



NATIONAL OPEN UNIVERSITY OF NIGERIA
UNIVERSITY VILLAGE, PLOT 91 CADASTRAL ZONE
NNAMDI AZIKIWE EXPRESSWAY, JABI, ABUJA
FACULTY OF LAW
DEPARTMENT OF PRIVATE AND PROPERTY LAW
2020_1 EXAMINATION

COURSE CODE: PPL 344

COURSE TITLE: FAMILY LAW 11

TIME ALLOWED: 2 ½ hrs

INSTRUCTION: ANSWER FOUR QUESTIONS IN ALL.

ANSWER QUESTION 1, WHICH IS COMPULSORY AND ANY OTHER THREE QUESTIONS.

Question 1 carries 25 marks, each other question carries 15marks. Total=70marks

1. Mr Babajide has filed a petition for Judicial separation between him and his wife, after fifteen years of marriage. His wife, Ire, is not in agreement with the decision her husband took. Before her husband took the decision, she had earlier persuaded him to consider the interest of their children, their future and especially the disadvantages of Judicial separation on the family. She is very worried about her husband's decision. With relevant statutory provisions advise Mrs Ire on the following:

- i. Effect of a Decree of Judicial Separation
- ii. Discharge of the Decree of Judicial Separation

1b. Mr Ife wants to file a petition for restitution of conjugal rights in his marriage. Since the last six months they got married his wife has been denying him his conjugal rights. The excuse his wife gave for her failure is that she did not bargain for what is happening in their marriage and therefore she cannot continue to endure it. The reasons she gave is that she thought her husband, Mr Ife, is a rich man before they started the relationship, only for her to later discover when they got married, that he is just a mere civil servant, but not until after living together for six months. Upon her discovery, the love she had for the man has disappeared, she has found a new love that she now goes out with, a man that her heart desired and she is not moved about what people are saying about her extra marital affair. With the aid of decided cases, advise Mr Ife on the following:

- i. Ground for Restitution of Conjugal Rights
- ii. Mode of Petition for Restitution of Conjugal Rights
- iii. Obligations of Petitioner after a Restitution Order

2. Explain how conjugal rights can be restored between couple?

3a. Sincerity of purpose on the part of the Petitioner must be seen before a court can consider a petition for Jactitation of marriage. Discuss with decided cases.

b. How can the court promote reconciliation in Matrimonial Causes? Discuss with decided cases.

4. In petitions for judicial separation or divorce, a petitioner who successfully proves any or some of the facts listed under sections 15(2)(a) –(h) and 16(1) of the MCA is ordinarily entitled to the decree sought. However, the court may refuse to order the decree sought based on the defence that the respondent puts forward, which defence may amount to an absolute or discretionary bar, depending on the facts alleged and proved by the respondent against the petitioner. The rationale for making condonation an absolute bar is that it would generally be inequitable to permit a spouse who has forgiven an offence to go back on the decision. There are three principal ingredients of condonation: Examine them.

5. Where a petitioner has consented, encouraged, or willfully contributed to the commission of the matrimonial misconduct on which a petition for divorce or judicial separation is based, he will be refused the decree on the ground that he connived at the misconduct complained of. Discuss the meaning and the two types of connivance.

6i. Critically explain inchoate marriage .

6ii. Discuss the case of Re-intended marriage of Beckley and Abiodun (1943) 17 NLR 59, and Sarah E. O. Green v. Adel Sapara in the light of 6(i) above