

UNIVERSITY OF SWAZILAND
DEPARTMENT OF ACCOUNTING
AC 201 MAIN EXAM PAPER

Programme of Study : **Diploma in Commerce & B.Ed.**

Title of Paper : **Commercial Law I**

Course Code : **AC 201**

Time Allowed : **3 Hours**

INSTRUCTIONS:

1. The 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 MAY NOT BE OPENED UNTIL PERMISSION HAS BEEN GRANTED BY INVIGILATOR(S).

QUESTION 1

- (A) What is the purpose of law, and what is its relevance in Commerce? [5 Marks]
- (B) Define the meaning of ADR and its basic processes. [8 Marks]
- (C) Write a brief essay in which you describe the reception of Roman-Dutch Common law in Swaziland. [10 Marks]
- (D) What are the sources of law in Swaziland, in order of Supremacy? [2 Marks]

[TOTAL: 25 MARKS]

QUESTION 2

Bob Buyer decided to purchase a Super-Turbo computer from Sam Seller for the list price of E15, 000. One month after delivery Bob learned from the owner's manual that the computer was supposed to have the ability to create graphic documents in color. Upon further inquiry Bob determined that his Super-Turbo was defective in that it simply was unable to create colour graphics, and that a version of the computer without the color graphics function had a list price of E11 000. When Bob told Sam about the problem Sam offered a replacement Super-Turbo but Bob decided he would rather keep the one he had even with the defect.

Is Bob likely to succeed in an action to recover E4, 000 from Sam?

Would your answer be any different if Sam knew of the defect and omitted to disclose it prior to the sale?

[25 Marks]

QUESTION 3

Phindile, a married woman, promises Herman, a single man, that if he gives her E50, 000, she will divorce her husband and marry him. Herman believes Phindile and gives her the money. Phindile later refuses to divorce her husband and also refuses to return the money. Advice Herman. [25 Marks]

QUESTION 4

- a) Define "Agency." [5 Marks]
- b) Discuss agency created by Ratification giving a case law example. [6 Marks]
- c) What are the requirements of agency by estoppel as stated in the case of *Monzali v Smith* 1929 AD 382? [4 Marks]
- d) With reference to case law, outline the legal relationship between principal and agent. [10 Marks]

[TOTAL: 25 MARKS]

QUESTION 5

In the case of *Lammers and Lammers v Giovannoni* 1955 (3) SA 385, the credit receiver of a car sold it to another person who stripped it, and sold the chassis to yet another person. The credit grantor, still the owner, succeeded in regaining possession of the car. The dispossessed buyer called on the seller to assist him in defending his claim, but the seller did not do so.

The court held that once the seller had failed to come to the assistance of the buyer, the seller was not able to claim that the buyer should have been more vigorous in the buyer's defence of possession.

Discuss the law pertaining to a dispute of this nature, the legal issues in this case, as well as the basis of the Courts decision *in casu*.

[25 MARKS]

QUESTION 6

Define the following terms and phrases:

- (A) The *actio quanti minoris* [1 Mark]
- (B) *Stare decisis* [1 Mark]
- (C) *Obiter dictum* [1 Mark]
- (D) *Consensus ad idem* [1 Mark]

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(E) Misrepresentation	[2 Marks]
(F) A contract	[3 Marks]
(G) Sale	[2 Marks]
(H) Estoppel	[2 Marks]
(I) Lease	[1 Mark]
(J) An offer	[2 Marks]
(K) Acceptance	[2 Marks]
(L) Law	[3 Marks]
(M) Agency of Necessity	[4 Marks]

[TOTAL: 25 MARKS]

END OF EXAM