

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
SUPPLEMENTARY EXAMINATIONS, JULY 2005

TITLE OF PAPER : **LAW OF CONTRACT**

COURSE CODE : **L 206**

TIME ALLOWED : **THREE (3) HOURS**

INSTRUCTIONS : **ANSWER ANY FOUR (4) QUESTIONS.**

**THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION HAS BEEN GRANTED
BY THE INVIGILATOR**

QUESTION 1

Dumisa bought 400 bags of maize from Mahlaba at E60.00 per bag. On delivery, Dumisa examined 100 of the bags, found that ten bags were unsound, and rejected the whole consignment. Dumisa is of the view that he is entitled to reject the whole consignment on the ground that there has not been a substantial performance of the contract.

Mahlaba on the other hand argues that Dumisa should accept part performance of the contract by accepting the sound bags since the subject matter of their contract is physically capable of division.

Discuss the issues brought out by this problem illustrating your answer with decided cases.

[25 marks]

QUESTION 2

Out of the blue Dlamini receives a record from Disco Sounds (PTY) Ltd, a business selling records by mail order. An accompanying letter states that Dlamini is one of a special group chosen to listen to the record in the comfort of his own home. The letter goes on to say that if the record is not returned to Disco Sounds within 10 days they will assume that Dlamini wishes to buy it and an account will be sent to him.

Dlamini listens to the record but soon loses interest in it and it is left lying next to his hi-fi set. Can Disco Sounds claim the purchase price from Dlamini?

[25 marks]

QUESTION 3

Nhlanhla a student of UNISWA rents a room at Mbhuleni for a full year. Immediately upon taking occupation, he develops serious health problems which materially affect his studies. It appears that he is allergic to materials used in the construction of the building. He vacates the room and refuses to pay the rent for the remainder of the period.

Is he guilty of breach of contract?

[25 marks]

QUESTION 4

Nxumalo is the chief of Dlangeni, a chiefdom in the state of UNISWA. His administration of the area is harsh, arbitrary, and irresponsible. Last month he threatened Ndaba with eviction from the area should Ndaba refuse to transfer 20 herd of his cattle to the chief. There is no legal reason for such transfer other than that the Chief wants the cattle. Ndaba transferred such cattle to the Chief.

Ndaba has come to you for advice on his legal rights if any in the situation he finds himself.

[25 marks]

QUESTION 5

Dube sells a horse to Fakudze which transmits an infectious disease to other animals in Fakudze's stables. As a result 20 of Fakudze's stud horses die causing him damages of E500.000.

Is Dube liable to Fakudze?

[25 marks]