

BOWEN UNIVERSITY, IWO

COLLEGE OF LAW

FIRST SEMESTER EXAMINATIONS FOR 2022/2022 SESSION

LAW OF EVIDENCE I : PIL 405

TIME : Three (3) hrs.

INSTRUCTION(S): Answer any four (4) questions. Each question carries 17 ½ marks. Each question carries 17 1/2 Marks

LOGICAL AND GRAMMATICALLY CORRECT PRESENTATION OF ANSWERS ARE IMPORTANT

1. Alakori Odaran, a notorious land speculator in the Ajegunle Area of Lagos State, engaged Mr. Faleye Emeka as his lawyer in a suit filed against him by Chief Ajao Omo-Onile. In paragraph 18 of his statement of defence, the defendant admitted the sum of two hundred thousand naira (₦200,000.00) claimed as general damages by Chief Ajao Omo-Onile. In its judgment, the trial court refused to enter judgment for the plaintiff in respect of the general damages on the ground that Chief Ajao Omo-Onile failed to prove his claim by credible evidence. Meanwhile, Alakori Odaran had angrily gone to Mr. Faleye Emeka's office, beaten up the lawyer's secretary for erroneously typing the said paragraph 18 into his statement of defence. During investigation, he owned up to the assault in his statement which was recorded by Corporal Suraj Michael but interpreted by Sgt. John Ojulari. The trial court convicted him for the assault based on his statement. He appealed to the Court of Appeal sitting in Lagos on the grounds that the statement on which the trial court relied was not voluntary as he made same two days after a serious torture and a threat of juju from the lawyer's gateman. He further complained that the statement was hearsay as Sgt. John Ojulari was not called to testify at trial. In the same breath, he denied making the statement. Chief Ajao Omo-Onile also appealed against the judgment on the trial court's refusal to award the general damages. **Advise the parties.**
2. Dagboru Arijagba, a notorious thug in the scheme of Oyo State political affairs, was in the violent habit of snatching ballot boxes during the state's previous general elections. In the last gubernatorial election held on the 3rd day of December, 2017, he was caught violently snatching a ballot box. He was subsequently charged to the Electoral Crimes Court specially constituted for the purpose of prosecuting electoral offenders. The State adduced evidence of Dagboru Arijagba's previous acts of ballot snatching. The trial court convicted him on the said evidence. He appealed against the decision on the ground that the trial court wrongly convicted him as he never at any time raised any defence(s) warranting reliance on similar fact evidence. **Advise him on the prospects or otherwise of his ground of appeal.**
- 3 (a) The Arigbabuwo family of Eleekara Area, Oke-Odo, Osogbo, was involved in a land matter with the Kolakosagbe family of Eletu Area, Oke-Afefe, Osogbo. The land is

located at Ojaowo Area of Osogbo. The feud ended in a law suit filed by the Arigbabuwo family before the Ojaowo Grade C Customary Court. The President of the Court, being a law graduate of the National Open University of Nigeria, Osogbo Study Centre, relied heavily on Section 35 of the Evidence Act, 2011 in granting title in the disputed land to the Arigbabuwo family. The Kolakosagbe family was dissatisfied with the Grade C Customary Court's judgement and accordingly appealed to the Customary Court of Appeal sitting at Osogbo, on the ground that the reliance placed on the provisions of the Evidence Act 2011 prejudiced the mind of the trial court due to the technical nature of the Act. In a cross- appeal filed by the Arigbabuwo family, it contended that the reliance by the trial customary court on the provisions of the Evidence Act, 2011, deprived it of the award of general damages as an ancillary relief, which occasioned a miscarriage of justice. **Advise the appellant and the cross-appellant on the ensuing legal issues, if any.**

3(b). Assuming the Evidence Act 2011 does not at all apply to the proceedings of some customary and area courts in Nigeria, does it mean that justice cannot be done in those courts?

4 Ekama and Ekata purportedly contracted marriage ceremony under Uraun customary law and had since lived together for forty-five years and had six children. Ekata the husband died last year and his people wanted Ekama to leave the house she built with her husband that their Brother never married her but she contended that they have been married and lived together for forty-five year prior to his demise. Meanwhile PeterOguntayo entered into a contract with Momso Oludiran to supply fifty bags of China rice on before the 14th day of February, 2022. Momso Oludiran failed to supply the rice and to refund the money paid to him despite a letter of demand by Peter Oguntayo. Peter Oguntayo has sued Momso Oludiran for breach of contract seeking the court to grant her damages. She served notice to produce on him to oblige her with the letter of demand to use in court but same was not produced since it is critical to Peter Oguntayo case. Meanwhile Amaka was born one year after her parent Mr. Paul Okonua and Mrs. Grace Okonua dissolved their marriage and the mother remarried Mr. Greg Okpufour months after the dissolution. The paternity of the child is in question now. On the 13th of June, 2021, Ada left her house and when she returned, she discovered that her television and DSTV dish had been stolen, the next day, the goods were found with Nkesan at Alagbadua electronic market who is now standing trial for stealing. On the 15th of June, 2020, Okon and Ekpa were strolling on Mfun bridge, Ekpa kept pushing Okon who warned him that such is dangerous but her persisted and unfortunately, Okon slide fell and hit his head on a rock and died from pneumonia. Ekpa has been charged for the murder of Okon and he pleaded accident as defence. Enoch shot Abu in the presence of Judge Judith while she was on her way to Church. Enoch has been charged for murder before Jude Judith who witnessed the shooting.

With the aid of statutory and judiciary authorities, identify and exhaustively discussed all the issues involved.

- 5 With aid of **judicial and statutory authorities**, write **short and exhaustive** notes on the following.
1. Relationship between relevancy and admissibility
 2. *Res Gestae*
 3. Relevant facts
 4. Facts in issue
6. What is Hearsay Evidence? Discuss its basis according to the Privy Council in *Subramanian v. DPP*, its scope, rationale and the various exceptions to the Hearsay Rule.
- 7 . What is *Res Gestae*? With the aid of decided cases, discuss the position of the principle at common law, differentiate the position of the courts in *R v. Beddingfield* and *R v. Andrews*. What are the basic requirements for its application and the position of the Nigerian courts on *Res Gestae*.