



KENYATTA UNIVERSITY
UNIVERSITY EXAMINATIONS 2018/2019
SPECIAL/ SUPPLEMENTARY EXAMINATION FOR THE DEGREE OF BACHELOR
OF LAWS

LPL 205: LAW OF SUCCESSION

DATE: WEDNESDAY, 25TH SEPTEMBER, 2019

TIME: 11.00 A.M. - 1.00 P.M.

INSTRUCTIONS:

1. Answer ALL questions.
2. Support your answer 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 or your answer booklet.
6. Do not write anything except your **REGISTRATION NUMBER** on this question paper.
7. All Kenyatta university Examinations rules apply as if they were contained herein.

QUESTION 1

MUSA KANDO was a well-known businessman within Nakuru Town. Two months ago he succumbed to the terminal illness after being hospitalized for nearly 8 months. He left behind his wife **MANZI** and five children **ANITA, BRIAN, JEWEL, HAKIM & TOBI**. **ANITA** and **JEWEL** have both been married to wealth men and live in Kisumu and Nairobi respectively. **BRIAN** won a scholarship to his Master's degree in a Canadian University. He traveled to Canada and has never come back home. **HAKIM** on the other hand, despite being 38 years, still lives at home with his parents. **TOBY** is recovering drug addict whose musical career has recently taken off and has recently signed two endorsement deals worth Kshs. 70,000,000.

Upon his death, the family lawyer **WAKILI KIKOMBE** informed the family member of the existence of a will. During the reading of the will it was evident that the Advocate was very

drunk. In the premise, **MANZI** decided to read the will. Under the will **MUSA KANDO** had appointed **WAKILI KIKOMBE** as the executor of the estate. **MUSA's** will made provisions for his wife and children save for **TOBY**. The will stated that since **TOBY** had given his life to drugs, he would receive nothing. **MUSA KANDO** made the will in hospital where he had asked the doctor and nurse to witness the will. However, because of his weak state, he was not able to sign with a pen but instead asked **WAKILI KIKOMBE** to scan his signature from previous letters and past it on the documents.

Before **MUSA** died he had witnessed **TOBY** recover from drug addiction and intended to change his will to include him but could not reach **WAKILI KIKOMBE** who he feared had become alcoholic.

When the will was read, both **TOBY** and **HAKIM** refused to accept it. **TOBY** could not believe his father had left him nothing. **HAKIM** stated that **MUSA** told him since **ANITA & JEWEL** were married to successful men, and because **BRIAN** had disowned his family and because **TOBY** was a drug addict, the entire estate valued at KSHS. 500,000,000 was given to him. **HAKIM** argues that in any event **MUSA's** signature in the will is a forgery.

The family has heard that you are a brilliant advocate and has come to you for a legal opinion. With specific reference to the law and with the aid of case law, please provide a sound legal opinion with a view of helping the aggrieved parties decide their next cause of action.

[30 marks]

QUESTION 2

'The Law of Succession Act Cap 160 underpins and accommodate various cultures in succession'
Kenneth Kodiyo.

Discuss the above statement in light of succession regimes in Kenya.

[20 marks]

QUESTION 3

Discuss the following concepts in the Law of Succession;

1. The Doctrine of Presumption

[10 marks]

2. The Doctrine of Ademption

[10 marks]