



NATIONAL OPEN UNIVERSITY OF NIGERIA
FACULTY OF LAW
DEPARTMENT OF PUBLIC LAW
2020_1 EXMINATION

COURSE CODE: PUL445

COURSE TITLE: LAW OF EVIDENCE 1

CREDIT UNITS: 4

TIME ALLOWED: 3 HOURS

INSTRUCTION: ANSWER QUESTION 1 (ONE) AND ANY OTHER 3 (THREE) QUESTIONS. QUESTION 1 (ONE) ATTRACTS 25 MARKS WHILE OTHERS ARE 15 MARKS EACH.

1. AGM is a company that specializes in iron and steel production. The company entered into a contract with the NOC, a state owned Corporation. One of the terms of the contract is that AGM and NOC shall mine iron ore deposits in the country and profit from the operation shall be shared. While NOC will take 80% of the net profit, AGM will take 20%. The Minister of Mining in the country issued a statement affirming the terms of that agreement. AGM is the operating partner in the venture and has decided to retain 30% of the profit. NOC is aggrieved with the conduct of AGM and has decided to institute an action in court in order to enforce the contract with AGM. In the course of the legal action, the court permitted NOC to tender a photocopy of the statement issued by the Minister of Mining relating to the agreement. The court also permitted AGM to offer oral evidence that AGM is the operating partner in the venture and by that fact AGM ought to take 30% of the profit. NOC completely disagrees with the court's decision. **Discuss the legal issues. 25 Marks**
2. The application of the principle of res gestae is very broad. It is because of this same reason that it defies a precise definition in the law of Evidence. Discuss. **15 Marks**
3. One of the tenets of Law of Evidence is that the court will only accept evidence that is relevant for the purpose of adjudication. That the evidence must be relevant before it is accepted is not sufficient. The evidence must be of such a nature that the court can properly receive and utilize it in the adjudication of matters before it. Discuss. **15 Marks**
4. Evidence belongs to adjectival law distinct from substantive law and is concerned with the proof of facts in the judicial process. Discuss. **15 Marks**
5. Golden Estate and Platinum Court have dispute over a piece of land at Mbari Gardens. Golden Estate commenced an action in court. It filed his Statement of Claim while Platinum Court filed its Statement of Defence. Paragraph 4 of the Statement of Defence read: "The Defendant admits that it was aware of the Claimant's presence on the land in dispute prior to the Defendant's acquisition of the land." The trial court then gave judgment in favour of the Defendant on the basis that the Claimant's Counsel did not cross-examine on the evidence contained in paragraph 4 of the Statement of Defence. The learned trial judge also relied on a letter written by Platinum Court in which it stated that Golden Estate was on the land prior to its acquisition. The letter by Platinum Court was written several years before Golden Estate commenced the present action. The Claimant is aggrieved by the decision of the trial court and

has therefore commenced an action at the court of appeal. With the aid of decided cases, discuss the propriety or otherwise of the trial court's decision or what are the chances of the success of the appeal? **15 Marks**

6. Mr. Peteakwa is married to Mrs. Peteakwa. Mrs. Peteakwa left the matrimonial home upon which Mr. Peteakwa began to look for her. After a period of fifteen years of Mrs. Peteakwa's absence, Mr. Peteakwa decided to re-marry. Discuss. **15 Marks**