



ZIMBABWE EZEKIEL GUTI UNIVERSITY

FACULTY OF LAW, BUSINESS INTELLIGENCE AND ECONOMICS

DEPARTMENT OF LAW AND LEGAL SERVICES

EXAMINATION PAPER

COURSE CODE : LLB 312

COURSE TITLE : Commercial Law

DURATION : 3 Hours

LEVEL : 3.1

DATE :

11:4 APR 2023

INSTRUCTIONS TO CANDIDATES:

1. Answer ALL questions.
2. Do not separate subsections of questions.
3. Refer to case law, statute and/or any relevant authority, where applicable. Underline all your references to cases and statutory provisions.
4. Pay careful attention to marks allocated.
5. WRITE LEGIBLY. If in doubt as to whether your hand writing is easy to read, consider writing some of your words or points in large caps.

Question one

Write short notes on the following:

- (i) The difference between general and special damages (5 marks)
- (ii) *Del credere* agents (5 marks)
- (iii) The influence of the Constitution of Zimbabwe on private contracts (5 marks)
- (iv) Latent and patent defects (5 marks)
- (v) Define undisclosed principal and unnamed principal. In the course of your answer, also state the major differences between the two principals. (5 marks)

Remember to always refer to relevant legislative provisions and case law

[25 marks]

Question two

(a) Lucia Chekaigava is a first year student at ZEGU University. She was so excited that she will be able to further her studies at one of the prestigious universities in Southern Africa that she decided to throw a party. However, she could not commence physical classes due to spreading of the new variant of the Coronavirus disease known as the Faucibill variant. Unfortunately, Lucia got pregnant during the night she threw a party and by the time physical classes commenced, she had a three-month old baby called Degree. Lucia wishes to stay with her baby and her younger sister Tino. XE Properties have informed her that the company cannot approve her application to rent out a two-bed apartment because she has a child.

Required:

Lucia has approached you for legal advice. Determine if there are any legal remedies available for Lisa? (Hint: Use the FIRAC method).

(15 marks)

(b) Lisa finally found accommodation from a property owned by Chief TK. However, she erects a statue in front of Chief TK's property. Lisa wishes to claim the costs incurred in erecting the statue as part of the maintenance work done on the

premises. By applying relevant principles of the law of lease, kindly advise Lisa if she can successfully claim the said costs in the given circumstances. (10 marks)

[25 marks]

Question three

- i. Distinguish an option from a right of pre-emption. 10 marks
- ii. Distinguish between actual and ostensible authority 10 marks
- iii. Discuss the two main elements of a contract of sale 5 marks

Always remember to refer to relevant case law

[25 marks]

Question four

Xolani resides in Bulawayo. He (Xolani) applies for a job to a company (YME) in Harare. Xolani is interviewed for the job and subsequently receives a letter from the company informing him that his application was successful and that he was being offered the job, and this letter stated the terms of the offer. In response thereto, Xolani informed the company that he accepts the offer of employment, and then resigns from his employment in Bulawayo. He also then sells his house in Bulawayo, and makes arrangements to have his furniture moved to his new home in Harare. He then receives an apology letter from YME, stating that the letter of appointment was sent to him by mistake, and that it was intended to be sent to another person who was interviewed by the selection committee.

Advise Xolani.

[25 marks]