

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
FINAL EXAMINATION, MAY 2016

TITLE OF PAPER : PRINCIPLES OF THE LAW OF CONTRACT

COURSE CODE : L 206

TIME ALLOWED : THREE (3) HOURS

INSTRUCTIONS : ANSWER ANY FOUR (4) QUESTIONS.

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INVIGILATOR.**

QUESTION 1

Nsibande bought a second-hand motor car from Mamba on hire-purchase. Clause 4 of the contract stated that she had inspected the car, which was in good running order. Finding about two weeks later that the engine bearings had burnt out through a defect in the oil-pump and oil-sump, Nsibande had the car repaired at her own garage. It was still unsatisfactory, but she continued to use it and to pay instalments on it. After various negotiations with Mamba, some five months later she returned the car to him. She is desirous of cancellation of the contract of sale and repayment of the instalments she has already paid under the contract.

Advise her.

(25 MARKS)

QUESTION 2

On 6th February 2016 Chinama posted a letter applying for (i.e. offering to buy) 500 shares in Nyoni Gold Mining Company. On 18th February the Directors decided to allot the shares to him (i.e. to accept his offer), but a letter informing him of this decision was not posted until late in the morning of 19th February, and did not reach Chinama until 22nd February.

Meanwhile, early in the morning of the 19th February, Chinama informed the company that he was revoking his offer.

Discuss whether a binding contract has been entered into between the parties, illustrating your answer with decided cases. (25 MARKS)

QUESTION 3

On 1st March 2016, Soko concluded an agreement with Vuyo Discount Stores in respect of a tricycle for his son on a lay-by plan. In terms of the plan, Soko paid a deposit of E20. The balance of E100 was payable on 1st April 2016. The tricycle was to be delivered on the day the purchase price was paid in full. On 31st March 2016 the store and its contents (including the tricycle) were destroyed by a fire of unknown cause.

Discuss the legal position.

(25 MARKS)

QUESTION 4

Simelane an illegal digger at the closed Dvokolwako Mine got a very big shiny stone which he estimated would bring him E10 000.00. He entered into an agreement with Mhlabane in terms of which Mhlabane would sell the diamond for Simelane who would pay him 10% of the contract price. Mhlabane sold the diamond for E15 000.00 but refused to give Simelane a single cent from the proceeds of the sale as per their agreement. Simelane wishes to sue Mhlabane.

Advise Simelane.

(25 MARKS)

QUESTION 5

Mndzebele repudiated a contract he entered into with the W company, under which the company would advertise Mndzebele's business for three years through plates attached to litter bins. The company refused to accept the repudiation and performed its part of the contract. After the three years the company claimed payment which Mndzebele has repeatedly refused to meet.

Discuss the company's legal position illustrating your answer with decided cases.

(25 MARKS)