



ZIMBABWE EZEKIEL GUTI UNIVERSITY

FACULTY OF LAW, BUSINESS INTELLIGENCE AND ECONOMICS

DEPARTMENT OF LAW AND LEGAL SERVICES

EXAMINATION PAPER

MODULE CODE : LLB 224

MODULE TITLE : CIVIL PROCEDURE (2)

SPECIAL REQUIREMENTS:

DURATION : 3 HOURS

LEVEL : 2.2

DATE :

09 OCT 2023

INSTRUCTIONS TO CANDIDATES:

1. This exam is out of 100.
2. Answer **all** questions.
3. Notes, handouts and textbooks **are not** allowed into the examination.
4. Cellphones **are not** allowed into the examination room.
5. Begin each answer to a full question on a fresh page.
6. **Material allowed in exam**
 - i. Magistrates Court Rules, 2018;
 - ii. Magistrates Court Acts [Chapter 7:10];
 - iii. Customary Law and Local Courts Act [Chapter 7:05];
 - iv. Customary Law and Local Courts (Amendment), Rules 2009.

Question 1

Tafadzwa purchased an immovable property from Zex, being Stand Number 54, Tafara, Glendale. At the time of the purchase, the property was occupied by Tonderai. Tafadzwa alleged that prior to the purchase he had viewed the property on many occasions and he had been guided by Tonderai during such viewing. Zex was reluctant to transfer the property to Tafadzwa and he was successfully sued by Tafadzwa and the property was transferred to him. Tafadzwa then demanded rentals from Tonderai who refused to pay the rentals on the basis that he was the owner of the property and not a lessee. Tafadzwa proceeded to issue summons for the eviction of Tonderai. At the pre-trial conference stage before a magistrate, the sole issue which was referred to trial was whether or not Tonderai had a defence to a claim of eviction. In a separate case, Tonderai issued summons seeking the cancellation of the title deeds which had been registered in the name of Tafadzwa in respect of the disputed property. In his summons, Tonderai cited Tafadzwa, Zex and the Registrar of Deeds as defendants. Out of the three defendants, only Tafadzwa entered an appearance to defend. Tonderai proceeded to apply for a default judgement against Zex and the Registrar of Deeds. The court's order included a substantive order against Tafadzwa who had entered an appearance to defend and a plea.

Required

Advise Tafadzwa on remedies available to him and the procedure which he must follow in order to get the relief he seeks. **[25 marks]**

Question 2

Explain the circumstances in which community courts have no jurisdiction. **[20 marks]**

Question 3

Prosperity Bank advanced a loan to Moses in 2021. Moses signed an acknowledgement that he had received the money. The loan was deposited into his account. Moses then failed to repay the loan when it became due. Prosperity Bank issued summons against him. Soon after receiving the summons, Moses entered an appearance to defend.

Required

- i) Advise Prosperity Bank on the remedies that are available to it in the above matter.
(10)
- ii) Advise Moses on the options that are available to him following Prosperity Bank's action.
(10)

[Total: 20 marks]

Question 4

Discuss how the rules relating to the execution of a writ protect the constitutional rights of the judgment debtor. **[15 marks]**

QUESTION 5

Explain the following terms;

- a) Cause of action (2)
- b) Defendant in reconvencion (2)
- c) Pleadings (2)
- d) Discovery (2)
- e) *Lis pendens* (2)

[Total: 10 marks]

QUESTION 6

With reference to relevant authorities, discuss the approach of courts in an application for interdict. **[10 marks]**

END OF PAPER [100 marks]

0/50 (pm)