

**UNIVERSITY OF SWAZILAND**

**DEPARTMENT OF LAW**

**L301 MAIN EXAM PAPER**

**Programme of Study** : **LLB (N/P)**

**Title of Paper** : **Mercantile Law I**

**Time Allowed** : **3 Hours**

**INSTRUCTIONS:**

1. Answer **ALL** questions.
2. Make sure that you write legibly, your expressions are clear, and that you refer to applicable case law.
3. Begin each question on a new page.

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**QUESTION 1**

With specific reference to the cases of *WBE v Bilger Engineering* 1986 (2) SA 555 and *R v Kramer* 1948 (3) SA 48, analyze the element of a 'price' in contracts of sale.

[25 Marks]

**QUESTION 2**

From your study of the Consumer Credit Act No. 7 of 2016:

(a) What do you understand to be the purpose of this statute? [2Marks]

(b) Explain the rights of a consumer protected by the Act. [8 Marks]

(c) Explain five (5) 'prohibited practices' under the Act. [5 Marks]

(d) The Act attempts to curb over-indebtedness and reckless lending. Write a brief essay in which you analyse the following:

(i) What is meant by over-indebtedness;

(ii) What sort of lending is classified as 'reckless by the Act; and

(iii) What are the legal consequences of reckless lending?

[10 Marks]

**[TOTAL: 25 MARKS]**

**QUESTION 3**

Harold attends a motor vehicle auction conducted by 'City Auctioneers' on behalf of Wesbank. The fact that City Auctioneers is acting for Wesbank is not apparent as the auctioneers have only displayed their company logo on advertisements of the auction, as well as on banners displayed at the venue. Harold makes his bid and becomes successful in purchasing a mini bus. Upon delivery, he is given a copy of the registration certificate (blue book), and is told that the original is not available. For that reason, registration of ownership of the vehicle could not be transferred to Harold. Harold now wishes to sue the City Auctioneers as he believes the mini bus belongs to them and that they have an obligation to transfer ownership to him. Referring to case law, advise Harold as to his prospects for success.

[25 Marks]

**QUESTION 4**

Spudd, is the owner of a double storey building located in Manzini CBD. He lives on the 1<sup>st</sup> floor of the building. He is renting out the ground floor of the building to Paddy, who runs a restaurant: “the Coconuts Restaurant”, specialising in traditional Mozambican Cuisine. The rent was set at E5000 per month. Spudd has a habit of entering the restaurant aimlessly just to see how things are going. He also makes it a point to let Paddy’s staff and customers know that he ‘owns the place’. At certain times, Spudd would bring his friends over for loud parties on the 1st floor, which has upset Paddy’s customers. Because of this state of affairs, few customers now come into the Coconuts restaurant. Business has become slow to the extent that Paddy has failed to make rent for the past three months. Seeing how bad things are turning out, Paddy decides to conduct side businesses on the same premises. So he turns one of the restaurant’s office rooms into a bar, and another into a massage room. He then advertises his new establishment on the media with the tag line:

“Coconuts Restaurant: you eat, you drink, you sleep!”

Paddy is convinced that this new line of business will generate more revenue and will enable him to pay the rent in arrears. Upon discovering this, Spudd gives Paddy an ultimatum that Paddy must pay an extra rent of E10, 000 for the other businesses or else he will seek an eviction order owing to breach of the tenant’s legal obligations.

Discuss all legal issues and advise both parties as to their rights, obligations and possible remedies. In your answer, refer to case law.

**[25 MARKS]**

**END OF EXAM**