

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
FINAL EXAMINATION, MAY 2007

TITLE OF PAPER : **THE LAW OF CONTRACT**

COURSE CODE : **L 206**

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

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

DO NOT OPEN THIS PAPER UNTIL PERMISSION HAS BEEN GIVEN BY THE INVIGILATOR.

QUESTION 1

A has had a liason with B, a prostitute. Initially A paid for sexual favours from B each time he visited her. Late last year they entered into an agreement in terms of which A was to buy B an expensive car and gold jewellery, and that he would have unlimited access to B without charge. A bought the expensive car, in addition he showered B with expensive gold and diamond jewellery. Last week B told A that she was terminating their liason and did not wish to see A ever again. A demanded the return of the gifts to B. B refused.

A intends seeking the assistance of the courts in getting back the gifts. Advise him.

[25 MARKS]

QUESTION 2

A has suffered a series of misfortunes in his home. His fields were all damaged by hail storms, ten of his cows were struck by lightening and all died, during the lightening storm two of his mud huts were gutted down by fire destroying all his property which was in the huts and ten of his chickens were also killed.

A consulted his traditional healer who told him that his ancestors were not happy with him, and that in order to appease the ancestors A had to donate his remaining herd of fifteen cows to him. A duly delivered the cows to B, the traditional healer.

C, A's son upon hearing about this arrangement was very disturbed and told his father that there was no basis at all for him transferring his cows to B and that he should reclaim them immediately. On being approached by A and C, B refused to return the cows to A.

Discuss the legal position.

[25 MARKS]

QUESTION 3

A sold to B building materials worth E200.000 to be delivered to B the next day. During the night a mysterious fire gutted down A's warehouse completely destroying everything inside including the building materials sold to B. A can no longer deliver the building materials to B.

Discuss the legal position between A and B.

[25 MARKS]

QUESTION 4

A, a young song writer has been employed by UNISWA Music Co. since January 2006. One of the terms of the contract of employment which A signed on being employed is to the effect that he would be restrained for a period of five years from working for or

serving any music publisher other than the company. The restraint was coupled with an obligation to "render services" to the company (that is to say, to compose) and with an assignment to the company of the full copyright for the whole world of each of the compositions of A for the same period.

A is now considering terminating the agreement, he has come to your for advice. Illustrate your answer with decided cases.

[25 MARKS]

QUESTION 5

A offered to sell his farm to B for E1 million, and further offered to keep this offer open for five months. Before the expiry of the five months C approached A offering to buy the farm for E1.5 million. A found it difficult to resist this offer, which he promptly accepted. A week before the expiry of the offer made by A to B, B contacted A accepting the offer, only to be told by A that he had already sold the farm to C.

Does B have a remedy in law?

[25 MARKS]