



**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 real rights in property law and distinguish them from personal rights. Provide two examples of personal rights and explain their significance in property transactions. **(5 marks)**
- b) Explain the constitutional protection of property rights under the Constitution of Zimbabwe. How do these constitutional protections impact the conveyancing process? **(5 marks)**
- c) What is a dispensation certificate? **(1 marks)**
- d) Why must a title deed to land be lodged with the Deeds Registry in duplicate? **(2 marks)**
- e) What is a certificate of no present interest? When is this certificate required in relation to transfer of land? **(2 marks)**
- f) In the event of property being transferred to a Trust, how is the Trust described? Give an example. **(2 Marks)**
- g) What is the statutory obligation of the seller in a property transaction? **(1 mark)**
- h) What is the purpose of the declarations which are lodged together with the transfer of documents in terms of Statutory Instrument 303/99? **(2 marks)**
- i) Explain the concept of a title deed in property law. Discuss the steps involved in drafting and registering a title deed during a property transfer. What is the significance of a title deed in ensuring that ownership of the property is lawfully transferred? **(5 marks)**

### **Question 2**

In a recent property transaction, Mr. Mutizwa, a property developer, sold a piece of land to Ms. Chisango for \$250,000. The transaction involved the following complexities:

- i. The property was subject to an existing mortgage bond of \$100,000, which was to be settled as part of the sale.
- ii. The buyer, Ms. Chisango, intended to take out a new mortgage bond for \$200,000 to finance part of the purchase price.
- iii. The seller, Mr. Mutizwa, was also liable to pay capital gains tax of \$30,000 due to the increase in the value of the property since its purchase.
- iv. Both parties have agreed on the payment of \$2,000 as conveyancing fees, which will be shared equally.

**Required:**

- a) Calculate the stamp duty applicable to the mortgage bond registration. Include any assumptions you may need to make and show all calculations clearly. **(2 marks)**
- b) Draft a mortgage bond for \$200,000, detailing the key terms and the responsibilities of the parties involved. You may assume typical mortgage terms in your answer. **(10 marks)**
- c) Draft the Power of Attorney to register the Mortgage Bond. **(4 marks)**
- d) Discuss the ethical considerations involved in this transaction, especially with regard to handling the capital gains tax and the mortgage bond registration. **(3 marks)**
- e) Calculate the total conveyancing fees for the transaction and explain how the fees should be split between the buyer and the seller. **(2 marks)**
- f) You are also instructed to register a bond in favour of Moneymaker Holdings Limited to rank *pari passu* with an existing Bond in favour of John Sibanda who has agreed to waive his preference under the bond. Draw the Waiver of Preference. **(4 Marks)**

### Question 3

John Mupanga has just died leaving a Will in which he left his farm in Chegutu to his daughter Lucia (named after his mother who died ten years ago), and his house in Harare to his son Joseph (named after his father who died in 1947). His said son and daughter enter into a redistribution agreement in terms of which they agree that the son is to get the farm and the daughter is to get the house in Harare. On perusal of a copy of the holding deed (which has been lost) for the farm, you note that the extending and conditions clauses read as follows:

*"AS WILL MORE FULLY APPEAR upon reference to Deed of Transfer No 123/79 made in favour of the Appearer's Principal on the 22nd September 1979, to which but for the provisions of section 47A of the Land Survey Act 16/74 a diagram would have been annexed, and to General Plan DG 6458 filed in the office of the Surveyor General;*

*SUBJECT to all such terms and conditions as are in the said Deed mentioned or referred to;*

*AND FURTHER SUBJECT to the following condition:*

*This property is subject to a servitude of HABITATIO in favour of the Transferee's mother,*

*namely LUCIA MUPANGA (Born on the 16th September 1921) "*

#### **DRAFT:**

a) The application for the replacement of the holding deed. **(5 Marks)**

b) The following clauses for the Deed of Transfer in favour of Joseph;

- i. The Preamble;
- ii. The recital clause;
- iii. The vesting clause;
- iv. The Extending Clause; and
- v. The Conditions Clause.

**(10 Marks)**

c) In a property transaction, the seller sells land valued at \$200,000. The seller originally purchased the land for \$120,000 and incurred \$5,000 in legal costs related to the sale. Calculate the capital gains tax payable on the transaction,

assuming a tax rate of 20% and discuss the impact of capital gains tax on the conveyancing process, particularly from the seller's perspective. **(6 marks)**

- d) Your client A has sold his house to B, who in turn has sold the same house to C. A, B and C approach you with a request that you are to transfer the house directly from A to C. What advice would you give them? **(4 Marks)**

#### **Question 4**

Dr. Blessing 'Dr Chix' Chikanda has donated his property to B Chikanda Family Trust. The property is called STAND 1123 BORROWDALE TOWNSHIP OF LOT 1 OF SUBDIVISION 5 OF BORROWDALE situate in the District of Harare and is held by Dr Chix under deed of transfer number 989/12. The property has been valued at the sum of US\$119 900.01. The diagram deed is a Deed of Transfer to which but for the provisions of section 49 of the Deeds Registries Act [Chapter 20:05], a diagram would have been annexed made in favour of a Zimbabwean registered company called Mapepa Investments (Private) Limited on the 13th July 1995.

Ownership must now be conveyed from Dr Chix to the B Chikanda Family Trust.

- a) Draft the Special Power of Attorney to accept the donation. **(5 marks)**
- b) Draft the Deed of Transfer. **(10 marks)**
- c) Calculate the total fees to be paid to the Registrar of Deeds for the registration of this transfer. **(5 marks)**
- d) Prepare the Lodging Cover. **(5 marks)**

**TOTAL MARKS: 100**  
**END OF QUESTION PAPER**