

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
MAIN EXAMINATION PAPER, MAY 2011

247

- TITLE OF PAPER** : **CONVEYANCING AND NOTARIAL PRACTICE**
- COURSE CODE** : **L501**
- TIME ALLOWED** : **THREE (3) HOURS**
- INSTRUCTIONS** :
- (i) **QUESTION ONE (1) IS COMPULSORY.**
 - (ii) **ANSWER ANY OTHER THREE (3) QUESTIONS.**
 - (iii) **ANSWER A TOTAL OF FOUR (4) QUESTIONS.**
 - (iv) **EACH QUESTION CARRIES A TOTAL MARK OF [25]; THE TOTAL MARK IS [100].**
 - (v) **IN ANSWERING ANY QUESTION NOTE THAT THE QUALITY OF THE CONTENT, CLARITY OF EXPRESSION AND LEGIBILITY OF HANDWRITING ARE ABSOLUTELY ESSENTIAL.**
 - (vi) **CANDIDATES SHOULD COMPLY WITH ALL DEEDS REGISTRY ACT REGULATIONS WHERE NECESSARY.**

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

QUESTION 1

Inventing your own facts, draft the “*causa*” in respect of the following transactions:

- (i) A Sale in Execution; [5]
- (ii) A Collateral Bond; [5]
- (iii) Intestate succession - Joint Estate with property in deceased’s name - surviving spouse and children being heirs; [5]
- (iv) Joint Estate - Joint Will with massing and usufruct to the survivor over property in the name of the deceased; and [5]
- (v) Sale to a company, not incorporated at the date of sale. [5]

[TOTAL MARKS: 25]

QUESTION 2

(a) Mr. Vusi Dlamini owns a piece of land measuring 5,0000 (five comma zero zero zero) hectares in extent. He intends to employ a Surveyor to subdivide the property into ten smaller pieces of land. He appoints you as his Conveyancer and requests you to prepare certificates of registered title for each the ten pieces, and also prepare the necessary Deeds of Sale and Transfer documents once purchasers are found.

- (i) Is it possible to carry out his instructions? If not, state the reasons why. [5]
- (ii) Advise Mr. Dlamini on the law relating to the registration of townships, setting out the roles of the Swaziland Environmental Authority and Human Settlements Authority. [10]
- (iii) What documents would you be required to submit to the Registrar of Deeds in registering a township? [5]
- (iv) What is the procedure for subdividing a Lot in a Township? [5]

[TOTAL MARKS: 25]

QUESTION 3

- (a) Discuss the two methods by which praedial servitudes can be created and registered with the Deeds Office. [15]
- (b) Briefly discuss the legal requirements for the transfer and mortgage of land which is subject to a personal servitude. [5]
- (c) Briefly discuss the legal requirements for the registration of Ante-Nuptial contracts. [5]

[TOTAL: 25 MARKS]**QUESTION 4**

- (a) Musa Dlamini, Vusi Msibi and Langa Masina own a piece of land in equal undivided shares. The size of the land is 9,0000 (nine comma zero zero zero zero) hectares. Of his entitlement, Musa Dlamini wishes to sell half of his interest in the property.
- (i) Is this possible? If so, state the procedure which he would have to follow. [5]
- (ii) Invent your own facts to draft the application to be submitted to the Registrar of Deeds. [10]
- (b) Sibusiso Dlamini owns a piece of land over which he registered a mortgage bond in favour of Money Bank Limited. He has now paid the amount due under the mortgage bond in full. He now wishes to transfer the property only to be informed that the mortgage bond has mysteriously disappeared from the bank vault.

Describe the procedure the bank would have to follow in giving effect to Mr. Dlamini's wishes. Invent your own facts to draft the application which would have to be submitted to the Registrar of Deeds. [10]

[TOTAL: 25 MARKS]**QUESTION 5**

- (a) Inventing your own facts describe the Grantor of a Power of Attorney to transfer by:
- (i) A woman married out of community of property; [3]
- (ii) A trustee; [3]
- (iii) An Executor; [3]
- (iv) An Agent; [3]
- (v) A person seeking to transfer property registered in the name of a minor. [3]

(b) Briefly discuss the rules which should be complied with in describing land in a Deed of Transfer. [5]

(c) Regulation 39 of the Deeds Registry Act provides that:

“Any person seeking to pass, cede or cancel a Deeds Registry on behalf of any other person must lodge for filing with the Registrar the original power under which he claims to act”.

Briefly discuss the rules which should be complied with before a Power of Attorney is recognized by the Registrar of Deeds. [5]

[TOTAL: 25 MARKS]