

THE KENYA SCHOOL OF LAW



EXAMINATION FOR ADMISSION TO
THE ROLL OF ADVOCATES

CONVEYANCING – ATP 107

3RD DECEMBER, 2014

DURATION: 3 HOURS

Instructions to Candidates

- (a) Answer Question **ONE** and **THREE OTHER** Questions.
- (b) All questions carry fifteen (15) marks each.
- (c) Marks may be lost for illegibility.

PLEASE TURN OVER

QUESTION ONE (1)

You are recently admitted to the Bar. *A fortiori*, you are a member of the Law Society of Kenya (LSK). The LSK, a body corporate with perpetual succession, is intent on purchasing a property and constructing thereon an International Arbitration Centre. The LSK council recently identified "Borsch Palace" as the ideal site. Borsch Palace is a run-down pub operating in the middle of the fashionable Lavington residential area. The proprietor Karl Borsch holds a registered title vide a Certificate of Title issued under section 30 of the Land Registration Act, No. 3 of 2012. He however only has a photocopy. The agreed purchase price is Kshs. 300,000,000/- of which a sum of Kshs. 100,000,000/= will be raised by the membership including yourself. The balance is to be syndicated to three banks and secured by an undertaking by the lead bank's lawyers. The LSK membership is aware that undertakings constitute a critical aspect of conveyancing but are wary of their constant dishonour. The members attribute this to the very wanting skills of newly admitted advocates. The membership has, therefore, raised issues to be discussed at a scheduled special general meeting of the LSK. You have now been co-opted to help the LSK Council to prepare in addressing the issues, which are:-

- a) How 'vacant' must a property be for the vendor to be taken to have given vacant possession? (3 Marks)
- b) What is the process of obtaining a duplicate Certificate of Title where the original is lost or destroyed? (5 Marks)
- c) State any four principles that govern professional undertakings. (4 Marks)
- d) Suggest one possible reform to the realm of professional undertakings in real property transactions. (1 Mark)
- e) Outline the skills expected of a Conveyancer. (2 Marks)

Please prepare a memo to the LSK Council addressing singularly all the above five issues.

QUESTION TWO (2)

Wanjiru is a good old Law School chum of yours. She is now into business. Wanjiru's rich husband Joe has agreed to transfer to her a ten-acre property popularly known as 'Precious Pooches', which is also where they both reside. Wanjiru has applied to be advanced Kshs. 20,000,000/= by Rudy Bank Ltd. This will entitle the couple to raise the much needed finance for their business. Precious Pooches is constituted in a Certificate of Lease issued by the local land registry. It is a 99-year leasehold tenure granted by the local land buying company Maisha Farmers Ltd. The property is situated in rural Taita Taveta County. Precious Pooches is valued at Kshs. 30,000,000/=. Wanjiru will want to develop a student-house thereon to cater for the local student population. She also wants