

# ZIMBABWE EZEKIEL GUTI UNIVERSITY

## FACULTY OF LAW

COMMERCIAL LAW – LLB 302

22 NOV 2019

**DURATION: 3 HOURS**

### **INSTRUCTIONS TO CANDIDATES**

1. Answer **four questions only**.
2. All questions are compulsory.

### **Materials allowed in exam**

Constitution of Zimbabwe, 2013.

### **INFORMATION FOR CANDIDATES**

1. Notes, handouts and textbooks are not allowed into the examination.
2. Cellphones are not allowed into the examination room.
3. Begin each answer to a full question on a fresh page.

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

**Question 1**

Brian is transferred to Bulawayo and wishes to rent a house from Tracy, but he is uncertain whether his girlfriend, Nancy, who is temporarily still living in Gweru with her parents will be satisfied with the house. Tracy gives Brian an option for two weeks to reach a final decision as to whether or not he wishes to rent the house.

i) Discuss the following cases briefly:

a) On the first weekend, Nancy comes to visit but is not satisfied with the house. Brian informs Tracy that he will not be renting the house. [2]

b) Eunice approaches Tracy 2 days after the meeting with Brian offering to rent her house at higher amount than that proposed by Brian. [4]

c) Nancy becomes ill and only after 3 weeks, is able to undertake the journey to Bulawayo. [2]

d) Nancy is so anxious to see the house that she comes to inspect it the very next day. [2]

ii) Mildred in Harare makes a written offer by letter to George in Bulawayo to purchase his cottage for \$20 000. George accepts her offer by letter but while the letter is in transit, he receives an offer of \$50 000 from Leo.

What should George do if he wishes to accept Leo's offer? Explain with reference existing legal theories and how they operate. [10]

iii) Explain the differences between a void and a voidable contract [5]

## Question 2

[25 Marks]

Discuss the doctrine of subrogation in Insurance law.

(15)

Elaborate on the pros and cons of wagering contract and Insurance contract.

(10)

## SECTION B

### Question 3

a) When does a contract of sale become perfecta. [10]

b) Sam entered into an agreement of sale with Hailey for the sale of Sam's immovable property being Farm 24 Dam Street in Mazoe. The parties to this agreement stipulated that the purchase price would be \$200 000.

A few days after entering into this agreement Sam met a prominent business man in Kwekwe who offered \$500 000 for the farm. In the meantime, Hailey entered into an

agreement to buy farm equipment from Mr Collins who has a hardware in Marondera. The agreement between Hailey and Mr Collins is oral although the parties agreed that it will be a deed of sale transaction and that the premium would be payable in five equal instalments.

Upon realising that Sam had sold the farm to someone else, Hailey instituted legal proceedings claiming the transfer of the farm into his own name and settlement on his money expended on the acquisition of the farm equipment.

With the aid of relevant statute(s) analyse the duties and liabilities of the parties in these circumstances and indicate Hailey's position with regards to this contract. (15)

[25 Marks]

#### **Question 4**

i) Discuss the capacity to perform juristic acts of the following persons:

- a) Connie, 16 years old and unmarried.
- b) Adam, 17 years old, divorced.
- c) Jenny, aged 25, unmarried.
- d) David, aged 26, certified mentally deficient.
- e) Keith Gardening services a Pvt Ltd Company.

[25Marks]