



KENYATTA UNIVERSITY

UNIVERSITY EXAMINATIONS 2012/2013

SECOND SEMESTER EXAMINATION FOR THE DEGREE OF BACHELOR OF LAWS

LPL 203: CIVIL PROCEDURE

DATE: Thursday 12th April 2012 TIME: 3.00p.m – 5.00p.m

INSTRUCTIONS:

- 1) Answer question ONE and any other TWO questions
 - 2) You will be penalised for failing to answer question one
 - 3) Support your answer with relevant case law, statutes and any other relevant references
 - 4) Write neatly and legibly
 - 5) Your answer sheet must bear your student registration number
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Question 1

Mr. Aswaki, whom you have known since high school storms into your office holding what you realise is a proclamation issued by Mdosia Auctioneers. He proceeds to sit in the visitor's chair and after he calms down he proceeds to tell you the reason he is so angry.

"It is my wife Mrembo!" he shouts. "I have warned her many times that that women's chama will bring me problems. Now look, she and her women friends took a loan from Maida Bank and she personally guaranteed the payment. They were unable to pay and Wakili Kali who has been acting for the bank has sued them. She does not tell me anything until I come 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. Mrembo works for Msafiri Tours and Travel Limited and I do not know why the auctioneers have not followed her instead of attaching my things! She also has many people who owe her money!"

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

- (i) Explain in detail the appropriate legal steps you will take to stop the imminent sale of Aswaki's property by Mdosia Auctioneers. (15 marks)
- (ii) Wakili Kali the bank's lawyer intends to ensure that his client enjoys the fruits of its judgment. Describe in detail **three** (3) other options available to him to recover his client's money from Mrembo. (15 marks)

Question 2

Explain in detail four (4) of the reasons courts may order pleadings to be struck out.
(20 marks)

Question 3

Write short explanatory notes on:-

- a) suits in *forma pauperis* (10 marks)
- b) joinder of parties (10 marks)

Question 4

With the aid of appropriate illustrations and legal provisions, distinguish between counterclaim and set-off.

Question 5

With the aid of appropriate case law and legal provisions, discuss the law of contempt of court in (civil matters) in Kenya.
(20 marks)
