



SCHOOL OF LAW
NLLB524: CONVEYANCING
END OF SECOND SEMESTER EXAMINATIONS
APRIL 2025
LECTURER: Mr N Phiri
DURATION: 3 HOURS

Instructions to Candidates

- 1. ANSWER ALL QUESTIONS**
2. Start each question on a new page.
3. Use case law where relevant.
4. When drafting documents, devise your own data unless it is supplied in the questions.
- 5. Total Marks: 100**

Question 1

- a) Define the concept of **real rights** in property law. Provide at least two examples of real rights and explain how these differ from **personal rights** in a property context. **(5 marks)**
- b) Discuss the **constitutional protection** of property rights in Zimbabwe. How do these protections impact the conveyancing process, particularly with respect to land transfers and mortgage bond registrations? **(4marks)**
- c) What are the requirements for the conveyance of two or more pieces of land in one Deed in terms of section 34 of the Deeds Registries Act [*Chapter 20:05*]? **[4 Marks]**
- d) A sells his farm to B and C jointly. What two ministerial Consents/Certificates would have to be obtained? **[1 Marks]**
- e) In the event of property being transferred to a partnership, how is the partnership to be described? Give an example. **[2 Marks]**
- f) Under what circumstances are carbon copies of documents accepted in the Deeds Office? **[1 Mark]**
- g) List three (3) Deeds for which forms are prescribed in the Deeds Registries regulations. **[3marks]**
- h) What is e-conveyancing and what are the impediments to establishing a fully functional e-conveyancing system in Zimbabwe? **[5 Marks]**

[Sub-Total: 25 Marks]

Question 2

In the case of *Zavazava and Anor. vs Tendere and ors.* HH-140-15, the Judge stated the following:

“It would appear that Conveyancing laws of this Country are not fool proof because fraudsters continue to exploit the weaknesses in the procedure for registration of transfers to defraud innocent property seekers. The leakages in the system have meant that cases of unlawful transfers of immovable property continue to reach the courts with alarming frequency.”

- a) What are the weaknesses that exist in the procedures for registration of transfers? How can these weaknesses be resolved? Discuss in full, with the aid of examples and case law on the matter. **[8 marks]**

In January 2025 Allied Bank (Pvt) Ltd granted certain loan facilities to Top Farmers (Pvt) Ltd to be secured by a mortgage bond with continuous covering security registered over one of the directors Mr Edward Mhizha's property being certain 2000 square metres of land called stand 3564 Chinotimba Township situate in the district of Victoria Falls. The amount to be secured by the bond is in the sum of \$50 000.00 at the interest rate of 17% per annum.

- a) Draw the mortgage bond (excluding the conditions) for lodgement in the Deeds Office. **(10 Marks)**
- b) Calculate the stamp duty payable for the Mortgage bond registration. **(2 marks)**

Six months after the registration of the above transactions, it is agreed between the parties that the interest rate of seventeen (17) per centum per annum referred to in the Bond should be altered to nineteen (19) per centum per annum.

- c) Draw the agreement to give effect to this alteration for registration in the Deeds Office. **[5 Marks]**

[Sub-Total: 25 Marks]

Question 3

You are acting on behalf of a client, **Mr. Zimbizi**, who wishes to transfer ownership of a property valued at **\$500,000** to his spouse, **Mrs. Zimbizi**. The property is free from any encumbrances.

- a) Draft a simple **transfer deed** for the transaction, ensuring all relevant details are included. **[10 marks]**
- b) Calculate the **stamp duty** applicable to the transfer. **[5 marks]**
- c) Explain the **ethical considerations** you must take into account as a conveyancer when representing both parties in a transaction involving spouses. **[3 marks]**

You are tasked with advising a client, **Mr. Moyo**, who is a property developer intending to transfer a property that has been part of a land development project. The property is valued at **\$1,000,000** and has been sold to an international investor.

- a) Explain the **conveyancing process** for the transfer of property from a developer to an international investor. What additional steps or considerations would apply in this scenario? **[7 marks]**

[Sub-Total: 25 Marks]

Question 4

Mr. and Mrs. Chirwa own a piece of agricultural land valued at **\$600,000**. They are transferring the land to their son, **Tawanda**, as a gift, and the property is subject to an existing mortgage bond of **\$250,000**. The land was originally purchased by Mr. and Mrs. Chirwa for **\$400,000**. The Chirwa's wish to proceed with the transfer despite the mortgage bond being in place, and they have agreed to settle the mortgage out of the sale price.

Required:

- a) Calculate the **capital gains tax** that will be payable on this transfer, taking into account the cost price, sale price, and any deductions for selling costs. **[3 marks]**
- b) If the transfer is considered a **donation**, explain how **capital gains tax** is treated in a donation, especially in the context of gifts between family members. **[2 marks]**
- c) Outline the steps involved in the conveyancing process for transferring the property to Tawanda, especially in relation to settling the mortgage bond, dealing with the estate, and ensuring proper documentation is registered. **[5 marks]**

Cde Phineas Muyedzo 'the razor' Mkwanzani died intestate at Mbare Hospital on the 12th November 2004. He is survived by Emily to whom he married out of community of property in terms of the Marriages Act Chapter 5:11 (then Chapter 37) on the 2nd September 1982 in Harare. His younger brother Lameck Mkwanzani was appointed the executor dative of his estate on the 13th of December 2005 by the additional assistant master of the High Court of Zimbabwe. One of the assets in the deceased's estate is certain immovable property called STAND 657 GLAUDINA TOWNSHIP OF SUBDIVISION A OF SUBDIVISIONS A & B OF GILLINGHAM held by the deceased under Deed of Transfer number 98967/81. The property has been valued at the sum of \$21 3367 599.99. The diagram deed is a certificate of registered title issued in favour of a Zimbabwean registered company called Anytime Investments (Private) Limited on the 13th of July 1965.

Ownership must now be conveyed from the deceased to his heir.

- i. Draft the Power of Attorney to pass transfer. **[5 marks]**
- ii. Draft your lodging cover. All the documents you are to lodge for this transfer must be listed on the lodging cover. **[10 marks]**

[Sub-Total: 25 Marks]

TOTAL MARKS: 100

END OF QUESTION PAPER