

QUESTION ONE

Rudy wants to purchase a townhouse within the city. The sale agreement includes a covenant that the transaction is subject to Rudy obtaining a banking facility of Kshs.10,000,000/- which is 50% of the balance of the purchase price. Clyde Bank Ltd has agreed to advance Rudy this balance on the security of a first legal charge on the property. Both Rudy and Clyde Bank Ltd instruct you to act for them. The townhouse had been bought by Roe Ltd and they hold a leasehold title of 99 years registered under the Registered Land Act. Trump LLP represents roe for purposes of the transactions.

- (a) Outline the procedure you will follow to ensure the security in favour of Clyde Bank Ltd is registered successfully. (10 marks)
- (b) How would you ensure that stamp duty and capital gains tax is paid in the transaction and what are the consequences of non-payment of stamp duty? (4 marks)
- (c) Outline the process of payment of conveyance-related taxes (stamp duty, land rent and land rates). (6 marks)

[An assumption is to be made that the value of the property as agreed between Rudy and Roe Ltd and the time-line is January 2017]

QUESTION TWO

You act for Patrick. He intends to purchase a commercial building within the Central Business District of Nairobi. He is in a hurry. He has to leave the country in under one week for a minor medical procedure. He brings to you a "search certificate". The 'search certificate' which is undated reveals that the property is registered under the now repealed Registered Land Act (Cap 300) and the proprietor is Kikau Management Ltd. It is a freehold. Several leases are also registered against the title.

Patrick who has been accompanied to your offices by his 30 year old son Chris is worried that in his absence the transaction may fall through as the vendor's agent has given him only seven days to execute the sale Agreement which has been drafted by Noreen LLP.

You have your reservations and would want to amend the sale agreement and also conduct the requisite due diligence.

- (a) Explain to Patrick the mediums of investigation of title that you intend to conduct and why. (4 marks)
- (b) Advise Patrick on how you may be able to conduct and conclude the process even in his absence and what he needs to do. (2 marks)
- (c) Chris, who is wary of his father paying a huge amount in deposit asks you to advise both of them on how you may secure the deposit in the event the vendor becomes insolvent before the transaction is completed. (4 marks)