



# KENYATTA UNIVERSITY

UNIVERSITY EXAMINATIONS 2019/2020

FIRST SEMESTER EXAMINATION FOR THE DEGREE OF

BACHELOR OF LAWS

LPL 207: LAW OF PROPERTY IN LAND I

DATE: Monday, 9<sup>th</sup> December 2019

TIME: 3.00 p.m. - 5.00 p.m.

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## 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 reference.
4. Write **NEATLY** and **LEGIBLY**.
5. \* Your answer script must bear your student's registration number.
6. Do not scribble or draft answers on the inner or outer cover pages or your answer booklets.
7. Do not write anything except your **REGISTRATION NUMBER** on this question paper.

## **QUESTION ONE**

Enock and Sarah are business partners running a fast growing business within Mombasa County. One day they decided to scout for a parcel of land to expand their hotel business and carry out farming activities. The two set out to Kilifi County and sought the services of Land Agents within Kilifi Town, who informed them that they knew Mr. Elkanah was in the process of disposing of his piece of land. They contacted him and he indeed confirmed that he was selling the parcel of land which he had inhabited for a period of twenty five years. He informed them that even though he did not have title documents evidencing ownership to the property no person has ever laid a claim to the said land for the period he has been in occupation.

He further informed them that some people who introduced themselves as officials from the Ministry of Environment and Mining have for over a decade been prospecting for minerals on the property and had over time confirmed to him that his parcel of land and those of his neighbors were harbouring titanium and manganese minerals. They were elated with this information and

were now even more interested in acquiring the property. The only concern which was bothering them was how Mr. Elkanah can own the parcel of land without being registered as the legal owner.

They however agreed with Mr. Elkanah that they will return in the near future for further negotiations. Enock and Sarah have sought your legal position on this matter. With the illustration of relevant authorities write a Legal Brief advising Enock and Sarah. (30 marks)

## **QUESTION TWO**

The Nangore community of Kenya stays in Nangore forest within West Pokot County. They were known for a long time to be hunters and gatherers. However in the recent past they have been involved in large scale farming activities which have witnessed clearing of large swaths of forest land. They have also been involved in charcoal burning and killing wild animals for sport something which was unheard of before their interaction with the outside world. The Government of West Pokot County is alarmed with the destruction going on at Nangore forest and has ordered the Nangore Community to cease destroying the forest with immediate effect and move out of the forest within three months failure to which they will face the full force of law. The Nangore Community is aggrieved with the turn of events and their representatives have approached you for legal advice.

Citing relevant case law and statutory provisions ADVISE the community representatives on the directive issued by the Government of West Pokot County to the Nangore Community.

(20 marks)

## **QUESTION THREE**

With reference to relevant authorities, write explanatory notes on the following:

- a) The Maaxim "quic quid plantatur solo solo cedit" (10 marks)
- b) Landholding in Kenya during the Pre-colonial period. (10 marks)