

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW

SUPPLEMENTARY EXAMINATION, JULY 2009

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

COURSE CODE : **L 206**

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

INSTRUCTIONS :

- 1. ANSWER ANY FOUR (4) QUESTIONS.**
- 2. MARKS ARE INDICATED AT THE END OF EACH QUESTION.**
- 3. CANDIDATES ARE THEREFORE ADVISED TO ALLOCATE THEIR TIME ACCORDINGLY**

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

QUESTION 1

A offers to sell B his farm for E100,000.00. Further he offers B to keep this offer open for a period of three months. C approaches A and offers to buy the farm for E200,000.00. A accepts and C takes occupation of the farm. All this is going on before the expiry of the three months. A week before the expiry of the three months, B approaches A with his acceptance of the offer only to find out that A has already sold the farm to C.

Discuss all the issues brought out by this problem.

[25 marks]

QUESTION 2

A offers to sell B his second hand Nissan Sentra car for E10,000.00 delivery to be effected next week after A has done a few repairs to the car. B accepts the offer and pays there and then the E10,000.00 purchase price. A takes the car for the minor repairs to Tracar in Manzini. While there thieves break into the garage and steal the Nissan Sentra.

B has approached your for advice.

[25 marks]

QUESTION 3

A's car is involved in an accident at Lobamba. A phones Maziya's towing service to seek their assistance in towing the car from Lobamba to Mbabane. Maziya tells A that he can only send a breakdown if A agrees to pay E5,000.00 for their services. A protests that this fee is too high for such a short distance, but Maziya is adamant refusing to lower his fee. The time is 2.00 a.m. in the morning, it is cold and raining A cannot reach any other towing service, he is aware that if he leaves his car by the roadside he will not find it in the morning or if he finds it, all the vital parts would have been stripped off, so he agrees to Maziya's fee under protest. Maziya tows the car, when he claims his fee A refuses to pay.

Advise Maziya.

[25 marks]

QUESTION 4

Mamba sells his house situated in Mbabane to Gama for E500,000.00. Before the sale Mamba takes Gama on a guided tour of the house which looks quite impressive. In answer to a query by Gama as to the structural soundness of the house Mamba replies;

“This house is structurally sound it is good as new you and your family will have fault free occupancy for many many years. This is the best investment you have made.”

Unknown to Gama the house has huge cracks which Mamba painted over just before the sale. On discovery of this Gama wants to rescind from the contract.

Advise Gama.

[25 marks]

QUESTION 5

A takes his car to Matsapha Garage for repairs. He is given a receipt after paying the deposit of E300.00 required by the garage. At the back of the receipt are conditions one of which states that the garage will not be responsible for theft or damage of any sort to cars left with them. A fire breaks out at night destroying A's car.

What is A's legal position.

[25 marks]