



**NATIONAL OPEN UNIVERSITY OF NIGERIA**  
**FACULTY OF LAW, DEPARTMENT OF PRIVATE AND PROPERTY LAW**  
**Plot 91, Cadastral Zone, Nnamdi Azikiwe Express Way, Jabi – Abuja**  
**2022\_2 POP EXAMINATION**

**COURSE CODE: PPL423**

**COURSE TITLE: GENERAL PRINCIPLES OF EQUITY I**

**TIME ALLOWED: 3 HOURS**

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

**Question 1**

Roots4U herbals Ltd is a leading naturopath company well- known for its highly potent curative herbs. Roots4U has just its patented its COVID 19 cure, ‘GBOSH’. It has recently come to its attention that a rival company, Erwan Herbal Remedies Ltd, is marketing its own COVID 19 substitute infringing Roots4U’ patent. Advise Roots4U on the following questions:

- i) Whether Roots4U can obtain an immediate injunction against Erwan Herbal Remedies Ltd stopping the sale of their COVID 19 substitute?
- ii) Whether they can examine Erwan Herbal Remedies Nigeria Ltd’s business records held at their Wuhan headquarters; Root4U are concerned that Erwan Herbal Remedies Nigeria Ltd will destroy their records if they know of the litigation
- iii) Whether they can prevent Erwan Herbal Remedies Nigeria Ltd from removing their assets to their main headquarters in Wuhan.

**Question 2**

Critically evaluate the factors that the court will take into consideration when determining whether to make an order for specific performance

### Question 3

Uduak attempted to ship in goods worth N3,000,000,000. While at sea, the ship ran into an iceberg, damaging the hull. Uduak approached Nimart Freight Logistics to hire a ship to recover the damaged ship and tow it to port. In the agreement, Uduak mentioned to Nimart that the damaged ship was at 50 Nautical miles off the Mediterranean sea, whereas, the ship was actually lying at 120 nautical miles off the Mediterranean sea. Nimart agreed to carry out the recovery operation because, she had a ship berthing at 67 nautical miles off the Mediterranean sea and would be an easy one due to the proximity of the two ships. Before commencing the recovery operation, Nimart Freight discovered the misrepresentation; she therefore decided to repudiate the contract on grounds of misrepresentation and to enter into a fresh agreement with Uduak. Answer the following questions

- a. What is/are the remedy/remedies available to Nimart Freight for the misrepresentation? Do you think Nimart Freight can argue based on the remedy/remedies?
- b. Would your answer be different, if Uduak honestly believed that his vessel was actually at 50 nautical miles?
- c. Assuming that Nimart's recovery vessel had actually carried out the recovery operation before attempting to repudiate the contract, what would be your legal advice to Nimart Freight?

### Question 4

Ghoho and Chief Koko owned neighbouring land. Chief Koko, while excavating on his land near Gboho's boundary, caused great landslips into Ghoho's land that he uses as a golf course, holiday resort and flower garden. Gboho's land that was affected was worth about ten million naira; however, the cost of remedying the defect was eighteen million naira. Gbho approached Koko who wants to pay damages and continue with the excavation. Ghoho has come to you to advise him on the appropriate legal action to take against Chief Koko. Advise him.

### Question 5

- a. Rectification will be rarely ordered for unilateral (one-sided) mistake. Discuss.
- b. Discuss three of the findings of fact which contributed to the court's decision in *Aganran v. Olushi* (1907) 1 NLR 66,

### Question 6

- a. How best can you describe the nature of a beneficiary's right
- b. Discuss the following cases and the equitable maxims to which they apply –
  - i. *Cave v. Cave* (1880) 15 Ch. D. 639
  - ii. *Lodge v. National Union Investment Co.* (1907) 1 Ch. 300