



ZIMBABWE EZEKIEL GUTI UNIVERSITY

FACULTY OF LAW

EXAMINATION PAPER

COURSE CODE : LLB 307
COURSE TITLE : Succession and Administration of Estates
DURATION : 3 Hours
LEVEL : 3.2
DATE :

INSTRUCTIONS TO CANDIDATES:

1. Answer **four questions**. Question ONE in section A is compulsory. Answer any THREE questions from section B. Each question carries 25 marks.
2. Credit shall be given for referring to case law, statutes or any other authorities wherever applicable.
3. Notes, handouts and textbooks are not allowed into the examination.
4. Students may bring into the exam un-annotated and clean texts of applicable legislation. Copies with notes inside shall not be allowed and may be confiscated. No student is allowed to share his/her copy with another.
5. Cellphones are not allowed into the examination room.
6. Begin each answer to a full question on a fresh page.
7. Number your answers accordingly

SECTION A: COMPULSORY

QUESTION 1

Floyd and a Rudo married in terms of the Marriage Act (Chapter 5:11) at Tendai Hall, Bindura in 1999. The marriage was blessed with three daughters, Ema (16), Maira (13) and Jack (10). During the subsistence of their marriage, the parties acquired the following properties; an industrial stand with a warehouse on it at Nyambuya growth point, House number 1010, Muzhanje street, Bindura, a private school and a small-scale farm with 100 herd of cattle. Floyd is madly in love with Jezebel and they have a five months old baby boy together named Junior. Floyd died intestate. Upon his death, Floyd's brother, Peter formally introduced Jezebel and Junior to the family. He told Rudo that Jezebel was Floyd's second wife for whom he had performed all customary rites including payment of lobola before his untimely death. The potential beneficiaries are not in agreement as to what constitute Floyd's estate and how it should be distributed. Jezebel and Peter are of the view that all the property acquired during Floyd's lifetime now belonged to his estate and should be given to his only son Junior since he left no other male child. On the other hand, Rudo insists that she is the co-owner of the property in question and therefore there is no way she can allow a bastard to inherit from the estate of her late husband.

With the aid of case law and other sources of law, advise the parties on how the estate should be administered.

(25 Marks)

SECTION B CHOOSE ANY THREE (3) QUESTIONS

QUESTION 2

'It must be reiterated that apart from substantive concepts and principles of law seeking to ensure and achieve justice, the danger remains with the procedures of the law.'

Outline and explain whether the Zimbabwean procedures for administration of estates ensures justice and other equitable outcomes.

(25 Marks)

QUESTION 3

Section 5 of the Wills Act (Chapter 6:06) creates an impression that freedom of testation is absolute. Discuss the nature of limitations which can be legally imposed on the freedom of testation.

(25 Marks)

QUESTION 4

The Wills Act (Chapter 6:06s) specifies certain formalities which must be adhered to for a will to be valid. With the aid of examples discuss the importance of each formality.

(25 marks)

QUESTION 5

'The application of customary law and common law in cases of succession is social and economic class sensitive.' Discuss. In your discussion, pay particular attention to the dual nature of the law of succession and the choice of law rules.

(25 Marks)

QUESTION 6

You have been approached by Watson and Wilson Trust (WWT) a men's organisation which is questioning why girls and women are allowed to inherit property on an equal footing with their male counterparts. They are also asking if children born of a woman from her previous marriage can inherit from their mother upon her death. With the aid of constitutional provisions and other sources of law write a position paper explaining why the primogeniture rule was abandoned giving reasons why the current position is preferred.

(25 Marks)

QUESTION 7

Define any **five (5)** of the following terms as they are used in the law of succession;

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|--------------------------|-----------|
| a. Collation | (5 Marks) |
| b. Fideicommissum | (5 Marks) |
| c. Estate massing | (5 Marks) |
| d. Legatees | (5 Marks) |
| e. Testamentary capacity | (5 Marks) |
| f. Abatement of legacies | (5 Marks) |

[Total: 25 Marks]

End of Paper