The Management University of Africa

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UNDERGRADUATE UNIVERSITY EXAMINATIONS

SCHOOL OF MANAGEMENT AND LEADERSHIP

DEGREE OF BACHELOR OF ARTS IN DEVELOPMENT STUDIES

BDS 102/BDS 324: LEGAL ASPECTS OF DEVELOPMENT

DATE: **4TH AUGUST 2025**

DURATION: 2 HOURS

MAXIMUM MARKS: 70

INSTRUCTIONS:

1. Write your registration number on the answer booklet.
2. **DO NOT** write on this question paper.
3. This paper contains **SIX (6)** questions.
4. Question **ONE** is compulsory.
5. Answer any other **THREE** questions.
6. Question **ONE** carries **25 MARKS** and the rest carry **15 MARKS** each.
7. **Write all your answers in the Examination answer booklet provided.**

QUESTION ONE

Read the Case Study below carefully and answer the questions that follow:

MWANIKI *vs.* THE ESTATE OF PETER NJOROGE

In 2010, Mwaniki entered into a sale agreement with Mukoma, the first son of the late Peter Njoroge, for the purchase of 10 acres out of 70 acres registered in the name of the family patriarch, namely Peter Njoroge. The purchase price was Ksh. 500,000.00 per acre, with Mwaniki paying a deposit of Ksh. 2 million, and the remaining Ksh. 3 million to be paid after the transfer of title. The agreement was formalised in writing, and Mwaniki took possession of the 10 acres after subdivision, fencing it off. Mwaniki then developed the land and built Starehe School, a junior secondary school.

In 2014, Mwaniki discovered that the estate had not yet been fully distributed, and the land was still part of the deceased's estate under court proceedings. On perusing the court file at the Chief Magistrate's Court at Kiambu, Mwaniki realised that the late Peter Njoroge was survived by two widows and 14 children who were entitled to the 70 acres. Mwaniki realised that before confirmation of grant of letters of administration, the 10 acres had been transferred by the estate's administrator to Mukoma's brother, Kamau, who lived just 100 meters away from the land. Subsequently, Kamau had sold the land to a third party, claiming that he had obtained proper authority the estate of his late father, Peter Njoroge was distributed by the Court.

Now Mwaniki faces the risk of losing his investment valued at over Kshs 50 million, and to protect his interest, he has filed a suit at the Environment and Land Court in Nairobi. His main contention is that Kamau, who lived 100 metres away, must have seen him fencing, constructing, and carrying on his activities on the land that he had acquired from Mukoma. Had Kamau carried out due diligence on the land, he would have known that Mwaniki was in possession. Given the level of development made, Kamau would have known that the land was no longer in the hands of his brother. Mwaniki asked the Court for the cancellation of Kamau's title and an order of transfer of the land to himself.

Required:

a) Enumerate any **five** essentials of a contract for the disposition of an interest in land. **(5 marks)**

b) Advise Mwaniki on whether the administrator had the authority to transfer the ten acres to Kamau. **(10 marks)**

c) Outline the disputes that will be heard and determined by the Environment and Land Court. **(10 marks)**

QUESTION TWO

d) Alex is a furniture retailer who sells a sofa to Bella. The contract states that Bella will pay the full price of Kshs 30,000.00 within 30 days. Bella makes some payments but then stops paying altogether. Advise Alex **(5 marks)**

e) David was walking his dog in the park when his dog ran off and bit Ann, who was jogging nearby. According to the local animal control laws, dog owners are required to keep their dogs on a leash. Explain if David can potentially face criminal liability in addition to civil liability for the incident. **(10 Marks)**

QUESTION THREE

a) Sarah owns a clothing boutique. She appoints Atieno as her agent to manage the store and negotiate sales on her behalf. Atieno enters into a contract with a supplier to purchase clothing worth Kshs 300,000.00. The supplier delivers the goods, and Atieno arranges for payment. Later, Sarah claims that she did not authorize the purchase and refuses to pay the supplier. Advise Atieno on whether the contract is binding on Sarah. **(5 marks)**

b) In the course of their work, external auditors discovered that the client company had not disclosed certain liabilities related to pending lawsuits, which could significantly impact their financial position. Despite their findings, the auditors chose not to raise this issue in their audit report, citing that the liabilities are uncertain and not material enough to influence the financial statements. Subsequently, investors relied on the audited financial statements to make investment decisions. When the liabilities were later raised by the shareholders, the investors suffered significant losses. Critically analyze whether the external auditors fulfilled their responsibilities. **(10 marks)**

QUESTION FOUR

a) A new residential development is built next to a long-standing factory. Its operations involve loud machinery, significant dust and night-time noise from loading and unloading trucks. Residents complain that the factory's operations are disrupting their enjoyment of their homes. Discuss the possible remedies available to the residents under the tort of nuisance. **(5 marks)**

b) "A company may face compulsory liquidation if it is insolvent". Analyze five circumstances that may lead to compulsory liquidation. **(10 marks)**

QUESTION FIVE

a) Kamau, a successful businessman in Nairobi, passed away unexpectedly at the age of 55 years. He had a wife and three adult children. Peter, Jane, and Geoffrey. Kamau had a will that distributed his assets in Nairobi. A small plot of land in Muranga that he had inherited from his grandfather was not included in the will. Advise the widow on the procedure for distributing the Muranga plot. **(5 marks)**

b) Describe **five** characteristics of a public limited company. **(10 marks)**

QUESTION SIX

a) John approached a real estate agent intending to buy 10 acres owned by a land buying company in Ruai, Nairobi County. However, after signing the agreement for sale, John discovers that the allotment letter is actually for a different parcel of land, which is owned by his neighbour, who has only 5 acres. Critically analyze whether the contract can be rescinded by John.

(5 marks)

b) Enumerate **five** ways of maintaining and safeguarding judicial independence in Kenya. **(10 marks)**