

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
SUPPLEMENTARY EXAMINATION PAPER, JULY 2009

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

COURSE CODE : **L501**

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

INSTRUCTIONS : **ANSWER ALL QUESTIONS.**

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

QUESTION 1

Vusi Samson Dlamini died on the 25th October 2008 being the registered owner of Farm No. 666 measuring 5,3245 hectares under Deed of Transfer No. 333/2000 dated 15th March 2000. The said Dlamini had bought the said property from Muzi Peter Dlamini who held the property under Deed of Transfer No.222/1997 dated 15th April 1997, with diagram annexed. In January 2008, the late Dlamini instructed a land surveyor to subdivide his property and take out a portion measuring 1, 3098 hectares. The portion is represented on sub-divisional diagram S.G. No. S 142/2008 approved by the Surveyor General on the 5th February 2008. The value of the portion is E250, 000.00. On the 14th March 2008 the said Dlamini made a will and bequeathed the portion, in equal shares, to two of his children: a son Menzi Petros Dlamini and a daughter Siphwiwe Patricia Dlamini, whose marriage to Zephaniah Vusi Simelane has since been dissolved. The said late Dlamini bequeathed the remainder of his property to his wife, Sebenzile Sylvia Dlamini, to whom he was married out of community of property. You have been instructed as a Conveyancer, to effect transfer of the portion and the remainder into the names of the beneficiaries.

- a) State your Principal. (2 marks)
- b) What authority would you require from your Principal before you can carry out his instructions? (2 marks)
- c) Inventing the necessary particulars, draft the following clauses of the Deed of Transfer you would prepare in respect of the portion:
- i) The Recital; (4 marks)
 - ii) The vesting clause; (9 marks)
 - iii) The Property and Extending clauses; (13 marks)
- d) Inventing the necessary particulars, draft the following clauses of the Deed of Transfer you would prepare in respect of the remainder:
- i) The Vesting clause; (5 marks)
 - ii) The Property clause; (6 marks)
 - iii) The Extending clause; (9 marks)

[Total: 50 Marks]

QUESTION 2

Describe the requirements under the Deeds Registry Act, 1968 and the Deeds Registry Regulations, 1973 in the following circumstances:

- a) If immovable property has been acquired by any person not married in community of property and transfer thereof has not been effected during the lifetime of such person and such person died after having sold his property to another person; (4 marks)

- b) If land or a real right registered in the name of a firm or a partnership is acquired by any member or partner of such firm or partnership in his individual capacity; (3 marks)
- c) If a piece of land is owned by two or more persons, and one or more such persons acquires the share or shares of the remaining owner or owners of that piece of land; (3 marks)
- d) If land transferred is subject to special conditions limiting the rights of the owner; (3 marks)
- e) If land is to be transferred pursuant to the provisions of a will, codicil or other testamentary instrument; (3 marks)
- f) If two or more persons who own in undivided shares the whole of any piece or pieces of land, have agreed to partition that land; (3 marks)
- g) If it is sought to transfer or cede immovable property to a person who has not attained the age of majority; (2 marks)
- h) If any deed comprises more than one page; (2 marks)
- i) If there are any spaces in a deed which have not been used. (2 marks)

[Total: 25 Marks]

QUESTION 3

- (a) Distinguish between exclusions and exemptions in relation to the Land Speculation Control Act, 1972. (4 marks)
- (b) Define the term “general clause” in relation to bonds. (4 marks)
- (c) The definition of the term “notary public” in the Deeds Registry Act, 1968 relates to certain deeds and other documents. What type of deeds and documents are referred to in the definition? (4 marks)
- (d) State the requirements that relate to attestation and registration of an antenuptial contract executed in Swaziland. (4 marks)
- (e) State the requirement that must be satisfied in order for a notarial deed of lease to be binding on third parties. (4 marks)
- (f) What is the statutory duty of a notary public in relation to all notarial deeds enacted by him? (3 marks)
- (g) What is the term used to describe parties to a notarial deed? (2 marks)

[Total: 25 Marks]