

LPL4805

October/November 2013

NOTARIAL PRACTICE

Duration 2 Hours

100 Marks

EXAMINERS

FIRST

MS TH TIVANA

SECOND

MR MM RATIBA

EXTERNAL

MR PDW VAN DER SPUY

Closed book examination

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This paper consists of 3 pages

Answer all questions in their order

QUESTION 1

Explain the following terms

- | | | |
|-----|--------------------|-------------|
| 1 1 | Notarial bond | (5) |
| 1 2 | Lease | (5) |
| 1 3 | <i>Usus</i> (use) | (4) |
| 1 4 | A bill of exchange | (6) |
| | | [20] |

[TURN OVER]

QUESTION 2

- 2.1 What assurance does the public have that a document will be drafted properly if it is done by a notary? (7)
- 2.2 In terms of an antenuptial contract, X donates a sectional title flat to his prospective wife, Y, and also grants Y a usufruct over one of his farms. X asks you to register the contract. Explain point by point the position in respect of the time of payment and the furnishing of evidence of payment of transfer duty. (6)
- 2.3 Discuss if the holder of a personal servitude may lease his/her right. (7)
- [20]**

QUESTION 3

- 3.1 You, a practicing notary who has not yet been admitted as a conveyancer but who has a good knowledge of conveyancing, are requested by your client, Company X, to prepare a power of attorney to pass transfer of X's farm Uitvlucht in favour of the purchaser B, so that a conveyancer practicing in Pretoria may attend to the registration of the transfer of the farm **into** B's name. Director Y will sign the power of attorney on behalf of X.
- (a) What does the Deeds Registries Act 47 of 1937 prescribe with regard to the signing of the preparation certificate on the power of attorney? (5)
- (b) For the accuracy of which facts in the power of attorney does the **person who signs** of the preparation certificate on the power of attorney take responsibility in terms of the Deeds Registries Act 47 of 1937? (5)
- 3.2 Presentment of a bill for acceptance is only compulsory in certain circumstances. Briefly indicate when this is the case. (5)
- 3.3 X is the owner of the farm Riverside and of a half share in the farm Geluk. X wants to bequeath these properties to his three sons. How would you advise X in terms of the provisions of the Subdivision of Agricultural Land Act 70 of 1970? Substantiate your answer. (5)
- [20]**

[TURN OVER]

QUESTION 4

- 4 1 X, a company with its head office in Cape Town, is the owner of a fleet of delivery vehicles which X uses for conducting his countrywide business as a general dealer X has been granted overdraft facilities by Y, a bank with its head office in Pretoria X offers its vehicles and trading stock to Y as security for payment of the outstanding amount on its overdraft Y approaches you, a notary, for advice
- (a) Briefly explain, with reference to the objects of security, what documents you would prepare in order to provide Y with the best possible form of security (6)
- (b) Indicate at what stage these documents will lead to real security in favour of Y (4)
- (c) Where must these documents be registered? (4)
- (d) When must these documents be registered? (4)
- 4 2 When is a bill negotiable? (2)
- [20]**

QUESTION 5

- 5 1 Two minors approach you, as a notary, with a request to draft an antenuptial contract for them as a matter of urgency Their parents cannot be present and there are no witnesses available Explain the legal position in respect of the execution and registration of the contract as well as the proposed marriage (6)
- 5 2 Y intends to lease a part of his farm to X for a long term
- (a) Must the lease agreement be in writing to be valid? Substantiate your answer (2)
- (b) Name the essential elements which the contract must contain in order to qualify as a contract of lease (3)
- (c) Name three essential requirements which must be complied with before the contract of lease will be accepted for registration purposes (3)
- 5 3 On which grounds may a trustee be removed from office by the Master of the High Court? (6)
- [20]**

TOTAL: 100