

**INSTITUTE OF BANKERS IN MALAWI**

**ADVANCED DIPLOMA IN BANKING EXAMINATION**

**SUBJECT: PROPERTY LAW (AD314)**

**Date: Thursday, 26th November 2020**

**Time Allocated: 3 hours (13:30 pm - 16:30 hours)**

**INSTRUCTIONS TO CANDIDATES**

1 This paper consists of **TWO** Sections, A and B.

2 Section A consists of 4 questions; each question carries 15 marks.

Answer **ALL** questions.

3 Section B consists of 4 questions; each question carries 20 marks. Answer **ANY TWO** questions.

4 You will be allowed **10 minutes** to go through the paper before the start of the examination, you may write on this paper but not in the answer book.

5 Begin each answer on a new page.

6 **Please write your examination number on each answer book used. Answer books without examination numbers will not be marked.**

7 All persons writing examinations without payment will risk expulsion from the Institute.

8 If you are caught cheating, you will be automatically disqualified in all subjects seated this semester.

9 DO NOT open this question paper until instructed to do so.

**SECTION A (60 MARKS)**

Answer **ALL** questions in this section

**QUESTION 1**

Title, possession, and risk have special significance in law.

**Required**

Discuss these **three** concepts, illustrating your answer with relevant examples.

**(Total 15 marks)**

**QUESTION 2**

1. Distinguish the following:
2. real property from personal property (*5 marks)*
3. choses in possession from choses in action. (*5 marks)*
4. Explain, with relevant examples, the difference between rights in rem and rights in personam. (*5 marks)*

(**Total 15 marks)**

**QUESTION 3**

Discuss how property rights are affected upon celebration of marriage, subsistence of marriage and upon divorce.

**(Total 15 marks)**

**QUESTION 4**

(a) Who is a bona fide purchaser for value? *(5 marks)*

(b)Discuss the distinction between legal and equitable rights?  *(5 marks)*

(c) What is meant by gift *inter vivos?**(5 marks)*

**(Total 15 marks)**

**SECTION B (40 MARKS)**

Answer **ANY TWO** questions from this section

**QUESTION 5**

1. Compare and contrast the terms ‘detinue’ and ‘trespass to goods’.  *(10 marks)*
2. James Rodriquez is a renowned football icon and wears jersey number 10. He wants to register a trademark styled ‘JR10’ for apparels such as shirts, trousers and soccer boots.

**Required**

Advise whether JR10 can be registered as a trademark.  *(10 marks)*

**(Total 20 marks)**

**QUESTION 6**

Prosperity Investments obtained a loan from Tiyamike Bank secured by a mortgage over its head office premises in Blantyre.

**Required**

Explain any **four** remedies available to the bank as a mortgagor in the event of default. **(Total 20 marks)**

**QUESTION 7**

The mortgagee whose mortgagor defaults on payments under the mortgage is given several remedies under the law.

**Required**

Discuss any **five** major remedies of a mortgagee.

**(Total 20 marks)**

**QUESTION 8**

The family of Mr and Mrs Phiri migrated from their home village into the suburbs of Area 49 in Lilongwe in the year 2010. They occupied idle land and established their home at the said land. Over the years, other families have joined them in surrounding parcels of land and are living peacefully thereon.

Early 2018, the families were surprised to be served with an eviction order obtained from the High Court by the alleged owner of the land. The families are obviously greatly disturbed and in their desperate efforts to rescue ‘their’ land they have come across the legal concept ‘adverse possession’.

**Required**

Assist the families by defining adverse possession and explaining its rationale.

**(Total 20 marks)**

**END OF EXAMINATION PAPER**