

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
FINAL EXAMINATION, MAY 2018

TITLE OF PAPER : LAW OF CONTRACT II

COURSE CODE : LAW 204

TIME ALLOWED : THREE (3) HOURS

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

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

QUESTION 1

Mbingo claimed the return of certain gifts (viz a ring, a gold watch and certain moneys) from Chido in pursuance of their agreement to marry each other after Chido's divorce from her husband Gumedze. At the time the gifts were made Mbingo and Chido were living together but Chido was still married to Gumedze. Chido refused to divorce her husband hence the demand of the gifts by Mbingo.

Mbingo contends that under the circumstances the par delictum rule should not be applied.

Is he right? Discuss illustrating your answer with decided cases. (25 marks)

QUESTION 2

Students at the only University in the state of UNISWA had grievances against the University administration. The students through their SRC appraised the University authorities of their concerns. When after three weeks without getting any feedback the students voted for a strike action whereby they would boycott classes until their concerns are satisfactorily addressed by the University. When the students failed to attend lectures the University put up a notice in all the University notice boards and corridors to the effect that students should forthwith return to class and that their failure would be construed as an election not to continue with their studies, further, stating that the University's rules obliged students to attend classes.

All the students returned to class except for Gamedze and six other students. Whereupon the Univeristy cancelled its contract with these students on the ground of breach of a vital term going to the root of the contract the University entered into with the students.

These students have approached you for advice, make reference to decided cases in your answer. (25 marks)

QUESTION 3

The Manzini Milling Company contracted with Milling International of New York for the shipment of certain wheat from Montreal in July 2017. The term dealing with time in the written contract contained the words "as near as possible" typed in after word 'July'. The shipment was made not in July but in December. Manzini Milling Company refused to accept delivery of the wheat.

Milling International is considering suing Manzini Milling for damages. Will they succeed? Illustrate your answer with decided cases.

Discuss. (25 marks)

QUESTION 4

Ceko who has been running her medical practice in the city of Manzini for 20 years sold it to Francesca who entered into a covenant restraining Ceko from practising for all time within 10 miles of the City Hall, Manzini.

Ceko is of the view that this covenant is unreasonable. Advise her. (25 marks)

QUESTION 5

Motsa delivered his suitcase at the cloakroom of the bus rank in Manzini. He was given a ticket after paying the required fee with conditions limiting the Manzini Municipality's (the owner of the clockroom) liability printed on it. He knew that there was printing on the ticket but did not know that the printing contained conditions relative to the terms of the contract.

His suitcase got lost and he wants to sue Manzini Municipality. Advise him illustrating your answer with decided cases. (25 marks)