

QUESTION ONE

Mr. and Mrs. Pundamilia were married in the year 1980 at the Maneno Matamu Church. They were blessed with three (3) children. In the year 2000 they relocated from their rental home in the Republic of Kenya to Lala Land Country.

In the year 2005 Mr. Pundamilia having had enough of Lala Land County informed his family that he was ready to return to Kenya. Mrs. Pundamilia and her children refused to consider the proposal and Mr. Pundamilia returned to Kenya without his family. He established a sole proprietorship business which he operated single handedly.

In the year 2006 he purchased a parcel of land in Sokwe Mtu County. Not long thereafter, he met a lady Fisi with whom he began a relationship in the year 2009. At the time, Fisi was a single mother of one child Fisilet.

Six years ago Mr. Pundamilia visited the parents of Fisi and paid half dowry and not the full dowry as demanded by Fisi's parents. Traditional rites were performed and Mr. Pundamilia and Fisi were pronounced husband and wife by the elders. They were blessed with a child, Chura one year later.

Subsequently, Mr. Pundamilia purchased ten (10) acres of land in Pweza County and two (2) vehicles one of which he gave Fisi for her daily use. Mr. Pundamilia also informed Fisi that she could utilize the land in Pweza County. Fisi developed the land in Pweza County and began farming. She also put up a four (4) bedroomed bungalow on the land utilizing her own resources from her "mitumba" business.

Mr. Pundamilia and Fisi and the children Fisilet and Chura continued living in the said bungalow as a family. Mr. Pundamilia took care of all the financial needs of the children. The neighbours and the community at large admired the family of Mr. Pundamilia and Fisi.

Two months ago, Mr. Pundamilia and Fisi formed an investment company and agreed that Mr. Pundamilia would assign all his properties to be held and owned by the investment company. Fisi would also transfer her *mitumba* business to the investment company.

Not long thereafter while on the way to his lawyer's office to execute the deed of assignment to transfer his properties to the investment company, Mr. Pundamilia collapsed and died.

Mrs. Pundamilia has returned to Kenya for the burial of her husband. She has informed the burial committee that Fisi was only a househelp and should be left out of the funeral arrangements.

After the burial, Fisi is informed by the funeral committee that she must vacate the four (4) bedroomed bungalow as Mrs. Pundamilia would be moving in, in seven (7) days. Fisi visits your chambers for legal advice on the following issues.

- (a) Fisi informs you that she came across the following statement and is puzzled as to its significance to her case:

"Section 3(5) of the Law of Succession Act, 1981 has been rendered redundant by sections 6 and 9 of the Marriage Act, 2014"