

UNIVERSITY OF SWAZILAND

127

FACULTY OF SOCIAL SCIENCE

DEPARTMENT OF LAW

SUPPLEMENTARY EXAMINATION PAPER, JULY 2011

TITLE OF PAPER: THE LAW OF PERSONS & THE FAMILY

COURSE CODE: L203

TIME ALLOWED: 3 HOURS

INSTRUCTIONS: (1) ANSWER ALL QUESTIONS

**(2) MARKS FOR QUESTIONS OR PARTS THEREOF
ARE INDICATED IN BRACKETS**

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QUESTION 1

128

Lebo an 18 year old boy lives and works in Big-Bend while his parents live in Mbabane. He had a bank account in which his salary is deposited, and he fully supports himself. He rents a flat from Mr Matata and pays his monthly rental by cheque. The last two cheques were dishonoured by the bank when they were presented for payment. Lebo now refuses to replace the above-mentioned cheques for rent because he alleges that he is a minor and therefore lacked the capacity to lease the apartment from the very on-set. Mr Matata now approaches you for legal advice.

Advise him accordingly with reference to legal authority.

[25 marks]

QUESTION 2

Mzothini and Lerato are domicilliarities of Swaziland and the Republic of South Africa respectively. They are presently undertaking their studies in the state of Minnesota in the United States of America.

After a lengthy courtship chase, Lerato finally gave in to Mzothini's romantic advances, after which the couple got married in Minnesota. After the completion of their studies, Mzothini became an Indian domiciliary although he still continued to work in the United States of America.

The couple's marriage is currently going through irreconcilable differences and Lerato has returned to the Republic of South Africa where according to South African law she still retains her domicile. Lerato now wants to institute divorce proceedings.

- (a) Can Lerato institute the divorce proceedings in the Republic of South Africa? Alternatively, where can she do so and under which legal system? Give reasons for your answer based on legal authority.

(15 marks)

- (b) Sipho is a 21 year old son of a divorced couple. His father lives in Swaziland but Sipho lives with his mother in Cape Town, a South African citizen, who has since retained her South African domicile after the divorce. Where is Sipho domiciled?

Your answers must be supported by legal principles from the common law and case law.

(10 marks)

TOTAL MARKS: [25 marks]

QUESTION 3

Discuss the factors that may render a civil rites marriage voidable at the instance of either party.

[25 marks]

QUESTION 4

Adultery is a matrimonial offence within the Common Law jurisdictions. What does this matrimonial offence constitute and are there any defences capable of being successfully raised against it?

[25 marks]