

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
SUPPLEMENTARY EXAMINATION, JULY 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 ALLOCATED 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

Mkhwanazi hires from a rental shop, a machine to sand the floors of the house she is renovating. The hire shop undertakes to deliver the machine on Friday afternoon at 1600 hrs. At the time agreed upon the machine is delivered. However, when Mkhwanazi tries to use the machine on Friday evening she finds that the sanding paper does not rotate as it should and as a result she is unable to sand the floors.

She has approached you for legal advice.

(25 marks)

QUESTION 2

Gamedze concludes a contract of sale with Zwane in terms of which Gamedze buys shares from Zwane. Zwane delivers 60 per cent of the shares but fails to deliver the remaining 40 percent. As a result of this failure to perform, Gamedze has a financial loss of a couple of thousand rand.

Gamedze is desirous of suing Zwane, advise.

(25 marks)

QUESTION 3

Hlanze who was employed as a Chef at the Swazi Spa Resort got a better job in South Africa. He did not formally resign from the company but instead put his brother Sibusiso to take his place as Chef. When Sibusiso presented himself as the new Chef the company refused to hire him in place of his brother. The company wishes to sue Hlanze who is adamant that there was a valid cession between him and his brother and that the company should therefore hire his brother in his place.

Advise Swazi Spa Company, illustrating your answer with decided cases.

(25 marks)

QUESTION 4

Dlamini entered into joint venture agreement with Nyoni in terms of which they would grow and sell dagga for profit, further they would share on an equal basis all the proceeds of their joint venture. Last year they got a bumper harvest of dagga which they successfully smuggled into South Africa. They made E500 000 00 from the sale of the dagga which was in the possession of Nyoni.

Nyoni is now refusing to pay Dlamini his half share of the E500 000 00.

Disect and analyse this factual situation using decided cases.

(25 marks)

QUESTION 5

Munave has sold her thriving restaurant business to Langa with a clause in their contract of sale that Munave would not open a similar business within 100 miles of the old business for a period of 25 years.

Is this a reasonable restraint?

(25 marks)