

THE KENYA SCHOOL OF LAW



PRE-BAR EXAMINATION

FAMILY LAW AND THE LAW OF SUCCESSION – PRB 005

10<sup>TH</sup> FEBRUARY, 2021

DURATION: 3 HOURS

9.00 AM – 12.00 NOON

**Instructions to Candidates**

- (a) Answer Question **ONE** and any other **THREE** Questions.
- (b) Each Question carries **25 Marks**
- (c) Marks shall be lost for illegible handwriting

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Question One (Compulsory)

Mr. Lawi died in 2020. He had married his first wife in the church in 1991. They had 3 children, one girl and two boys together. Mr. Lawi later on met Jane in 1994 and lived with her in South D estate. He paid dowry of six cows to her father the next year. By the time of marriage she had a child called Jim who was 4years old. They later had 2 more children. Four years ago he met Supa whom he introduced to all his relatives and friends and even took her to his mother. He did not have any ceremony at her home even though he visited quite often. They had 2 children together.

Using the Law of Succession Act of Kenya, case law and any other relevant laws, discuss; -

- a) The status of each of the women with regard to the estate of Mr. Lawi. **(10 marks)**
- b) The status of the child Jim. **(5 marks)**
- c) Division of deceased property. **(10 marks)**

**Question Two:**

- a) Using case law discuss consent as a requirement to a marriage under the Marriage Act 2014. **(10 Marks)**
- b) Define a Competent Witness as stipulated in the Marriage Act 2014. **(5 marks)**
- c) Distinguish between a void marriage and a voidable marriage. **(10 marks)**

**Question Three:**

- a) Discuss the meaning of Matrimonial Property as per the Kenyan Matrimonial Property Act 2013. **(7 marks)**
- b) Discuss, using case law, the protection offered to spouses in relation to Matrimonial Property under the Constitution and the Act. **(18 marks)**

**Question Four:**

Referring to statute and case law explain the best interest of the child in custody matters. **(25Marks)**

**Question Five:**

- a) Using case law explain gifts in contemplation of death (*Donatio mortis causa*). **(15 marks)**
- b) Discuss jointly owned property and its relation to Law of Succession. **(10 marks)**

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**END**