

Question One

Rose and Phillip Mutuku of P.O Box 2460-00100 Nairobi wish to buy a house from Alfred Mutua of P.O Box 263-00200 Nairobi. The house is located in Ngong Area and has a Title Deed Number Ngong/Ngong Hills/14. The title has a lease hold period of 99 years from 1970. Alfred used to pay rent and rates to the Kajiado County but has not made any payments since 2013. There are no encumbrances against the title. The house is to be sold with all the furniture contained therein. The entire property measure is 0.5 hectares. The parties have agreed on the following terms:-

- Purchase price shall be Kshs. 12,000,000.00. A deposit of Kshs. 2,000,000.00 shall be paid upon execution of the agreement.
- The Mutukus shall take up possession of the house upon payment of the deposit.
- The balance of the purchase price shall be paid within 30 days as the Mutukus have the money readily at hand and require no financing.

Both parties have approached you to handle the entire transaction on their behalf. The only issue is that Alfred is leaving the country next week and will not be available to sign any documents for the next 6 months. He however wants his son, Junior, to handle all issues arising from the sale and sign any documents required to complete the transfer.

- a) Advise Alfred on the document he will require to effect his wishes to the transfer and draft a sample for his approval and execution. **(8 marks)**
- b) Advise Alfred on the documents he will be required to provide for the transaction to be completed other than the Original Title Deed, Signed Transfer and Identification documents. **(2 marks)**
- c) Draft a Sale Agreement for the parties taking into account the special conditions requested by the parties. **(15 marks)**

Question Two

Anne Wakholi approaches you for advice. Her sister, Bridget, recently passed away and as she had no children, all her property was left to Anne and their brother Dickens. Particularly, Bridget owned a plot in Embu known as, Title Deed Number Embu/Embu Town/121. Anne recently paid a visit to Embu to inspect the plot and found that the neighbor, Mr. Toru, was purporting to sell the property. A quick search on the internet told her she needs to lodge a caution. She requires the following from you:

- (i)
 - a) Explain to her what a caution is. **(2 marks)**
 - b) Draft a caution over the property she is claiming as a beneficiary. **(6 marks)**

- (ii) Mary and Paul Washambe entered into an agreement with Samuel Ole Madoo for the sale of his agricultural plot of land known as Title Deed Number, Kajiado/Isinya/25 measuring 2 acres. Mary and Paul had paid a deposit of Kshs. 200,000.00 and the balance of the purchase price has been deposited with Madoo's advocate. The balance is Kshs. 1,600,000.00. This agreement was executed over a year ago.

Mary and Paul have been making frequent follow ups with Madoo and his advocate on the execution of the transfer but both have been ignoring them. Then they received a letter this morning from Madoo's advocate, Mr. Sharp Practice, stating that the transaction was void as no consent from the Land Control Board had been obtained. Mary and Paul have sought you out for advice on their current predicament. Outline to them what Lands Control Board consent is and with the use of case law outline the effect of the failure to obtain the consent to their transaction. (7 marks)

Question Three

- a) Define the terms "sublease" and "sectional properties" and outline the distinguishing features between the two terms. (7 marks)
- b) Write explanatory notes on the following terms:
 - (i) Deposits (4 marks)
 - (ii) Stamp Duty (4 Marks)

Question Four

- a) Outline the functions of the formality in writing in a contract for disposition of land. (8 marks)
- b) Susan and Anthony Moi have approached you for advice. They recently entered into an agreement for purchase of a house from Peter Ajaa. The parties have generally agreed on the terms though Susan and Anthony have noted that Ajaa's Advocate has added a term in the Sale Agreement as follows: "Time shall be of the essence and this transaction must be completed within 40 days." With the help of case law, explain to Susan and Anthony the legal significance of this term. (7 marks)

Question Five

- a) What is a transmission in the context of disposition of land and outline any **THREE (3)** forms of transmissions? (7 marks)
- b) What are auctions and what distinguishes auctions from conventional agreements for sale of land? (3 marks)
- c) Outline **FIVE (5)** duties of the purchaser's advocate in an auction sale. (5 marks)

Question Six

- a) Outline the reasons why a purchaser would undertake investigation of title. (6 marks)
- b) Name and define five branches of the law that closely relate to conveyancing. (5 marks)
- c) With the help of case law, explain the principle of certainty in a contract for sale. (4 marks)

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