

ATTORNEYS' EXAMINATION

PART 2 ESTATES

16 AUGUST 2022

14:00-16:15

Total: [100]

Candidates are allowed 15 minutes to peruse the paper before starting to answer the questions. No candidate may start writing in the answerbook during this period. The examination of 2 hours then follows.

1. Candidates must answer all the questions.
2. Candidates must remember that marks are awarded for good draftsmanship.
3. Candidates must invent their own facts wherever necessary.
4. Please write only in pen on the right-hand pages.
5. Except if a special reason exists, a candidate will not be required to do an oral if 50% or more is attained. If a candidate achieves a score from 40% and below 50% he/she will be required to do an oral. If a candidate achieves less than 40% he/she will not qualify for an oral and will have failed this section.

QUESTION 1

[56]

X and Y were married out of community of property without the accrual system. X died on 13 January 2021 and is survived by her husband Y, her adopted major daughter A and minor son B. You find the following in her estate:

1. X's house at 54 St. Mary's Road, Port Elizabeth valued at R2 300 000,00. There is a bond over this property in favour of First National Bank (FNB). The amount outstanding on 13 January 2021 was R500 000,00 and when the executor settled the bond the amount outstanding was R505 000,00.
2. BMW motor vehicle valued at R540 000,00. An amount of R2 500,00 was owing to Wesbank as at date of death and which has been settled.
3. Money market account at FNB, with a capital amount of R1 000 000,00. The executor collected an amount of R1 110 025,00 which included interest of R100 025,00 as at date of death and interest of R10 000,00 after date of death.
4. Current account at FNB with a debit balance of R5 972,00.
5. Furniture and other household contents valued at R75 000,00.
6. Funeral expenses of R43 200,00, which has been paid.
7. Refund from SARS: R1 519,00.
8. Insurance policy with Discovery on X's life in the sum of R1 500 000,00 with Y as the nominated beneficiary.
9. Jewellery valued at R54 000,00.
10. Shares in ABC (Pty) Ltd. valued at R175 000,00 (as approved by SARS) and sold by the executor for R180 000,00.
11. The administration expenses (excluding Master's fees and Executor's fees which you must calculate) amount to R53 400,00.

In X's Will which was accepted by the Master's Office, X bequeathed her estate as follows:

"1.1 To my adopted daughter A, R500 000,00 in cash;

1.2 The rest and residue of my estate I leave to my husband Y."

Draft the entire Liquidation and Distribution Account in the estate of the late X to be submitted to the Master of the High Court. It is not necessary to break down the administration expenses. Specify the claims against the estate mentioned in the set of facts above to determine the total liabilities.

Use imaginary information where necessary. Ignore VAT and CGT (Capital Gains Tax).

QUESTION 2**[6]**

A husband and wife married out of community of property to each other, wish to leave both their estates to their only child Joseph upon the death of the first dying of them, subject to the lifelong usufruct of the survivor.

Draft only the clause in their Joint Will which gives effect to their wishes.

QUESTION 3**[10]**

Leonard Dale requested his wife June to write down his Will in which he appointed his only son as executor and sole beneficiary. Then months later Leonard divorced June and married Maria out of community of property. A year later Leonard died without making another valid Will. Maria is angry that she is not a beneficiary in Leonard's estate and approaches you for advice.

Explain in detail how you would advise Maria?

(Your answer must refer to any factors that must be taken into account in the advice you give to Maria).

QUESTION 4**[13]**

Deedee Snow, who was engaged to be married to her fiancé, Tom Winter, died intestate. She was also in the process of getting divorced from her husband, John Snow, to whom she was married out of community of property without the accrual system. She is also survived by the following people:

- (a) Her daughter, Judy;
- (b) Her adopted son, Rudy;
- (c) Tom Winter's son, Ron;
- (d) Her parents Dexter and Samantha;
- (e) Her husband's daughter, Letta Hail, from a previous marriage, whom she never adopted;
- (f) Her major daughter from a previous relationship, Elizabeth, whom John never adopted;
- (g) Elizabeth passed away shortly after Deedee Snow and left three children, Jenny, Victoria and Ross;
- (h) Her uncle, Bennie.

The distributable estate amounts to R3 000 000,00 consisting of cash only. Advise Deedee's family as to who are the heirs and what amount each will inherit. Give reasons where necessary. Also state who will not inherit and explain why.

QUESTION 5**[15]**

Linus Mbili died intestate. He is survived by his wife Betty Mbili and two minor children, Corrine aged 3 years and Daisy aged 5 years. Linus and Betty were married to each other in community of property.

The net value of the joint estate after liabilities have been paid, and their dwelling House reflected in the Liquidation and Distribution Account as Erf 213 Ethekeweni, Registration Division ET, Province of Kwazulu Natal, in extent One Thousand (1000) square metres, held under Deed of Transfer No. T2471/2004, is valued as at the date of death at R1 500 000,00.

Although the minor children Corrine and Daisy are intestate beneficiaries in Linus' estate, Betty wishes to take transfer of the entire property into her name.

Draft the Section 38 take-over application for submission to the Master of the High Court to give effect to Betty's wishes.

- THE END -

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