



NATIONAL OPEN UNIVERSITY OF NIGERIA
Plot 91, Cadastral Zone, Nnamdi Azikiwe Express Way, Jabi – Abuja
FACULTY OF LAW
DEPARTMENT OF PRIVATE AND PROPERTY LAW
2020_1 EXAMINATION

COURSE CODE: PPL 423

COURSE TITLE: EQUITY AND TRUST I

COURSE UNIT: 4

COURSE DURATION: 2 ½ HRS

Instruction: ANSWER QUESTION 1 (ONE) AND ANY OTHER 3 (THREE) QUESTIONS. (QUESTION 1 (ONE) ATTRACTS 25 MARKS, WHILE THE OTHERS ATTRACTS 15 MARKS EACH.)

1. *‘Surely equity should not be treated as a tyrannous phenomenon threatening the law. It does not exist in vacuum or supposedly to roam about pouring water on fire of the law. Equity is not a warlord determined to do battle with the law. It is part of a legal system which has been mixed with the law and the admixture is for the purpose of achieving justice’* Per Kayode Eso (JSC) in *Trans Bridge Co. Ltd. V. Survey International Ltd*, Discuss this holding in the light of the maxim that **Equity follows the law**

QUESTION 1B

Discuss the rule in *Dearle v Hall* and the conditions for the application of the rule.

QUESTION 2

You are the secretary of your local town hall meeting. The youth in your town are desirous of buying a portion of land from the Oriola family. The family has however warned that there are some equitable agreements existing in respect of the land. Since you are a law student, you have been requested to write a legal opinion on the status of particular equitable agreements which were recognized and enforced by the courts of the Chancery but which were not valued at common law. Your chairman has requested you to write on mortgagor’s equity of redemption, restrictive covenants.-

QUESTION 3

Goriola is the owner of a two plot of land which he inherited from his father before he passed on. Adjoining these two plots of land is a three plot of land belonging to Lade. In 2010, Goriola decided to develop his property and contracted Hutch Construction Company to commence the

construction of a four storey building on the land. Lade's cousin, who lives near the place, informed him of the development, but he did not do anything. Lade has now approached you in 2020 to say that a building has been constructed on his property. He is contemplating an action against Goriola and has approached you for an initial opinion. What are, if any, defences available to Lade? Advise him.

QUESTION 4

Equity will not suffer a wrong to be without a remedy" Discuss the operation of this equitable maxim in relation to the three types of equitable jurisdictions.

QUESTION 5

"I believe that when a person is holding tight that which is subject of equity, he should not be allowed to hold it firmly". Per Pats Acholonu, JCA in *Eboni Finance & Securities Ltd v. Wole Technical Services Ltd. & 2 Ors.* Discuss this ratio within your understanding of the doctrine of election and equitable lien.

QUESTION 6

Wale leased his property to Bode on a written lease which states that Ade leased his property to Bode on a written lease which states that Bode will bear the cost of any repairs required to be carried out at the property. In a later oral discussion, between the duo, there was an increased in the rent payable and the responsibility of repairs shifted back to the Lessor. Wale later sold the property to Kola who had no notice of the oral variation. Kola seeks to enforce the written lease against Bode to make him responsible for the repairs.

What interest does Wale have with respect to the oral variation of the initial agreement? Can he enforce that right?