



### **QUESTION 1** (Compulsory)

The deceased Senzo Gwebu was a Swazi man married to Zipho in terms of Civil rites, and in community of property. Two children were born of this union, Siphon who is 26 years old, and Gcinile who is 16 years old. During the subsistence of this marriage, Mr. Gwebu contracted a second marriage, through customary rites with one Fikile Sukati. Lihle, who is 10 years old, is their only daughter.

Siphon has come to you for legal advice on issues pertaining to this late father's estate. According to Siphon, his father left a Will which was signed by Fikile. Apparently, she did this on Mr. Gwebu's instruction, and by his direction. According to Siphon, his father was quite unwell during the period when the will was executed.

Siphon informs you that Fikile, her daughter, her father and brother, have been appointed as the sole beneficiaries, as per the provisions of the Will in question. The late Mr. Gwebu's estate is estimated to be about E6 million in value. According to Siphon, the will does not contain a certificate by a Commissioner of Oaths. Siphon wishes to challenge the will, and decries the fact that his mother, Gcinile and he have been completely left out of the will.

Advise Siphon on his chances of successfully challenging the validity of the estate, and also inform him how best the estate would be administered in the event that the will is held to be invalid.

### **QUESTION 2**

Critically discuss the purpose and provisions of the Intestate Succession Act, 1953, viewed in juxtaposition with Section 34 (1) of the Constitution of Swaziland, 2005. Explain the "transformation" the provisions of the Act have undergone on account of the marathon court case that culminated in the decision of Attorney General v The Master, In re Attorney General v Titselo Dodge Ndzimandze & 27 others 55/2014 SZSC10.

(25 marks)

### **QUESTION 3**

a) Distinguish between the following concepts:-

- i) Massing and Mutual Wills (10 marks)
  - ii) The Presumption of death and the Commorientes Problem. (15 marks)
- (25 marks)

#### **QUESTION 4**

Discuss the following:

- a) *Collatio bonorum* (10 marks)
  - b) *Pactum Successorium* (10 marks)
  - c) Vesting (5 marks)
- (25 marks)

#### **QUESTION 5**

- a) Discuss the concept of Accrual. (10 marks)
- b) The following bequest appears in Vusi's Will:

"I leave my house to my wife Sisana. If she should remarry, the property is to go to the pretty young lady I met at my cousins birthday party in June, 1996".

How is the High Court of Swaziland likely to deal with such bequest.

(15 marks)  
(25 marks)