person? (3 marks)

**[Total: 25 Marks]**