

UNIVERSITY OF SWAZILAND

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FACULTY OF SOCIAL SCIENCE

DEPARTMENT OF LAW

FINAL EXAMINATION, MAY 2014

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.**

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QUESTION 1

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

Discuss all the issues brought out by this problem.

(25 MARKS)

QUESTION 2

Mhlanga contracted with Swazi Spa Holdings to give her services as a masseur at the Swazi Spa warmbaths Sanatorium for six years, at E5 000.00 a month. Some six months later another company Emanti Emvelo Baths took over the business and claimed the right to Mhlanga's services.

Mhlanga is refusing to work for the new company and wants to sue Swazi Spa Holdings for breach of contract.

What are her chances of success?

(25 MARKS)

QUESTION 3

Khumalo bought a quantity of manure from Fakudze, informing him that it was to be used on lands on which flowers, vegetables, and seeds were being raised. The manure as delivered contained salt, which rendered it unfit for the purpose for which it was bought. Since Khumalo was unaware of this defect, he spread the bulk of the manure on his lands.

Khumalo wants to tender return of the remainder of the manure and claim rescission from the contract.

Will he succeed?

(25 MARKS)

QUESTION 4

Mazibuko a University student aged 17 years is granted a loan of E10 000.00 by the Bank of Credit International to enable him to pay for a year's studies at UNISWA. Before the loan is granted, Mazibuko signs a document undertaking to repay the loan in instalments of E500 per month when he qualifies or if he leaves the University without obtaining a degree. Mazibuko's father, who abandoned his family ten years previously and disappeared, was not consulted.

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At the end of the year, Bank of Credit International discovered that Mazibuko was expelled from the University for assaulting a professor after paying the half-year's fees and attending lectures for only two weeks. The fees were not refunded.

The balance of the E10 000.00 Mazibuko spent on a lavish party to "celebrate" the abandonment of his University career. Mazibuko is now working as a shop assistant and refuses to repay the loan.

Advise the bank.

(25 MARKS)

QUESTION 5

Masilela Shipbuilders LTD employed Ginindza as a designer of fast patrol boats. Ginindza built up a great knowledge of this type of work and boats designed by him were bought by the United States, French and British navies. When he was made Chief designer in 2011 he signed a contract providing that in the event of his terminating his employment with Masilela he would not for the next seven years take up employment with another shipbuilder anywhere in the world. In 2013 Ginindza had a dispute with Masilela Shipbuilders and was summarily dismissed. In 2014 he set up a business specialising in the building of speedboats.

Advise Masilela Shipbuilders Ltd. of their legal position.

(25 MARKS)