

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
MAIN EXAMINATION PAPER, MAY 2010

- TITLE OF PAPER** : **CONVEYANCING AND NOTARIAL PRACTICE**
- COURSE CODE** : **L501**
- TIME ALLOWED** : **THREE (3) HOURS**
- INSTRUCTIONS** :
- (i) **ANSWER THREE (3) QUESTIONS FROM SECTION A, INCLUDING QUESTION 1 AND ONE (1) QUESTION FROM SECTION B.**
 - (ii) **ANSWER A TOTAL OF FOUR (4) QUESTIONS.**
 - (iii) **EACH QUESTION CARRIES A TOTAL MARK OF 25; THE TOTAL MARK IS 100**
 - (iv) **IN ANSWERING ANY QUESTION NOTE THAT THE QUALITY OF THE CONTENT, CLARITY OF EXPRESSION AND LEGIBILITY OF HANDWRITING ARE ABSOLUTELY ESSENTIAL.**
 - (v) **CANDIDATES SHOULD COMPLY WITH ALL DEEDS REGISTRY ACT REGULATIONS WHERE NECESSARY.**

DO NOT OPEN THIS PAPER UNTIL PERMISSION HAS BEEN GRANTED BY THE INVIGILATOR.

SECTION A**[ANSWER THREE (3) QUESTIONS FROM THIS SECTION, INCLUDING QUESTION 1]****QUESTION 1**

Vusumuzi Boy Dlamini is the registered owner of Portion 47 of Farm No.11 situate in the district of Manzini, Swaziland on which he has erected a three bedroom house and a granny cottage. He holds the property under Deed of Transfer No.10/2000, to which a diagram is annexed, dated the 18th June, 2000. The property is 50,0000 hectares in extent. He wishes to sell a portion of the farm to Mary Jane Blige, a woman of European descent married to Patrick Blige according to the laws of their country, Sweden.

- (i) Advise Vusumuzi Boy Dlamini how he can achieve his goal. [3 marks]
- (ii) Assuming that the Survey diagram annexed hereto relates to the portion he wishes to sell, draft the relevant property and extending clauses of the Deed of Transfer in favour of the purchaser. [5 marks]
- (iii) How would you describe the purchaser in the Deed of Transfer? [3 marks]
- (iv) Calculate transfer duty and stamp duty, if the property was sold for E680,000.00 (Six Hundred and Eighty Thousand Emalangeni). [4 marks]
- (v) Invent your own facts to draft the property and extending clause in the event that the purchaser sells the property after registration into her name. [5 marks]
- (vi) List the documents you would lodge in support of the transfer to in (ii) above. [5 marks]

[25 MARKS]**QUESTION 2**

- (i) Section 13 of the Deeds Registry Act, 1968 prescribes that deeds shall follow the sequence of their relative causes and also provides for exceptions to the rule. Name and discuss any three (3) exceptions to this rule. [9 marks]
- (ii) Inventing your own facts, draft the causa in respect of the following transactions:
 - (a) Joint Estate: Joint will with massing with a usufruct to the survivor over property in name of the deceased. [5 marks]
 - (b) Joint Estate: single will disposing of half share in property registered in the name of deceased to hers and redistribution agreement. [5 marks]

(iii) What do you understand the following terms/phrases to mean:

- (a) "Prep" [2 marks]
- (b) "Execution" [2 marks]
- (c) "Diagram for Deduction" [2 marks]

[25 MARKS]

QUESTION 3

(i) Describe the following types of bonds briefly:

- (a) Indemnity Bond [3 marks]
- (b) Collateral Bond [3 marks]
- (c) Surety Bond [3 marks]

(ii) Name and explain the exceptions which are usually renounced in the following transactions:

- (a) By Joint Mortgagors [3 marks]
- (b) By Joint Surety Mortgagors [3 marks]
- (c) By Women married in Community of Property [3 marks]

(iii) What do you understand by the following:

- (a) "Ranking in Pari Passu"? [3 marks]
- (b) What procedure is followed where a mortgagee wishes to have a later mortgage bond rank prior to an already registered bond. [4 marks]

[TOTAL: 25 MARKS]

QUESTION 4

(i) The Nkhosi - Dlamini Family Trust is the Registered owner of:

Certain : Farm No.8 situate in the Hhohho District, Swaziland

Measuring: 4, 0000(Four comma zero zero zero zero) Hectares

The property is held under Deed of Transfer No. 13/1999 dated the 18th January, 1999. The property is mortgaged in favour of X Bank Limited for an amount of E100 000.00 (One Hundred Thousand Emalangi). A decision has been made to subdivide the property into two (2) equal portions, and one will be used to raise finance from the Land Bank Limited for Agricultural purposes. Advise if this is possible, and, if possible how this can be achieved. Invent any further facts to draft any applications and/or consents that may be necessary in terms of the Deeds Registry Act No. 37 of 1968. [20 marks]

