



# UNIVERSITY OF ESWATINI

FIRST SEMESTER RE-SIT EXAMINATION PAPER, JANUARY 2020

FACULTY OF SOCIAL SCIENCES

DEPARTMENT OF LAW

COURSE CODE: LAW505

TITLE OF PAPER: CONVEYANCING PRINCIPLES AND PRACTICE

TIME ALLOWED: 3 HOURS

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## Instructions

1. Answer any four questions

*Candidates may complete the front cover of their answer book when instructed by the Chief Invigilator and sign their examination attendance cards but must **NOT** write anything else until the start of the examination period is announced.*

*No electronic devices capable of storing and retrieving text, including electronic dictionaries and any form of foreign material may be used while in the examination room.*

**DO NOT turn examination paper over until instructed to do so.**

**Question 1**

Swift Finance (Pty) Ltd has lost Johannes Mandla Dlamini's Mortgage Bond No. 27/2001 dated 20<sup>th</sup> January, 2001. The approach you their conveyancer for advice:

1. Is it possible to obtain a certified copy of the bond? Give authority for your answer. 2 marks
  
2. Invent your own relevant facts and draft the application the bank would lodge at the Deeds Registry in pursuit of the certified copy. 8 marks
  
3. Describe the procedure preceding the application and list the supporting documents lodged together with the application. 5 marks
  
4. Distinguish between a release and a cancellation in relation to a mortgage bond. 5 marks
  
5. Fully discuss the circumstances and necessary element that would enable a mortgagor to be substituted in a bond. 5 marks

**Total 25 marks**

**Question 2**

- A. Briefly define or discuss:
- i. Kustingbrief 3 marks
  - ii. Collateral Bond 3 marks
  - iii. Continuing Covering bond 3 marks
  - iv. De duobus vel pluribus reis debendi 3 marks
  - v. Pari passu 1 mark
  - vi. General clause in mortgage bond 2 marks
- B. Fully discuss the execution of mortgage bonds and hypothecation of immovable property per the relevant provisions of the Deeds Registry Act, 1968 10 marks

**Total 25 marks**

**Question 3**

- i. State the conditions and authority for issuance of a Certificate of Registered title. 5 marks
  
- i. State the requirements that need to be satisfied before a Certificate of Consolidated Title can be issued. Give authority. 5 marks
  
- ii. Cite the relevant provision of law and List 3 types of Certificates of Registered Title. 3 marks
  
- iii. Invent your own fact and draft an application for a Certificate of Registered Title newly sub-divided land parcel. 12 marks

**Total 25 marks**

**Question 4**

Section 15 states that the ownership of land may be conveyed from one person to another only by means of a deed of transfer. Ownership in land can however be transferred via endorsement.

- i. Fully discuss four circumstances under which ownership in land can be conveyed through endorsement. 10 marks
  
- ii. Invent your own fact and draft an application in terms of section 45. 10 marks
  
- iii. State supporting document that would need to lodged together with a section 45 application. 5 marks.

**Total 25 marks**

**Question 5**

Saviour Ndlela, is the registered owner of Farm No. 18, situate in the Shiselweni District, measuring 240 hectares under Deed of Transfer No. 23/2011 dated 24<sup>th</sup> January, 2011. He took transfer from Dika Simelane who held it under Deed of Transfer No. 422/2001 dated 6<sup>th</sup> July, 2001, with diagram annexed. In January, 2019 Johannes Saviour Ndlela subdivided his property and took out a portion measuring 100, 2345 hectares represented on sub-divisional diagram S.G. No. S6/2019 approved by the Surveyor General on the 31<sup>st</sup> January, 2019. The value of the portion is E950,000.00 On the 18<sup>th</sup> March, 2019, he sold the subdivided portion to his brother Vusi Mfanawababe “Makopane” Ndlela. On the same date he donated the remainder to his wife Maria Tiny Ndlela to whom he is married out of community of property. He has instructed you as his Conveyancer to pass transfer of the two properties.

- A. Invent any other relevant additional facts and draft the following clauses in the Deed of Transfer with respect to the portion:
- |      |                                    |         |
|------|------------------------------------|---------|
| i.   | The recital                        | 2 marks |
| ii.  | The vesting clause                 | 2 marks |
| iii. | The property and extending clauses | 6 marks |
- B. Invent any other additional relevant details and draft the following clauses in the Deed of Transfer with respect to the remainder
- |      |                                   |         |
|------|-----------------------------------|---------|
| i.   | The preamble                      | 3 marks |
| ii.  | The vesting clause                | 3 marks |
| iii. | The property cum extending clause | 4 marks |
- C. What is a Deed of Partition transfer? State the crucial elements that have to be reflected in a partition agreement. 5 marks

**Total 25 marks**