

COUNCIL OF LEGAL EDUCATION



PRE-BAR EXAMINATIONS

SEPTEMBER, 2010

LAND LAW

**Instructions**

- (a) Candidates **MUST** answer Question **One** and **any other 3 questions**
  - (b) All questions carry **25 marks** each
  - (c) Time allowed is **3 hours**
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1. Mr. Nyota Mbaya, an aspiring senator from Nolioto County in the Republic of Kenya took a loan from Kise Commercial Bank Ltd (KCB) to fund his grassroots mobilization. He applied for Kshs.200 million but the bank's Credit Committee approved a total advance of Kshs.50 million only. One of the conditions for disbursing the approved loan was to the effect that Mr. Mbaya was to provide security for the advance. Pursuant to the said condition Mr. Mbaya provided to the bank a title deed for his palatial residential property in Kitsuru that was valued at Kshs.120 million only.

The necessary security documentation was prepared and finalized on 10<sup>th</sup> of June 2006. A charge was accordingly registered in favour of KCB whereupon KCB disbursed the funds on 12<sup>th</sup> June 2006. Part of the terms and conditions of disbursing the funds, which were captured in the charge, were to the effect that repayment would commence on 12<sup>th</sup> of September 2006 and repayment was to be done over a period of 20 years.

Since disbursement, Mr. Mbaya has not made any repayment. You are an associate in the firm of Janja and Associates. Your senior colleague has requested you to prepare a brief for presentation to KCB's Bad Debts Committee on the options available to KCB in its recovery efforts.

Prepare a detailed brief on the rights of KCB.

**(25 marks)**

2. Discuss whether and how the latin maxim *cujus est solum, ejus est usque ad coelum et ad inferos* has been incorporated or modified by statute laws relating to land, water, air and minerals in Kenya.

**(25 marks)**

3. Discuss the extent to which the Swynnerton Plan of 1954 revolutionised agricultural land holding in Kenya.  
(25 marks)
4. Compare and contrast Joint Tenancy and Tenancy in Common as modes of co-ownership.  
(25 marks)
5. Explain in detail how the Sectional Properties Act of 1989 has been operationalised in Kenya.  
(25 marks)
6. Write short notes on the following:
- (a) Mortgage
  - (b) Charge
  - (c) Consolidation (in the context of adjudication)
- (25 marks)
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