



**NATIONAL OPEN UNIVERSITY OF NIGERIA**  
**PLOT 91, CADASTRAL ZONE, NNAMDI AZIKIWE EXPRESS WAY,**  
**JABI, ABUJA**  
**FACULTY OF LAW**  
**2023\_1 POP EXAMINATION.**

**COURSE CODE: PPL 424**

**COURSE TITLE: LAW OF TRUST II**

**TIME ALLOWED: 3 HOURS**

**INSTRUCTION: ANSWER QUESTION 1 (ONE) AND ANY 3 (THREE) OTHER QUESTIONS. (QUESTION 1 (ONE) ATTRACTS 25 MARKS TOTAL =70 MARKS**

**QUESTION 1 –COMPULSORY**

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 2**

**Assess the validity of the following dispositions in the will of Megbene, who died in December 2000:**

- (a) I give N10m to my sister Lolo, knowing that she will use the money in order to secure the future of my daughters;
- (b) my houses in Olumo and Okene on trust for my daughters, Ruky and Ajara, for their lifetimes and then in equal shares between such of my other relatives now living as may be resident in the county of Kyve,
- (c) the residue of my estate to my Executors for such of my colleagues at work as they shall in their discretion think fit.

**QUESTION 3**

Chief Koko has 3 wives and 15 children. Because of the continuous conflict in his family, his best friend, Chief Tamedo advised him to make a video recording of the disposition of his property to each person so as to make the disposition effective and remove all doubts as to the entitlement of each person. Three weeks after the death of Chief Koko, his best friend played the video recording in the presence of all the members of the family as follows:

“I, Chief Koko, the Olu Koko of Koko land, make this video recording in soundness of mind and clarity of thoughts, to my children:

I give my Lamborghini 2020 to Rumola, my first son for his personal use. The key and documents to the car is my bedside drawer;

I give to Chief my best friend my property at Umunene consisting of 10 flats of 3bedroom each as trustee for the benefit of all my children who are still schooling.

I hereby give my 2million units of shares in Crypto World valued at N22million to all my girls as marriage settlement when they are getting married;”

**Chief Koko’s best friend says the video recording is sufficient for the disposition. Discuss the enforceability of these dispositions.**

**QUESTION 4**

**Consider the requirements needed for the validity of the disposition in this question:**

- (a) Simon is holding N2,000,000 on trust for Paul. Paul orally declares that he will hold his interest in the N2,000,000 upon trust for his children in equal shares. –

- (b) Sankara, a medical doctor has volunteered to serve as War doctor in Kyve National Army to in the First World War. Fearing he might not come back alive from the war, he made the following dispositions.

I, Tommy Sankara this 17<sup>th</sup> day of March 1943, has volunteered to serve under the Kyve National Army as on-site war doctor. It is a national honour but, knowing 'I'm done for and may never come back alive, Puto, my son from my secret lover, take this key to my strong box and you will have a nice surprise.' Puto took the key and, on opening the strong box, he found a jewellery box containing a diamond ring, Tommy's car keys and a cheque for N1m made out to Puto. Tommy Sankara dies in the war.

**Advise Tommy Sankara's estate on Puto's claims against the estate.**

#### **QUESTION 5**

In Boardman v Phipps (1967) 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 6**

Albert's will contained the following dispositions:

- (a) N10,000, 000 to my needy brothers, Tom and Jerry, to enable them and their families to have a better standard of living.
- (b) N10,000,000 to the Malvern Brethren. This body meets on the Malvern Hills and worships various deities. Admission is by a rigorous process of scrutiny and the Brethren also publish an annual report on their work.

**Advise Albert's executors on whether these dispositions are valid as charitable trusts.**