



NATIONAL OPEN UNIVERSITY OF NIGERIA
UNIVERSITY VILLAGE, PLOT 91 CADASTRAL ZONE
NNAMDI AZIKIWE EXPRESSWAY, JABI, ABUJA
FACULTY OF LAW
DEPARTMENT OF PRIVATE AND PROPERTY LAW
2020_1 EXAMINATION

COURSE CODE: PPL424

COURSE TITLE: EQUITY AND TRUST II

CREDIT UNIT: 4

TIME ALLOWED: 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. The alumni of the 1900 graduating set of Kingsway Children School, have come together to establish a business to further the interest of all its members in their respective endeavours in life. Due to lack of funds, the business could not take off as the alumnus envisaged. Tola, Toke and Tolu decided to lend the alumni money to expand the business but have requested to have their interest secured in some way in the event of liquidation or winding up of the company. You are a lawyer and a member of the 1900 graduating set. Advise the alumni how Tola, Tolu and Toke's interests will be secured.
2. Write short notes on the following:
Quitsclose trust
The vendor as constructive trustee
3. Mr. Orizu has just been made a surety of the estate of Vivy who died intestate. He needs to know what his functions and liabilities are as a surety. Vivy's administrator also informed him of the need to reseal the grant of the letter of administration. Mr. Orizu does not understand all these legal jargons and has come to you to enlighten him. Please do.
4. Barrister Brilliant SAN, counsel to the Estate of the late Ntiwu family has submitted at the probate court that the beneficiaries of the estate wishes the trustee to retire. Justice Tore, not fully satisfied with the submission of the learned silk, has instructed you to write him a case note on the various modes of retirement of a trustee. He also wishes you to research on conditions under which a sole trustee may be retired.

5. Chief No Regret, is a philanthropist who is desirous of bequeathing some properties to different groups of people. He has approached you to advise her how she may do so such that the beneficiaries will be able to take possession. Analyse the case of *Milroy v. Lord* (1862) 4 De G & J and on this authority, advise Nina.
6. Dawn was a wealthy industrialist that made her money from inventing castor wheels. Her two main assets were the royalties from two companies that she received for her inventions and a bank account with the Universal Bank. Dawn discovered she had motor neurone disease and had a very short life span. She decided to make a gift of her royalties in a voluntary deed. The gifts read:

My contractual rights to receive royalties from Northcott enterprises I give to my husband Maxwell. Half of the future royalties from Southcott goes to my brother Ted.

When Dawn died her will set out that all her assets should be held on trust by Maxwell, for her three discretionary beneficiaries. They were her children Christopher, Andrew and Kefir. The trust provided that Maxwell would have the discretion to pay the income each year to the beneficiaries from the interest earned on the account. Maxwell was obliged in the trust to distribute the income every year but he could choose whom it was distributed. The trust also gave him wide powers to invest the money as he saw fit to get the best return.

After a short time, the children became unhappy about Maxwell's management of the trust. This dispute began when Maxwell took some of the money from the account to reimburse himself for costs spent in getting advice about how to invest the trust funds properly. The children were also angry at Maxwell's decision to leave the money with the Universal Bank. The beneficiaries objected to this as the universal Bank was responsible for environmental policies even though this would mean that there would be less return on the investment. Maxwell was worried that the beneficiaries were going to call on him to distribute all the funds and terminate the trust. He was unsure of whether the beneficiaries had the power to make that decision. He was also worried that they were going to sue him for reimbursement monies or force him to invest in the environmental bank.