



KENYATTA UNIVERSITY

UNIVERSITY EXAMINATIONS 2017/2018

SECOND SEMESTER EXAMINATION FOR THE DEGREE OF BACHELOR OF LAWS

LPR 211: TRUSTS

DATE: TUESDAY 19TH JUNE 2018

TIME: 12.00 P.M. - 2.00 P.M.

INSTRUCTIONS:

1. Answer **ALL** questions.
2. Support your answers with relevant illustrations from case law, statutory provisions and any other references.
3. Your writing must be **NEAT** and **LEGIBLE**.
4. Your answer booklet must bear your assigned **REGISTRATION NUMBER**, both on the cover and every written page therein.
5. Do not scribble or draft answers on the inner or outer cover pages of your answer booklet.
6. Do not write anything except your **REGISTRATION NUMBER** on this question paper.

QUESTION ONE

ABDULRAHMAN, a renowned philanthropist in Kenya, made the following bequests in her will:

- (a) "A part of the savings I have in the fixed deposit account at Barclays Bank, Queensway Branch, to my nephews and nieces in Kitale whose parents cannot afford their education;
- (b) My fifty acres parcel of land in Ongata Rongai to the Post-Graduate Department at Kenyatta University School of Law (there is, however, no Post-Graduate Department at Kenyatta University School of Law. Instead, all post-graduate courses are offered through the College of Post-Graduate Studies).
- (c) The remainder of my estate to my wife with a very strong desire that she will leave a bequest to my sons, John and Ali."

Applying the relevant principles in the Law of Trusts, evaluate the extent to which each of these bequests may be enforceable. (30 Marks)

QUESTION TWO

- a) Examine the four principal divisions of charities as expounded in case of *Re Pemsel* (1891) AC by Lord MacNaghten. (8 Marks)
- b) Distinguish between the following:
- i. Trusts and estate of deceased persons. (6 Marks)
 - ii. Trust and agency. (8 Marks)

QUESTION THREE

MARIAM was a wealthy middle-aged widow who moved in with John after the death of her **HUSBAND, CHARLES**, but was never married to John. Before moving in with John, she had three children, **TONY, PATRICK AND ELIZABETH. JOHN** also had two children, Isaac and Joseph, before he moved in with **MARIAM**.

MARIAM passed on leaving a will with various bequests, appointing John to be the executor under the will. However, she did not specify how some of the properties were to devolve. In addition there were some properties that were left out of the will.

John has sought your view on what he is empowered to do, and how he ought to do it under the law. Using relevant examples, advise him on:

- (a) His duties and powers. (14 Marks)
- (b) The controls that exist in the law in respect of how he ought to administer this estate. (6 Marks)