



**NATIONAL OPEN UNIVERSITY OF NIGERIA
PLOT 91, CADASTRAL ZONE, NNAMDI AZIKWE EXPRESS WAY,
JABI, ABUJA
FACULTY OF LAW
2021_2 EXAMINATIONS.**

**COURSE CODE: PPL424
COURSE TITLE: EQUITY & TRUST II
TIME ALLOWED: 3 HOURS**

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

Question 1

Luke died intestate last month. He was not married and had no children. His niece and nephew, Babs and Norman, are his administrators and, together with 26 other nieces and nephews, are entitled to all the estate. **You are asked to advise on the following claims against the estate:**

- (a) Babs tells you that Luke allowed her to borrow his car while she was a student at the National Open University of Nigeria, Apapa Study Centre. At the time, he said that he would transfer the car into her name but later, after Babs went to study for a year abroad, Luke started using the car again himself. Babs now finds that, whilst Luke filled out the vehicle registration documents, he did not send them off to the Vehicle Licensing Authority.
- (b) Dan tells you that the day before Luke's death, he visited him and Luke said: 'I'm done for and will never leave this room again. Take this key to my strong box and you will have a nice surprise.' Dan took the key and, on opening the strong box, he found a jewellery box containing a diamond ring, Luke's car keys and a cheque for £1,000 made out to Dan. Consider the grounds for a valid transfer of property to the intended transferees, distinguishing why such ground(s) may validate or fail such a gift.

Question 2

In Boardman v Phipps (1967) AC 46 Lord Upjohn referred to the 'fundamental rule of equity that a person in a fiduciary capacity must not make a profit out of his trust which is part of the wider rule that a trustee must not place himself in a position where his duty and interest may conflict'. Critically consider in relation to this statement what a fiduciary relationship is and the extent of its core obligations.

Question 3

Explain who is entitled to appoint new trustees; in what circumstances may the appointment be made?

Question 4

John, who died in April 2014, left the following charitable bequests in his will made in 2006:

- (a) N10,000 to hold on trust to look after my dog, Felix;
- (b) N5,000 to the priest of St Peter's Church, to say masses for the repose of my soul.
- (c) N20,000 to the Animal League for the Rescue of Sick Cats. There has never been such a body.

You are asked to advise his executors, Teresa and Richard, on what action they should take with regard to the above bequests.

Question 5

It is a cardinal rule of English law that all trusts must be certain of words, certain of subject matter and certain of objects. Discuss.

Question 6

A trustee may be liable to pay compensation for his own breach of trust and in some cases for those committed by others. Discuss.