



UNIVERSITY OF ZIMBABWE

2017 November/ December Examinations

Faculty:	LAW
Department:	PRIVATE LAW
Paper code and Title:	CONTRACT LAW LB102
Duration:	3 HOURS
Examiner:	DR INNOCENT MAJA
Authorized Materials:	Unannotated copies of prescribed Statutes and Regulations

INSTRUCTIONS:

1. This paper contains 2 Sections and 7 Questions
2. Answer 2 Questions from Section A and 2 Questions from Section B
3. Start each question on a new page
4. This question paper comprises 4 printed pages

NB: DO NOT TURN OVER THE QUESTION PAPER OR COMMENCE WRITING UNTIL INSTRUCTED TO DO SO.

SECTION A

Question 1

a) To what extent are the doctrines of freedom of contract, sanctity of contract and privity of contract still relevant to modern day Zimbabwean law of Contract? **(10 Marks)**

b) With reference to case law, analyse how Zimbabwean courts have dealt with illegal contracts. **(10 Marks)**

Question 2

A. *In your view, do you think our courts should still apply the parole evidence rule to solve contractual disputes?* **(10 Marks)**

B. How have Zimbabwean courts treated suspensive conditions, resolutive conditions, exemption clauses and warranties? **(10 Marks)**

Question 3

What are the fundamental differences between remedies for void contracts, voidable contracts and breach of contract? **(20 marks)**

Question 4

Do you think there is reasonable justification for a contract to be terminated on the basis of supervening impossibility, waiver, prescription, set off and assignment? **(20 marks)**

SECTION B

Question 5

Florence owns a stand measuring 10 000 square metres. She wants to subdivide it into five stands measuring 2000 square metres each in terms of section 39 of the Regional Town and Country Planning Act (Chapter 29:12). She starts the process of subdivision but mid way the process, her son enrolls at New York University where US\$60 000 is required for fees. She approaches Netania, an Estate Agent, to find out if he can sell two stands before the subdivision permit is issued to cover her fees. Netania tells her that she can legally sell the stands and asks Florence to give her the mandate to sell which Florence gladly gives. Netania sell two stands for US\$35 000 each to Elora and Elora pays the full purchase price. Elora however, insists that she would want to seek advice from

her lawyers on the validity of the contract and her rights in the contract. Eliora approaches you for advice. Advise Eliora (20 Marks)

Question 6

Brighton bought a new bakery business two months ago but is experiencing some difficulties. The first problem is that Bruce, the former owner of the bakery, has just opened a new shop selling hot take-away food about 500 metres from the bakery. Brighton was very surprised at this because her lawyer had put a clause in the agreement which reads '*the seller cannot open a new business within two miles of the bakery for a period of three years.*' Since Bruce opened the new shop, Brighton's profits have dropped by 50%.

The second problem is that Brighton had contracted with Dynamos Football Club to sell 9 000 dynamos-themed cakes at US\$10 each at a cup-final game to be held next week at the National Sports Stadium. She has used US\$45 000 to prepare the cakes and anticipates to make US\$45 000 profit. However, Dynamos Football Club cancels Brighton's contract arguing that they have found a cheaper supplier.

Advise Brighton on the legal implications raised by these problems.

(20 marks)

Question 7

On 3 August 2017, Abraham sells a house to Mika for US\$150 000. Parties agree that Mika would pay a deposit of US\$100 000 upon signing the agreement and the balance would be paid in three installments of US\$20 000 at the end of August 2017, US\$15 000 at the end of September 2017 and US\$15 000 at the end of October 2017. Mika pays the deposit as well as the first installment. However, Mika fails to pay the second installment by 30 September 2017. On 10 October 2017, Abraham send a letter to Mika advising that he is cancelling the agreement, he will not reimburse Mika the money he has paid and Mika should vacate the premises by 15 October 2017. Mika approaches you for advice. Advise Mika.

(20 Marks)

**** END OF QUESTION PAPER ****