



KISII UNIVERSITY
UNIVERSITY EXAMINATIONS

SPECIAL EXAMINATIONS
SECOND YEAR EXAMINATION FOR THE AWARD OF THE
DEGREE OF BACHELOR OF LAWS
SECOND SEMESTER, 2021/2022
(FEBRUARY - JUNE, 2022)

LLBK 224: CIVIL PROCEDURE II

STREAM: Y2 S2

TIME: 2 HOURS

DAY: TUESDAY, 8:00 – 10:00 A.M.

DATE: 26/07/2022

INSTRUCTIONS

- 1. Do not write anything on this question paper.***
- 2. Answer question ONE (Compulsory) and any other TWO questions.***
- 3. Illustrate your answer with relevant cases and statutory provisions where applicable.***

QUESTION ONE

- a) Onyambu deposited his Title Deed to all that parcel of land known as L.R. Kisii Municipality Block 2/563 with Kenya Commercial Bank Limited for safe custody. He then borrowed money from Nyamwange against the security of the same title documents. When the time by which Onyambu would have finished repaying the total amount due was over, Nyamwange alleged that Onyambu had not fully paid the debt, whereas Onyambu alleged that the debt had been paid. Both Onyambu and Nyamwange are claiming the Title Documents from Barclays Bank Limited. The Bank, however, wishes to return the Title Documents to the rightful claimant.

Explain the nature of the application which the bank should make for the determination as to who is entitled to the Title Documents to the property and the conditions which must be satisfied before the court can grant such an application. (15 marks)

- b) Wilson made an application to amend his defence in a suit filed in the High court of Kenya at Kisii. The said application was heard by the Deputy Registrar pursuant to the powers donated by order 49 of the Civil Procedure Rules. The application was found to be without merit and was dismissed with costs on 27th February 2016. On 3rd March 2016, Wilson came to you seeking your advice on what steps he could have if he was desirous of appealing against the said decision.

What advice would you have given him on the procedure he should have followed in appealing against the said decision? (15 marks)

QUESTION TWO

- a) Discuss the nature and scope of the powers of a court in dealing with applications for review of its orders or judgments. (10 marks)
- b) Explain the circumstances under which an appellate Court will allow the production of additional evidence during the hearing of an appeal and the mode of taking such evidence. (10 marks)

QUESTION THREE

- a) Discuss the procedure to be adopted in order to safeguard the property which has been wrongfully attached in execution of a decree (10 marks)
- b) Explain the circumstances under which arrest and attachment before judgment can be ordered by a court. (10 marks)

QUESTION FOUR

- a) Discuss the circumstances under which a party who is dissatisfied with an order or decree can apply for review and the rules governing the hearing of such an application (10 marks)
- b) Explain the meaning of decree, order, judgment and ruling and distinguish between them. (10 marks)

QUESTION FIVE

Write explanatory notes on any **FOUR** of the following. (20 marks)

- (i) Properties not liable to attachment and sale in execution of a decree.
- (ii) Special powers of registrars.
- (iii) Computation of days and when time does not run.

- (iv) Appointment of receivers.
- (v) Selection of a test suit.
- (vi) Issuance of commission to examine witnesses.