



DCM LEVEL II

LAW GOVERNING CREDIT PRACTICE

TUESDAY: 21 May 2019.

Time Allowed: 3 hours.

Answer any FIVE questions.

ALL questions carry equal marks.

QUESTION ONE

- (a) (i) Define the term “perfection” with reference to securities. (2 marks)
- (ii) Explain three types of perfection of a security. (6 marks)
- (b) Timothy and Anne are husband and wife. The couple’s matrimonial home is registered in Timothy’s name. Timothy has obtained Anne’s consent to offer their matrimonial home as security for a loan from Ahadi Bank Limited. Anne has since realised that she was duped into giving her consent and desperately wants the mortgage transaction stopped but Ahadi Bank Limited is adamant. Anne intends to obtain a court injunction against Ahadi Bank Limited and has approached you for advice.

**Required:**

Advise Anne on four legal grounds which she might rely on to have her consent to the mortgage transaction set aside. (8 marks)

- (c) Highlight four ways through which security interests might be created over a debtor’s property. (4 marks)
- (Total: 20 marks)**

QUESTION TWO

- (a) In relation to corporate securities:
- (i) Define the term “shares”. (2 marks)
- (ii) Explain three effects of a shareholder creating a legal mortgage over shares held in a company. (6 marks)
- (b) Itemise any four components of the legal definition of land. (4 marks)
- (c) Explain four characteristics of a freehold property. (8 marks)
- (Total: 20 marks)**

QUESTION THREE

- (a) Highlight five circumstances which will render a pledge contract terminated. (5 marks)
- (b) Fred Kebaso is delighted to learn that his father has been appointed as the trustee in bankruptcy of Rain Storm, their neighbour. The appointment is in respect to Rain Storm’s charged land. Fred Kebaso believes that the appointment will reverse their neighbour’s dwindling resources.
- Advise Fred Kebaso about the trustee in bankruptcy of charged land under the following sub headings.
- (i) Appointment. (8 marks)
- (ii) Powers. (3 marks)
- (iii) Removal. (1 mark)
- (c) Highlight three overriding interests in land recognised in law. (3 marks)

**(Total: 20 marks)**

**QUESTION FOUR**

- (a) (i) Summarise three remedies that are available to the plaintiff against the defendant for the infringement of a patent. (6 marks)
- (ii) Explain three types of intellectual property that an inventor might use to protect his/her ideas. (6 marks)
- (b) Highlight eight circumstances under which a lender could enforce a guarantee against an individual guarantor for monies due and owing. (8 marks)

**(Total: 20 marks)**

**QUESTION FIVE**

- (a) Explain two benefits of liens from the creditor’s point of view. (4 marks)
- (b) Summarise two ways through which liens are created. (4 marks)
- (c) Explain four differences between a “pledge” and a “lien”. (8 marks)
- (d) State four remedies that are available to the pledgee for breach of the contract of pledge. (4 marks)

**(Total: 20 marks)**

**QUESTION SIX**

- (a) Highlight four examples of debts which are not provable in bankruptcy. (4 marks)
- (b) Outline six records that a bankrupt is entitled to inspect and make copies thereof. (6 marks)
- (c) Describe five circumstances under which a court might refuse to discharge a bankrupt. (10 marks)

**(Total: 20 marks)**

**QUESTION SEVEN**

- (a) A company is eligible to obtain a moratorium if it complies with such requirements as may be prescribed by the insolvency regulations and is not declared to be ineligible.

With reference to the above statement, summarise four companies that are ineligible for moratorium. (4 marks)

- (b) Explain three types of liquidation. (6 marks)
- (c) Summarise three examples of the World Bank’s Principles for Effective Insolvency and Creditor/Debtor Rights Systems. (6 marks)
- (d) (i) In relation to insolvency proceedings, explain the meaning of the term “summary instalment order”. (2 marks)
- (ii) Identify two persons who could apply for a summary instalment order. (2 marks)

**(Total: 20 marks)**

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