



RIARA LAW SCHOOL

UNIVERSITY EXAMINATION FOR BACHELOR OF LAWS (LLB) DEGREE

AND

PRE-KENYA SCHOOL OF LAW CORE COURSES COMPLIANCE PROGRAMME

January – April 2023

INSTRUCTIONS

1. This is the final examination in Law of Succession. You will earn 70% of your final grade from this final examination and 30% from Continuous Assessment Assignments.
2. This examination has **THREE** questions. Please answer **ALL THREE QUESTIONS**.
3. This examination has 4 pages, including this one.
4. Time allocated for this examination is **FOUR** (4) hours.
5. This is an **NOT AN OPEN BOOK** examination. This means that you may NOT make reference to relevant course material supplied to you during the semester to aid you in crafting your answer. You are **NOT** allowed to consult third parties for assistance in the course of this exam.
6. This examination is governed by the **Riara University Academic Honesty Regulations**. Students who violate those regulations will be penalized. Students have an obligation to report to the course instructor any incidences of academic dishonesty compromising the integrity of this examination.
7. Indicate your **REGISTRATION NUMBER AND THE TITLE OF THE EXAM** at the top of the page. **DO NOT INDICATE YOUR NAME ON THE ANSWER SCRIPT.**

QUESTION ONE

Mr Kisirani, your old client, came to your chambers without prior appointment which was unusual. Upon his arrival, your secretary suggested that you attend to him urgently for reasons she promised to explain later. When Mr. Kisirani entered your chambers he appeared very weak and walked towards your table with the aid of a walking stick; in fact you had to jump out of your chair to assist him to sit down because he started to shake violently and looked as though he was going to topple over. No sooner had Mr. Kisirani sat down than he began to explain his reason for the visit.

Firstly, he stated to your shock and consternation that for the previous two days Mr. Jini, his old enemy who died in 1999, had been molesting him and therefore he believes he is about to die. However, he does not wish to die intestate like most of his friends. He was therefore instructing you to draw up a will for his signature immediately.

Secondly, he produced a list of all his assets and a list of the persons to whom he wished to bequeath his property. Among the beneficiaries was a woman he called his second wife although you knew the woman to be married but had represented to Kisirani that she was free to marry him.

Furthermore, there was a bequest to Kisirani's uncle, Roje who had threatened him that if he does not leave him some property, he would curse him and ensure that he shall burn in hell for ever. Additionally, there was a bequest to his neighbour Dello. On inquiry for clarification purposes, Kisirani responded that he was bequeathing Dello some property because he had been begging him, on several occasions, to leave him something to remember him by.

Finally, there was a bequest titled 'to my Advocate and trusted friend' and under the said title he had listed several houses in BuruBuru Phase IV; and although you pointed out to him that such bequest to you may raise eyebrows among his relatives, especially his son to whom he had bequeathed no property, he insisted that since you had been more than an Advocate to him, he wished to reward you for a job well done. After handing over the documents to you, he requested you to ensure that his second wife witnesses the will to make her happy.

With the help of statutory provisions and case law, advise Mr. Kisirani on the grounds that may invalidate his will.

(30 marks)

QUESTION TWO

Mr. Kamau a widower lived on a 10 acre piece of land in Runda that had been inherited from his father. He lived there with his girlfriend and love of his life Miss Njeri. On the day of Njeri's 35th birthday Mr Kuria told her that he wants to take care of her in case anything happened. He therefore transferred the deed to the 10 acres to Njeri's name. One year later, Mr Kuria died intestate leaving five adult children being; three adopted daughters and two sons and his girlfriend Miss Njeri. Before his death he had acquired three houses in Karen in which his daughters lived in and in Lavington in which his two sons resided with their families. He also had a life insurance policy in favour of Miss Njeri. Additionally, he had shares worth KES 10,000,000/= in Kujenga Limited that he co-owned with his friend Mr Njenga.

After the funeral the two sons applied to court for an eviction order to evict their three sisters from the homes they occupied in Karen, claiming that under the Kikuyu Customary Law daughters do not inherit their father's property and in any case, the daughters are really not Mr Kuria's biological children. They also applied for an eviction order for Miss Njeri claiming that ancestral land can only be passed on to male children. They also applied to court for a Grant of Letters of Administration to administer their father's estate. The three sisters and Miss Njeri have, in the meantime come to your chambers for legal direction on how they may retain the homes they have been occupying as they have nowhere else to go. Advise them appropriately. **(20 marks)**

QUESTION THREE

Succession law in, both statutory and case law, has changed significantly since 1901. Discuss 5 key changes that have had great impact on the lives of Kenyan Citizens **(20 marks)**