(ii) Name five rules which must be complied with in preparation of Deeds of Lodgement with the Deeds Office. [5 marks]

[TOTAL: 25 MARKS]

SECTION B

[Answer any one (1) Question from this Section]

QUESTION 5

- (i) Discuss the requirements for the registration of an antenuptial contract under the Deeds Registry Act. [5 marks]
- (ii) Can an ante nuptial contract be registered post nuptially? If so, explain the procedure to be followed. [5 marks]
- (iii) Duduzile Sibongile Dlamini, a widow, has a usufruct reserved in her favour in respect of certain immovable property which was registered in the name of her late husband to whom she was married under Swazi Law and Custom. The property is now registered subject to the usufruct in the name of her son Mduduzi Ben Dlamini who wishes to have a mortgage bond registered over the property. Is this possible? If so, advise the parties on the procedure to be followed, inventing facts to draft any documents required to make this transaction possible. [15 marks]

[TOTAL: 25 MARKS]

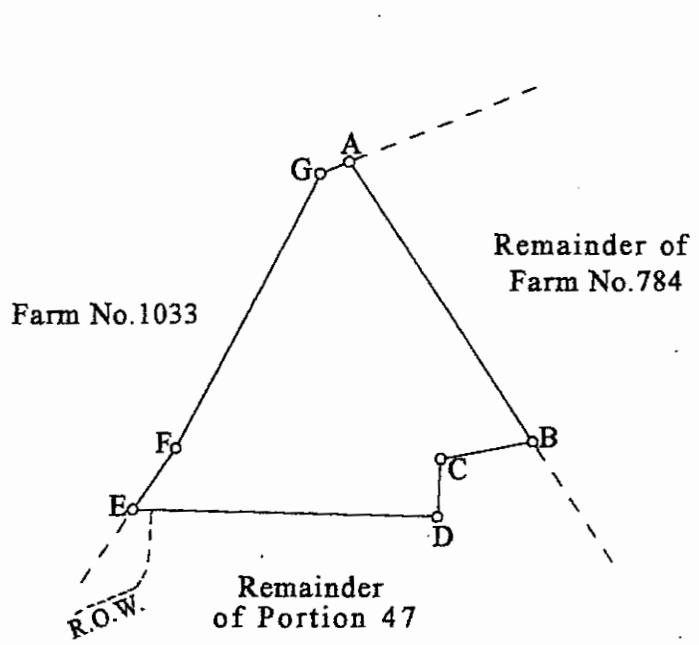
QUESTION 6

- (i) Absalom Vusi Dlamini and Magolide Sam Tsela own separate adjoining farms in the Lubombo District. Absalom Vusi Dlamini now wants to carry out farming activities and discovers that he has to draw water over Magolide's farm. Magolide has no objection so long as he gets paid an amount of E50,000.00 (fifty thousand Emalangeni). Advise the parties on either respective rights and how Absalom can obtain a servitude over Magolide's farm. Draft the document which the parties would have to sign and outline the procedure for its registration. [15 marks]
- (ii) Discuss the statutory duty of a notary public in relation to all notarial Deeds executed before him. [4 marks]
- (iii) Briefly distinguish between personal and praedial servitudes. [6 marks]

[TOTAL: 25 MARKS]

SUBDIVISIONAL DIAGRAM

SIDES (metres)		ANGLE OF DIRECTIONS	CO-ORDINATES (metres) Y SYSTEM Lo.31° X		S.G.No.S130/2009
		CONSTANTS			
				+ 0,00 +2900 000,00	
AB	658,83	325.56.00	A	- 44 695,60 + 23 903,60	Approved 
BC	186,08	79.34.50	B	- 45 064,64 + 24 449,37	
CD	112,35	2.49.20	C	- 44 881,63 + 24 483,02	Surveyor General
DE	605,24	91.16.30	D	- 44 876,10 + 24 595,23	
EF	147,21	215.33.20	E	- 44 271,01 + 24 581,77	Date: 1.07.2009
FG	605,38	207.45.00	F	- 44 356,61 + 24 462,01	
GA	61,46	248.22.20	G	- 44 638,47 + 23 926,25	



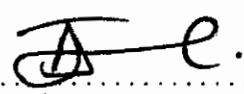
SCALE 1 : 15 000

Description of Beacons
 Iron standard in cairn...A,F,G
 12mm iron peg...B,C,D,E

The figure A B C D E F G
 represents 28,4734 Hectares of land, being
 Portion 142 (a portion of Portion 47) of Farm No.11

Situate in the District of MANZINI Swaziland

Surveyed in March 2009

by me. 
 D.M. Thwala
 Land Surveyor

This diagram relates to	The original diagram is	File No.	F11/2
No.	S.G. No. S 24/84	S.R. No.	61/2009
Dated.....	Transfer/Grant/Cession	Comp.	515
Registrar of Deeds.	Consent filed page 85	Drg No.	Sheet 12