



KENYATTA UNIVERSITY
EXAMINATION FOR THE DEGREE OF BACHELOR OF LAWS

LPL 203: CIVIL PROCEDURE

2ND SEMESTER, 2022/2023

TIME: 2 Hours

INSTRUCTIONS:

1. Answer **ALL** questions.
2. Note that penalties accrue for failure to answer question One
3. Support your answer with relevant illustrations from case law, statutory provisions and any other references.
4. Write neatly and legibly
5. Your answer booklet must bear your Registration Number.
6. Do not scribble or draft answers on the inner or outer cover pages or your answer booklet.
7. Do not write anything except your registration number on this question paper.

Question One

Ms. Celina, whom you have known since high school storms into your office holding what you realize is a proclamation issued by Msafi Auctioneers. She proceeds to sit on the visitor's chair and after calming down she opens up and explains the purpose for her visit.

"It is my husband Joel" she shouts. I have warned him many times that men's conference will bring me problems, Now look, he and other men took a loan from Kisima bank and he personally guaranteed the payment. They are unable to pay and Wakili James who has been acting for the bank has sued them. He does not tell me anything until I came home last night to find this letter from the auctioneer lying on the night table in our bedroom Now what do I do? All the things that are on that list are mine and I have the receipts. Joel works from Raba Tours and Travel Limited and I don't know why the auctioneers have not followed him instead they have attached my things! he also has many people who over him money!"

"Calm down", you tell Celina, "I know what we shall do to save your things."

INVOLVEMENT IN EXAMINATION IRREGULARITY SHALL LEAD TO DISCONTINUATION

- a) Explain in details the appropriate legal steps you will take to stop the imminent sale of Celina's property by Mdaifi Auctioneers.
- b) Wakili James, the bank's lawyers, intends to ensure that their client enjoys the fruits of its judgment. Describe in details three (3) other options available to him to recover his client's money from Joel.

Question 2

- i) Citing relevant provisions of the law and appropriate case law elaborate the distinction between appeal and review. (10 marks)
- ii) Critically examine the source of civil procedure as enunciated in the Kenyan legal system. (10 marks)

Question 3

Critically examine with the aid of applicable case laws the rules that govern summons in civil procedure in Kenya, (20 marks)