

UNIVERSITY OF SWAZILAND
DEPARTMENT OF ACCOUNTING
LAW213 MAIN EXAM PAPER

Programme of Study : **Bachelor of Commerce II F/T**

Title of Paper : **Commercial Law I**

Time Allowed : **3 Hours**

INSTRUCTIONS:

1. Answer Question 1 (compulsory) plus any three (3) other questions.
2. In answering any question make sure that you write legibly, your expression is clear, and that you refer to applicable case law.
3. Begin each question on a new page.

THIS PAPER MAY NOT BE OPENED UNTIL PERMISSION HAS BEEN GRANTED BY INVIGILATOR(S).

QUESTION 1 (Compulsory)

Spudd, is the owner of the Coconuts Restaurant, specialising in traditional Mozambican Cuisine. He offers to sell the restaurant to Paddy for E1 million. Paddy says: 'I can't afford more than E750 000.' Realising that Paddy may change his mind about the deal, Spudd replies: "Paddy, this restaurant is a gold mine! It's a busy location, and if you devote your full attention to the business you will achieve a gross turnover of well over a million every month." This statement convinces Paddy to buy, but for E50 000 more. Spudd accepts the E800 000 and the sale is concluded. Paddy spends an extra E200 000 refurbishing his new restaurant.

After running the restaurant for three months, Paddy discovers that the business is located in very quiet area. Only 5 regular customers come in per day. Moreover, when Paddy examines the business' accounting books he discovers that Spudd had never managed to obtain a turnover of more than E200 000 per month.

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

[Total: 25 Marks]

QUESTION 2

- (a) Define Law? (3)
- (b) What are the 4 primary sources of law in Swaziland? (4)
- (c) Define a contract of sale and state the essential elements. (6)
- (d) Define 'acceptance' as used in the law of Contracts. (3)
- (e) What is fraudulent misrepresentation? (3)
- (f) State and briefly explain the three maxims applicable to illegal agreements. (6)

[25 MARKS]

QUESTION 3

With reference to case law, analyze the legal principles relating to the capacity of minors to contract.

[25 Marks]

QUESTION 4

With reference to case law, discuss what is meant by 'an implied warranty against eviction.' Also explain the defence available to a buyer who is threatened with eviction.

[25 MARKS]

QUESTION 5

- (a) 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 determination of 'price' in a sale agreement. **[15 Marks]**
- (b) With reference to the case of *Preller v Jordan* 1956 (1) SA 483, explain the principles relating to 'undue influence' in the law of contract. **[10 Marks]**

[25 MARKS]

END OF EXAM