

UGANDA MARTYRS UNIVERSITY NKOZI
FACULTY OF BUSINESS ADMINISTRATION AND MANAGEMENT
THE LAW OF CONTRACT
SECOND YEAR
SEMESTER ONE

DATE: 6TH December, 2017

TIME: 3 HRS

INSTRUCTIONS:

- (i) Question No. Six is **COMPULSORY**. ALL questions carry equal marks.
- (ii) You are advised to write legibly with clarity of expression.
- (iii) Use of relevant examples and authorities shall earn you extra marks.
- (iv) **ONLY** raise issues where you have been asked to do so.
- (v) **DO NOT WRITE ANYTHING ON THE QUESTION PAPER**

1. Discuss the argument for and against delegated legislation. [20 marks]

- (b) Under what circumstances can delegated legislation be controlled? [5 marks]
- Judicial scrutiny - Prerogative of the Crown
- Parliamentary control*

2. **Trima Uncle Goat** a resident of main street Arua sued the Government of Uganda for the recovery of 45,000,000/= million Uganda shillings arising from breach of contract. The Contract was concluded at the Ministry of Justice and Constitutional Affairs offices in Arua District.

- a) Against whom would Trima actually bring the suit and why? (5 marks) *Attorney General*
- b) How do you designate the parties in this case? (5 marks) *- Trima - Plaintiff
- Govt of Uganda - Defendant*
- c) In which court do you think Trima filed the case and why? (5 marks) *Chief Magistrate Court - preliminary jurisdiction of 4M*
- d) Assuming Trima lost the case and wants to appeal, which court would he appeal to and why? (3 marks) *High Court - next court in hierarchy*
- e) How would you designate the parties in part (d) above? (2 marks) *- Appellant
- Respondent*
- f) Giving a reason for your answer, which branch of the law does the case fall? (5 marks)

*Civil Law
rights & obligations
of duties & persons
with each other*

- Illegality
- Duress / Coercion
- Mistake
- Undue Influence
- Misrepresentation
- Fraud

3. Critically analyse the various ways in which performance of a party's obligations under a contract can be dispensed with or excused. [25 marks]

4. Using the case of Carlill versus Carbolic Smoke Ball Co. Ltd., distinguish between an offer and invitation to treat. [10 marks]

(b) Under what circumstances may an offer be terminated? [15 marks]

Privity
a contract

5. "It is trite law that only parties to a contract are bound by its terms. A stranger to a contract can not sue or be sued on the contract and neither can she or he claim any benefits or rights accruing thereunder" discuss the statement clearly showing the circumstances under which a contract may never the less be enforced by or against a third party. [25 marks]

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6. **Karabo Laura** travelled by bus to Kigali via Trinity Buses. Before the journey, she had booked a place on the bus. At the booking office, there is a large board on which was displayed the following words large print. "Property of the passenger is carried at owner's risk. **Trinity Bus Services Ltd** and its authorised agents or employees shall not be liable for the loss to any luggage of a passenger before, during and after the course of transit whether arising out of negligence or in any manner whatsoever" **Festo**, the company's employee, while helping **Karabo** to carry the Luggage onto the bus tripped over a small stone, let go of the bag and **Karabo's** Laptop broke into pieces. **Karabo** wants to sue the Bus Company. Raise issues and advise her. [25 marks]

- Exceptions
- + Agency
 - + Law
 - + Third Party
 - + Negligence
 - + Occurrence of events
 - + Legitimate interests
 - + Law

GOODLUCK & MERRY XMAS!!!!

- damage - disclaimer
- Bus over its client responsibility