

UGANDA MARTYRS UNIVERSITY

NKOZI

UNIVERSITY EXAMINATION

NOVEMBER 2020

FACULTY OF LAW

**BACHELOR OF LAWS (LLB) YEAR 1 END OF SEMESTER TWO FINAL
ASSESSMENT ACADEMIC YEAR 2019/2020**

LAW OF CONTRACT II

COURSE CODE LLB 1207

DATE: Tuesday, 10th November, 2020

TIME: 9:30 AM– 1: 00 PM

DURATION: 3 & HALF HRS

Instructions:

1. Carefully read through ALL the questions before attempting
2. This examination is composed of eight (8) questions. Answer any four (4) questions, selecting at least one question from each section.
3. This is a **STRICTLY CLOSED BOOK** examination. No printed or written materials in any form should be taken into the examination room and/ or looked at therein.
4. No **names** should be written anywhere on the examination book.
5. Ensure that your **Registration number** is indicated on all pages of the examination answer booklet.
6. Ensure your work is **clear** and **readable**. Untidy work shall be penalized
7. **Clarity of expression, provision of relevant authorities/examples and logical arguments will earn you extra marks**
8. Any type of examination Malpractice will lead to automatic disqualification
9. Do not write anything on the questions paper.
10. Use the exam answer booklet for all your rough work

SECTION A

Question One

To what extent have the courts been prepared to recognize that a contract can be vitiated by economic duress? (25 marks)

Question Two

a) What are the bars to the remedy of rescission? (10 mark)

b) Under what circumstances may silence amount to a misrepresentation? (15marks)

Question Three

“The basic concept of damages in a contract is to place the plaintiff in the same position he /she would have been in had the contract been carried out, but this is subject to the test of remoteness. The basic concept is limited by the notion of mitigation of loss”. **With the support of decided cases, discuss the foregoing statement and also critically examine the law governing the recovery of damages for breach of contract. (25 Marks)**

Question Four

Write short notes on the following:

- i. Discharge of a contract by agreement (10marks)
- ii. Mitigation of losses (5marks)
- iii. Duress (5marks)

SECTION B

Question Five

Read the following scenario and answer the questions that follow:

Wako has entered into a contract with Ngobi to build an extension to Ngobi's house for shillings 160millions. He has almost finished the extension but cannot obtain the special floor tiles that Ngobi wanted installed. He has therefore installed slightly different floor tiles. Ngobi still wants the original floor tiles specified in the contract and is refusing to pay all or any part of the contract price until the contract is fully completed. The cost of replacing the wrong tiles is shillings 3millions.

Wako also had a contract with Pam to install a second kitchen and bathroom in her house for shillings 40millions. The alterations would enable Pam's mother to come live with her. Wako had finished the bathroom and about to begin work on the kitchen when Pam's mother died. Pam therefore told Wako to stop work on the second kitchen.

- a) A contract is discharged when it is performed entirely. Identify and explain four exceptions to this rule **(8marks)**

Applying the relevant exceptions referred to in part a) above, explain:

- b) Whether Wako can bring a successful action against Ngobi for shillings 160millions contract price for the extension **(9marks)**
- c) Whether Wako can bring a successful action against Pam for the work done on the bathroom **(8marks)**

Question Six

Joe, a doctor owned a flat and also a private medical practice in Kampala. He intended to sell them.

Deng, a wealthy South Sudanese viewed the flat and Joe told him that the flat was worth 500m shillings although Joe knew that it was worth 300m shillings. Deng bought the flat at 500m shillings but has now discovered its true value.

Harry, another doctor was considering buying Joe's medical practice. A year ago, Joe told him the annual income from the practice was 800m shillings, which was true at the time. Since then Joe has been ill and has not worked much. The income from the last year dropped to 100m but Joe did not tell Harry this. Harry bought the practice, believing that income was still 800m shillings per year.

Questions:

- a) Identify and explain the three types of misrepresentation **(7marks)**
- b) Explain whether Deng can bring a suit for misrepresentation against Joe **(9marks)**
- c) Explain whether Joe's statement that the annual income of his practice was 800m was a misrepresentation. **(9marks)**

Question Seven

Read the hypothetical case below and answer the questions that follow

Anne entered into a tenancy agreement with Musoke whereby Musoke agreed to rent his premises in church zone to Anna. Musoke and Anna know each other from previous interactions and Musoke knows that Anna practices prostitution as a profession. Anna used the premises as a brothel and when the neighbors realized this, they complained to Musoke and Musoke was delighted that the neighbors had complained because he was tired with Anna's non-payment for rent for seven months even after several demands made. He sees this as an opportunity to eject Anna out of his house but he has vowed to get his rent. Anna however is upbeat and states that even if Musoke went to court, he would be able to get his money because court cannot enforce the tenancy agreement because Musoke was aware of her profession.

- i) Explain the different types of contracts rendered illegal by statute **(15marks)**
- ii) Advise Anna and Musoke on the enforceability of the agreement **(10marks)**

Question Eight

Read the scenario below and answer the questions that follow:

Maria entered into an agreement with Samantha where upon Maria agreed to sell her used Premio car to Samantha. The agreement stated that the Maria would deliver the car to Samantha on the 3rd of April upon which Samantha would pay the balance of 10mshs. On 2nd April, Maris took the car to the washing bay in preparation for delivery to Samantha. At the washing bay, a mysterious fire broke out and burned the car. The police have failed to find the source of the fire and has also ruled out negligence on the part of the washing bay. Advise the parties

a) Under what circumstances may a contract be frustrated? **(15marks)**

b) Advise Maria and Samantha on the issue of the destruction of the car **(5marks)**

c) What difference, if any, would it make if the damage to the car had been caused by a fire carelessly started by Maria? **(5marks)**