



MANICALAND STATE UNIVERSITY OF APPLIED SCIENCES

FACULTY OF AGRI BUSINESS AND SOCIAL SCIENCES

DEPARTMENT OF APPLIED BUSINESS SCIENCES

MODULE: COMMERCIAL LAW/BUSINESS LAW 1

CODE: BMAN 121

SESSIONAL EXAMINATIONS

DECEMBER 2023

DURATION: 3 HOURS

EXAMINER: MR S. SIZIBA

INSTRUCTIONS

1. Answer **All questions** in Section A
2. Answer **any three** questions in Section B.
3. Start each on new question on a fresh page
4. Total marks 100.

Additional material(s): None

SECTION A:

(Answer all questions in this section. Section A carries 40 marks)

Question one

John rents a house from Paul close to Manicaland State University of Applied Sciences (MSUAS). One day, while coming from work, he found that a war veteran had occupied one of the rooms arguing that land and property was being redistributed, so he had a right to occupy the house and he intended to stay there permanently. As if that was not enough, the landlord had sent a note informing him that his son would be moving in the following month since he got a place at the university. Paul had decided that there was no way his son would suffer since he had a house nearby. Paul even stated that John would rather move out if he was not comfortable with this new arrangement.

Required

- a) Explain the requirements of a valid contract of lease . (10 marks)
- b) Discuss the principle of hire goes before sale in a lease . (8 marks)
- c) Interrogate Paul's duties as a lessor in this contract. (10 marks)
- d) Examine the remedies available to John in light of the above. (12 marks).

[Total marks :40]

Section B: (60 marks)

Attempt any three questions

Question 2

A school bus carrying students on a trip broke down at night at a very dangerous spot popularly known for muggings. A tow truck offered assistance to the driver having offered a ridiculously high price. The driver protested that the amount was too exorbitant. But the tow truck driver threatened to leave them unless the driver

signed an unconditional promise to pay this amount. The bus driver eventually signed. The bus was then towed to safety.

Required

- a) Contrast void and voidable contracts . (8 marks)
- b) Advise the school authorities on the way forward. (12 marks)

[Total marks :20]

Question 3

Janet, a wealthy widow and property owner aged 50 ,became interested in the beliefs of a particular religious group. She went to see prophet George who was the leader of the church to ask if she could join the church. After she became a member prophet George asked her if she would ‘**seed**’ one of her properties as in doing so she would be assured of more blessings and a bigger property than the one she donated. Janet at first refused but six months later she sold the property to prophet George at a price far below its market value, after having been repeatedly told by him that in doing so God would get a bigger property than the one, she had. The legal formalities were carried out, six months later, having not been paid and not gotten the bigger property as promised, Janet now wants to get her property back.

Required

Advise Janet on her legal position and remedies available to her , if any. **(20 marks)**

Question 4

a) After lobola proceedings, the Nyoni family took the Dube family to their homestead to show them the bride price of ten head of cattle. Mr Nyoni took the Dubes to the cattle kraal and then pointed them and placed them at the disposal of the Dubes for collection. The Dube family however had not made arrangements for

the collection. There was an outbreak of foot and mouth disease in the subsequent days and unfortunately six cattle died because of the disease . After some time had lapsed the Dube family accused the Nyoni family of negligence and demanded healthy cows and Nyoni refused . The Dubes are threatening to sue the Nyoni family.

Required

Advise the two parties on ways to resolve their dispute. (10 marks)

b) It was a custom among commuter drivers that whoever came first occupied the position and would be the first to load their commuter for the particular destination allocated to that position. Machando's commuter decided to flout this custom arguing that it was not legally binding. He came from behind and loaded his commuter and left .This led to a commotion leading to Machando being blocked loading passengers for the week.

Required :

Advise the two parties on the way forward using a relevant case. (10 marks)

Question 5

Steven was driving a company vehicle having been sent to collect company documents in town. However, he realized that his wife had asked him to take some clothes to the dry cleaners in the morning and he had actually forgotten to do that. Steven deviated from his route for about 5km in order to go to the dry cleaners. When he had travelled 3 km after the deviation, he was involved in fatal accident after ramming into a school bus and five pupils lost their lives .

Required

Discuss the liability of Gift and the bus company in regard to the injuries suffered by passengers. (20 marks)

Question 6

Explain the meaning of the following words or phrases as used in Commercial law ;

- a) Insurable Interest (4 marks)
- b) Intellectual property law (4 marks)
- c) Latent defects (4 marks)
- d) Ostensible authority (4 marks)
- e) Quasi mutual assent (4 marks)

END OF EXAMINATION!