



Kasarani Campus  
Off Thika Road  
Tel. 2042692 / 3  
P. O. Box 49274, 00100  
NAIROBI  
Westlands Campus  
Pamstech House  
Woodvale Grove  
Tel. 4442212  
Fax: 4444175

**KIRIRI WOMENS' UNIVERSITY OF SCIENCE AND TECHNOLOGY**  
**UNIVERSITY EXAMINATION, 2019/2020 ACADEMIC YEAR**  
**FOURTH YEAR, FIRST SEMESTER EXAMINATION**  
**FOR THE DEGREE OF BACHELOR OF SCIENCE**  
**(BUSINESS ADMINISTRATION)**

Date: 18<sup>th</sup> December, 2020  
Time: 11.30am – 1.30pm

**KAC 404 - TRUST AND EXECUTORSHIP**

**INSTRUCTIONS TO CANDIDATES**

**ANSWER QUESTION ONE (COMPULSORY) AND ANY OTHER TWO QUESTIONS**

**QUESTION ONE (30 MARKS)**

- a) In relation to the law of succession explain the meaning of the following terms
- i) Gifts inter vivos. (2 Marks)
  - ii) Codicil. (2 Marks)
  - iii) Donation mortis causa. (2 Marks)
- b) In relation to the Trust Law explain the meaning of the following terms
- i) Certainty of subject. (3 Marks)
  - ii) Secret trust. (2 Marks)
  - iii) Special range. (3 Marks)
- c) Timo died on 31<sup>st</sup> October 2004 and was survived by his grandson Mwangi only (the son of his son). He left his estate as follows
- To my cousin Mwala, my beach plot
  - To my friend Nyamweya my car
  - To my nephew Pambana, my boat
  - To each of my two sons, Kshs1, 000, 000
  - To by brother in law, Kshs200, 000
  - To my house help Ann if still in my employment, Kshs2, 000, 000
  - To the pastor of my church, Changanya, Kshs500, 000
  - To my local church, Kshs500, 000 to buy an accordion in memory of my deceased mother.
  - To my shamba-boy, Awino if still in my employment, Shs200, 000.
  - To each of my neighbours, Nyakiamo, Waweru and Langat, Kshs100, 000.
  - To the water surfing club, my outboard engine
  - To my grandson Mwangi, the residue of my estate absolutely.

On 30<sup>th</sup> April 2005, the executors having paid all the estates liabilities and administrative expenses were ready to assent to the legacies. The property in their possession and its value at that date was as follows

|                                       |            |
|---------------------------------------|------------|
| ✓ Boat                                | 250,000    |
| ✓ Furniture, jewelry                  | 950,000    |
| ✓ Car: Audi                           | 900000     |
| ✓ Car Toyota                          | 500000     |
| ✓ Farm                                | 400,000    |
| ✓ Beach plot                          | 120,000    |
| ✓ Kshs15,000,000, 6% Government Stock | 12,000,000 |
| ✓ Bank balance                        | 6,880,000  |

The following additional information is available

Pambana died on 30<sup>th</sup> March 2004

Ann was still employed as at the date of death of Timo

During his life time Timo had provided his local church with an accordion in memory of his mother.

The shamba boy retired on 31<sup>st</sup> October 2002.

Nyakiamo and Langat predeceased Timo.

The farm had been purchased by Timo with proceeds from the sale of the outboard engine.

**Required**

- i) Prepare a schedule showing the distribution of the estate. (10 Marks)
- ii) Give your reasons why the executors should or should not assent to any of the legacies. Ignore taxation. (6 Marks)

**QUESTION TWO (20 MARKS)**

- a) Explain how a trustee gets terminated. (10 Marks)
- b) Differentiate between the following terms
  - i) Executor and administrator. (3 Marks)
  - ii) Abatement and ademption. (4 Marks)
  - iii) Devices and legacies. (3 Marks)

**QUESTION THREE (20 MARKS)**

- a) Discuss the advantages of dying testate. (8 Marks)
- b) Discuss the reasons why Kenyans in general don't make wills. (6 Marks)
- c) Explain the term investments requiring advice. (6 Marks)

**QUESTION FOUR (20 MARKS)**

- a) Discuss the key features of the Trustees Investment Act. (8 Marks)
- b) Discuss are the liabilities of a trustee in case of breach of trust? (7 Marks)
- c) Discuss a demonstrative legacy and the rules of abatement in relation to the same? (5 Marks)

**QUESTION FIVE (20 MARKS)**

- a) Discuss the rules in relation to the revocation of a will? (6 Marks)
- b) Simon Makonde died on 1<sup>st</sup> July 2010 and by his will left his house to his wife for her life and on her death to his youngest son, Harry absolutely. He left the residue of his estate to be held on trust for the benefit of his wife and on her death to be shared among his other children Salome, Kariach and Perminus. His will gave no further information as to the investment of funds. On 1<sup>st</sup> July 2010 his house was valued at Kshs2, 000, 000. He held 20000 shares in Standard Chartered Bank Ltd valued at Shs54-56 and 100000 15% Kenya Government Stock valued at Shs94-96 and Shs300, 000 in the bank. His debts and funeral expenses amounted to Shs400, 000. On 31<sup>st</sup> December 2010 the Standard Bank shares were quoted at Shs58-60 and the 15% Government Stock was quoted at Shs92-94.  
Required  
Show the estate capital account and the balance sheet on 31<sup>st</sup> December 2010. (14 Marks)