



NATIONAL OPEN UNIVERSITY OF NIGERIA
PLOT 91, CADASTRAL ZONE, NNAMDI AZIKWE EXPRESS WAY,
JABI, ABUJA
FACULTY OF LAW
2021_1 EXAMINATIONS

COURSE CODE: PPL 424

COURSE TITLE: EQUITY AND TRUST II

Instruction: ANSWER QUESTION 1 (ONE) AND ANY OTHER 3 (THREE) QUESTIONS.(QUESTION 1 (ONE) ATTRACTS 25 MARKS)

Time 3HOURS

Question 1

George, a wealthy banker, has already drawn up a trust deed which appoints Lamina Solicitors as trustees and charges them with distributing the financial arrangements he wishes to make for his family and others as follows:

‘(a) a reasonable amount of the money from my account at the Chocky Bank, within three years of my death, between such of my employees as my wife shall determine, the remainder to be divided equally between my children; and (b) N1,000,000 to the inhabitants of my old village such proportions as my trustees shall in their discretion determine.’

During some discussions with George, he discloses that he has several bank accounts at the Chocky Bank and that his employees’ number over 5,000. Furthermore, your own researches reveal that ‘my old village’ which George referred to has been merged with another community during state creation exercise.

George also wishes to give his trustees the authority to distribute the residue of his estate among struggling authors and artists resident in Nigeria, providing that, if the residue is not distributed fully within three years, it should be given absolutely to some charity of his trustees’ choosing. How may Lamina Solicitors carry out George’s instructions?

As a law student on attachment in Lamina Solicitors, write an opinion for the Principal Partner of Lamina Solicitors on all of the issues raised about the proposed arrangement.

Question 2

A trustee must not place herself in a position where her interest and duty conflict. Discuss, with reference to decided cases.

Question 3

In what circumstances may a trustee successfully plead a defence to an established breach of trust?

Question 4

Discretionary trust is a vital form of trust in our society. Explain exactly what a discretionary trust is, the importance and explain with examples why there is a need for some degree of certainty of objects in discretionary trust?

Question 5

John lived in a nursing home but still owned a house, 'Graceville'. In April 2014 he thought that he had not long to live and so he wrote to his favourite granddaughter, Amanda: 'I would like you to have Graceville when I die. You have been so kind to me and you have done so much work in helping me to renovate the cottage.' John then took the title deeds of 'Graceville' and wrote: 'These deeds and all that they refer to I give to Amanda Jones from this time forth.' He then put the deeds back in their box which he kept. In August 2014 John recovered sufficiently to leave the nursing home and returned to live at 'Graceville' with live-in carers. In January 2015, still at 'Graceville', John died from a stroke. John's will appoints Anita, Amanda's mother, as his executor and leaves Anita all his property. Advise Amanda on all the legal issues raised and whether Amanda has any claim to Graceville'.

(b) Can Amanda rely on the equitable remedy of specific performance to enforce the promise?

Question 6

Isobel is drafting her will and wishes to leave some bequests and wants to know if they are charitable. If they are not, then she would like you to suggest revised wording to ensure that they are charitable.

a) N50,000 to hold on trust to research into whether the *David Copperfield* was in fact written by Charles Dickens.

(b) N100,000 to my trustees to hold on trust to provide scholarships for the relatives and dependents of workers in the pottery industry resident in Saki, Oyo State. Preference to be given to those who are themselves employed in any trade in Oyo State.

Advise her.