



**CHARTERED INSTITUTE OF BANKERS (GHANA)
ASSOCIATESHIP EXAMINATION**

LEVEL IV

MORTGAGE LAW AND PRACTICE

JULY 2020

N.B:

1. Read carefully the instructions on the cover of the answer book.
2. ATTEMPT **FIVE** QUESTIONS.
3. EACH QUESTION CARRIES **20** MARKS.
4. No aids such as calculators, books, dictionaries, papers, mathematical sets or slide rules are permitted in this examination.
5. Time allowed: **THREE HOURS**
6. Candidates must ensure that they answer questions in the appropriate answer book and **NOT on loose sheets** which are used only as supplementary sheets. Such answers will not be marked
7. **DO NOT WRITE YOUR NAME ON THE ANSWER BOOK.**
8. **DO NOT OPEN THIS QUESTION PAPER UNTIL INSTRUCTED TO DO SO.**

SECTION A

ANSWER THREE QUESTIONS FROM THIS SECTION

QUESTION 1

The main business of Ayensu Books plc is the running of a publishing company in Accra. The objects clause of the company's regulations includes a power to borrow money as authorized by a general resolution of members. It further states that the directors may do all things that are conducive or incidental to the general business of the company and concludes with a paragraph stating that all the objects are to be regarded as distinct and separate.

The directors decided that the company should invest in a cinema and leisure complex on the Motorway Extension as a means of diversifying and offsetting its risks.

The finance director, acting on behalf of Ayensu Books, negotiated with the manager of Agyakrom Bank plc, the company's bankers, for the borrowing of GH¢1.5 million to finance the development; the money is due to reach Addick's Books bank account next month. In turn, the managing director contracted with Power Construction plc for the construction of the complex, which Power Construction has started to build, but for which it has yet to receive any payment.

Advise Agyakrom Bank on its legal position.

[20 Marks]

QUESTION 2

Advise Power Construction on its legal position.

[20 Marks]

QUESTION 3

In March 2016 Major Munkaila applied to Hallmark Bank for and was granted a loan of GH¢50,000.00 to purchase a four bedroom property at Cantonments, Accra. The loan of GH¢50,000.00 was secured with a legal mortgage over the Property.

The facility letter granting the loan which was duly signed by Major Munkaila stated among others that upon default by Major Munkaila in fulfilling all his obligations under the mortgage Hallmark

Bank would among others recover the principal sum, the interest thereon as well as incidental expenses incurred by Hallmark Bank such as solicitors fees, auctioneers fees and bailiffs fees.

In December 2018 Major Munkaila was posted by the UN on a peace keeping mission to D.R. Congo. He left the country without notifying Hallmark Bank of his new address or telephone number. He also rented the Property to Allan Cash who unknown to Major Munkaila was a fraudster who daily left the Property at dawn and returned late at night.

Upon default by Major Munkaila in servicing the facility Hallmark Bank tried reaching Major Munkaila on telephone without success. Hallmark Bank also wrote several letters totaling 10 (ten) in all and sent its loan officers to deliver them to Major Munkaila on the Property. On each visit the loan officers never met anyone on the Property as Allan Cash had as usual left at dawn but they pushed the demand letters under the gate. Ekuia Konkonsah who occupies the adjoining property however told the loan officers of Hallmark Bank that Allan Cash received all the letters and had told her he was waiting for the Landlord to come. Alan Cash also tore all hearing notices pasted on the Property by Bailiffs of the Court for Major Munkaila to attend court and never informed him.

After the case the High Court ordered that the Property should be sold by judicial sale to the highest bidder through public auction. Major Munkaila has returned to Ghana and sued Hallmark Bank for a wrongful sale of his Property claiming he was not served with the demand letters, notice to possess the Property and all the court processes. He also claims the Bank charging him with the interest and other incidental expenses is unconscionable and not allowed by law

Advise Major Munkaila with the aid of relevant statutes and case law on any remedies available to him.

[20 Marks]

Question 4

- a) Define fraud?
- b) What are the legal effects of fraud in a contract?
- c) What is a Power of Attorney?

[4 marks]

[8 marks]

[8 marks]

[Total marks: 20]

QUESTION 5

Mention **(6 marks)** and explain two characteristics of a mortgage. **[14 marks]**

[Total marks: 20]

SECTION B

ANSWER ANY 2 QUESTIONS FROM THIS SECTION

QUESTION 6

Mention and explain five duties of Directors.

[20 marks]

QUESTION 7

(a) State and explain the two types of resolutions that can be taken by a limited liability company

[6 marks]

(b) Mention 5 instances each can be used.

[14 marks]

[Total mark: 20]

QUESTION 8

(a) Who is a Company Secretary?

[6 marks]

(b) Mention the statutory books to be kept by the Company Secretary?

[14 marks]

[Total mark: 20]

QUESTION 9

(a) Mention the types of meetings that can be convened by a limited liability company under the Companies Act?

[6 marks]

(b) Mention the circumstances under which each can be convened.

[8 marks]

(c) Draft a notice convening a meeting.

[6 marks]

[Total marks: 20]