



ZIMBABWE EZEKIEL GUTI UNIVERSITY

FACULTY OF LAW

EXAMINATION PAPER

COURSE CODE : LLB 007
COURSE TITLE : **Banking and Negotiable Instruments Law**
DURATION : 3 Hours
DATE : **28 DEC 2022**

INSTRUCTIONS TO CANDIDATES:

1. This paper contains **5** Questions.
2. Answer **ALL** questions.
3. Start each question on a new page.
4. This question paper comprises of **3** printed pages including cover page.

QUESTION 1

a) With reference to decided cases discuss the law as it relates to the following issues:

- i. The unilateral termination of the banker-customer relationship. (10 marks)
- ii. The banker- customer relationship is solely based on the contract which revolves around the *mutuum* concept. Discuss this statement and distinguish the concept of *mutuum* from *commoditum* and *depositum* (10 marks)

(20 marks)

QUESTION 2

(a) Tich is a farmer who benefited from Zimbabwe's fast-track land reform programme (FTLRP). As a result of the government of Zimbabwe's efforts to enhance farmers' security over the farms awarded to them, Tich received a 99-year lease. Briefly discuss the various sources of security for banker's advances. In your discussion determine whether Tich can use the 99-year lease to secure financial assistance (loan) from First Capital Bank. (10 marks)

(b) There has been rapid developments in the use and adoption of cryptocurrency as legal tender around the globe. Some jurisdictions have adopted the use of cryptocurrency as legal tender while Zimbabwe has not done so yet. Critically discuss the role of the Reserve Bank of Zimbabwe in the regulation of banks and consider some of the legal issues that the RBZ may face in the regulation of cryptocurrency if Zimbabwe is to adopt it as legal tender (10 marks)

QUESTION 3

The introduction of mobile money in Zimbabwe has helped marginalized groups such as those dwelling in rural areas and informal settlements, low-income earners, women and the youths to access several financial services.

Critically discuss the above statement. With reference to relevant legislative provisions, highlight some of the challenges faced by Zimbabwe regarding the regulation of mobile money (20 marks).

QUESTION 4

Discuss the use of Treasury Bills, Bankers and Letters of Credit as tools for international economic transactions and borrowing both domestically and internationally. (20 marks)

QUESTION 5

Thomas Makion is a well-known wealthy businessman who holds a current account with First Capital Bank. His wife Babes Wodumo Makion is suspicious that her husband could be seeing other women. This could be due to the fact that she once saw Thomas Makion trending on Instagram where he was being referred to as "Blessed". As a self-proclaimed Good Samaritan, Thomas Makion regularly withdraws money from his account not just to meet the needs of certain women but also to spoil them every weekend. However, this is just Babes Wodumo's suspicion since she does not have any concrete evidence in this regard. Babes Wodumo also thinks that she can no longer keep up with Thomas Makion's infidelity and she is pondering on divorcing him. Nonetheless, she needs credible evidence of his infidelity and she thinks his bank statements could be decisive. To this end, Babes Wodumo hires a private investigator who goes to First Capital Bank and requests for information on Thomas Makion's bank account. The banker who happens to be a student intern happily gives the bank statements to the private investigator without hesitation. Consequently, Thomas Makion's marriage with Babes Wodumo collapses due to the information discovered by his wife on the bank statements. Babes Wodumo's property claims in the divorce suit are also based on information she obtained from the bank statements. Thomas Makion approaches you for legal advice.

Provide Thomas Makion with a written legal opinion which includes general explanations on the banks' obligations regarding disclosure of information pertaining to a client. **(20 marks)**

.....**END OF EXAMINATION**