

UNIVERSITY OF SWAZILAND
DEPARTMENT OF ACCOUNTING
AC 201 MAIN EXAM PAPER- Semester- 1

Programme of Study : **Diploma in Commerce II F/T
B. Ed. II & IDE**

Title of Paper : **Commercial Law I**

Course Code : **AC 201**

Time Allowed : **3 Hours**

INSTRUCTIONS:

1. Total Number of Questions on this paper is Six (6).
2. Answer any four (4) Questions
3. Each question carries 25 Marks.
4. In answering any question, note that the quality of the content, use of authority, clarity of expression and legibility of handwriting are absolutely essential.
5. Begin each question on a new page.

**THIS PAPER MUST NOT BE OPENED UNTIL PERMISSION HAS
BEEN GRANTED BY INVIGILATOR(S).**

QUESTION 1

(A) Mudlalose is aged 17 and his parents are married. He purchases a new Toyota Corolla from Leites Motors and agrees to pay a deposit. He will pay the balance of the price off in instalments. He is working as a salesman and needs the car in order to function properly at work. Describe what Mudlalose's rights and obligations are in the following situations:

- a) He purchases the car when his parents are completely in ignorance of the transaction.
- b) He purchases the car whilst his parents approve of it, but the transaction is unduly burdensome on Mudlalose

In advising Mudlalose, pay particular attention to his liability to the person from whom he purchases the vehicle.

[15 Marks]

(B) In terms of the Pollution Act, it is a serious offence to sell or purchase cigarettes. SS sells and delivers 1000 cigarettes to BB. They agree that BB will pay the price 30 days after delivery. After six weeks BB has still not paid the price. Advise SS regarding:

- a) Payment of the price, and
- b) Recovery of the cigarettes.

[10 Marks]

[TOTAL: 25 MARKS]

QUESTION 2

(A) Mabhula in Mbabane posts a letter on 9 July to Queeneth who lives in Siteki. The letter states: "I offer you my 2005 Volkswagen for E50 000 cash. If you wish to accept, you must send a letter back with my brother who is returning to Mbabane on the 10h30 bus on 13 July." Queeneth receives Mabhula's letter on 12 July and decides to accept the offer. Queeneth thinks that Phutfumani Couriers (a national postal service) will reach Mabhula sooner, and consequently posts a letter to Mabhula through the couriers accepting the offer on the same day.

What is the legal position where the courier delivers the letter to Mabhula and he reads it on 17 July, but Mabhula has changed his mind and no longer wishes to sell the car.

[10 Marks]

(B) With reference to case law, explain what is meant by 'an implied warranty against eviction.' Explain the defence available to a buyer who is threatened with eviction.

[15 Marks]

[TOTAL: 25 MARKS]

QUESTION 3

(A) Explain the doctrine of Precedent with exemplified reference to the hierarchy of Courts in Swaziland. [7 Marks]

(B) Jack and John have signed a deed of partnership for the purpose of establishing a butchery. Under the partnership agreement, each partner is to make a cash contribution of E50 000. John is also to give his prefabricated house worth E60 000 to the partnership for the purpose of housing the workers. Contrary to the partnership agreement, a year after the partnership entered into business, John refused to allow the workers to live in his house. There are also signs of a love affair developing between him and Jack’s wife.

Advise Jack as to his rights and remedies. [18 Marks]

[TOTAL: 25 MARKS]

QUESTION 4

To what extent has the Hire Purchase Act of 1969 protected buyers of goods on hire purchase in Swaziland?

[25 Marks]

QUESTION 5

Sgedlemba has in his cellar in Cape Town 500 bottles of 1995 vintage wine. On 20 April Sgedlemba agrees to sell 200 bottles of that wine to Bongo in Johannesburg for a certain price and further more agrees that the goods are sold to Bongo who has no knowledge of the goods on “appro.” Sgedlemba puts the 200 bottles into cartons and consigns them by road. On 21 April, Sgedlemba agrees to sell Gundi 100 bottles of wine at the same price and Gundi agrees to call for them the next day.

On the night of 22 April and before Sgedlemba has taken any steps to execute Gundi’s order, a storm occurs which destroys 200 bottles of the wine in Sgedlemba’s cellar.

On the morning of 2 April Sgedlemba hears that the driver who was to deliver the bottles to Bongo has had an accident, which was not due to the negligence or fault of anyone, and all the bottles in his van have been broken.

Advise Sgedlemba fully as to his rights and duties regarding Bongo and Gundi.

[25 MARKS]

QUESTION 6

Define the following terms and phrases:

- | | |
|--|-----------|
| (a) Contract | [2 Marks] |
| (b) <i>Restitutio ad intergrum</i> | [1 Mark] |
| (c) <i>Consensus ad idem</i> | [1 Mark] |
| (d) Insolvency | [2 Marks] |
| (e) <i>Ex turpi causa non aritur actio</i> | [1 Mark] |
| (f) <i>In pari delicto potiar est conditio defendentis</i> | [1 Mark] |
| (g) <i>Res Vendita</i> | [1 Mark] |
| (h) Lease | [2 Marks] |
| (i) <i>Traditio longa manu</i> | [1 Mark] |
| (j) Sale | [2 Marks] |
| (k) Acceptance of an offer | [2 Marks] |
| (l) Voidable contract | [2 Marks] |
| (m) Duress | [2 Marks] |
| (n) A clause in restraint of trade | [2 Marks] |
| (o) Latent defect | [2 Marks] |
| (p) Surety | [1 Mark] |

[TOTAL 25 MARKS]

END OF PAPER