



NATIONAL OPEN UNIVERSITY OF NIGERIA
PLOT 91, CADASTRAL ZONE, NNAMDI AZIKWE EXPRESS WAY,
JABI, ABUJA
FACULTY OF LAW
2023_2 EXAMINATIONS

COURSE CODE: PPL 424

COURSE TITL: 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 =70MKS

QUESTION 1 - COMPULSORY

John owned a house ‘The Laurels’ and 500 shares in Hanbury Park Ltd. He told his daughter, Mary:

‘Now that you are 18 it is time to think of your future. One day you will have this house so I will take care of it for you until you are 25 and then transfer it to you.’

The next day John contacted a firm of builders about a possible extension to the house to enable him to house his model railway. Later that day he met Mike, an old friend, and said to him: ‘You know, I have more wealth than I need. I would like to do something to help others and so I am going to transfer my shares into your name for you to hold on trust at your discretion for my old workmates. You know who they are.’ John then told his accountant, Peter, to deal with the formalities for a transfer of his shares to Mike. Peter sent a form to John to sign but did not explain what it was about and John put it away until he had a chance to ask Peter for more advice. John is also a beneficiary under a trust of £500,000 set up by his Uncle Jack. He telephoned Uncle Jack and said: ‘I do not need the money in the trust fund. Please hold on trust for my sister Amy.’ A week later John made his will in which he left all his property to the League of Friends of Sick Cats and appointed his Aunt Molly and Mary as executors. John has now died. Advise his executors on who is entitled to: (a) ‘The Laurels’ (b) the 500 shares in Hanbury Park Ltd (c) John’s interest in the trust fund.

QUESTION 2

Isobel is drafting her will and wishes to leave some bequests and wants to know if they are charitable. If they are not, then she would like you to suggest revised wording to ensure that they are charitable. (a) N5m to hold on trust to research into the life and times of Queen Amina,

Moremi and Olufunmilayo Ransome Kuti (b) N100,000 to my trustees to hold on trust to provide scholarships for the relatives and dependants of workers in the pottery industry resident in Ewekoro pottery village. Preference to be given to those who are themselves employed in any trade in . Advise her

QUESTION 3

In order for a settlor to create a valid inter vivos trust of property he owns absolutely, it is necessary both to constitute the trust perfectly and to meet certain statutory requirements. Discuss.

QUESTION 4

‘A trustee may be liable to pay compensation for his own breach of trust and in some cases for those committed by others.’

Analyse the concept of ‘a breach of trust’ and assess whether the above is an accurate statement of the law relating to liability for breach of trust.

QUESTION 5

In what circumstances may a trustee successfully plead a defence to an established breach of trust?

QUESTION 6

Anita has recently taken over as Chair of the Trust which provides pensions for employees and former employees of the Elegele Steel and Rolling Company. She asks you for advice on the following points: The accountant to the trust, Horace, has absconded taking with him N10,000,000 in bribes paid to him by investment companies in return for Horace agreeing to recommend to the trust that it invests with them. Anita asks you if the sum of N10,000,000 representing these bribes can be recovered from Horace who is now insolvent.