

**UNIVERSITY OF ESWATINI**  
**FACULTY OF SOCIAL SCIENCES**  
**DEPARTMENT OF LAW**  
**FINAL EXAMINATION, MAY 2019**

**TITLE OF PAPER :**                    **LAW OF CONTRACT**

**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.**
- 3.     CANDIDATES ARE THEREFORE  
         ADVISED TO ALLOCATE THEIR  
         TIME ACCORDINGLY.**

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**DO NOT OPEN THIS PAPER UNTIL PERMISSION HAS BEEN GIVEN BY THE  
INVIGILATOR.**

### **QUESTION 1**

Munikwa entered into a contract of sale of a farm with Mathabela. In terms of clause 5 of their contract Munikwa – the seller, was entitled to rescind if the buyer failed to pay a monthly instalment on due date. When Mathabela tendered such an instalment fifteen days after due date Munikwa refused to accept it and rescinded the contract.

Was Munikwa within her rights. Discuss making reference to *lex commissorica*.

[25 MARKS]

### **QUESTION 2**

Nyoni has been renting a flat at Mbuleni from Dlamini. Nyoni has gotten a better paying job at Nhlanguano and has transferred the lease of the flat to his brother Sibandze who is a student at the University of Eswatini. When Dlamini the landlord got to hear of this arrangement which was made without his consent he was not pleased? He has approached you for advise.

Using decided cases advise him making reference to cession, delegation and assignment.

[25 MARKS]

### **QUESTION 3**

Ginindza entered into a loan agreement with Eswatini Finance Corporation. The terms of the loan were that:

1. Eswatini Finance Corporation would have full control of Ginindza's wages.
2. The Finance Corporation would give Ginindza an allowance whose amount would be determined by the Finance Corporation.
3. Such allowance would be paid out at the discretion of the Finance corporation.
4. That Ginindza could not terminate the contract.

Ginindza is of the view that these terms are too onerous and is desirous of cancelling the contract.

Advise him illustrating your answer with decided cases.

[25 MARKS]

### **QUESTION 4**

Ngubeni ordered first grade grapes from Nxumalo. The grapes were for wine making purposes at her winery in Matsapa. Nxumalo delivered third grade grapes. Ngubeni refused delivery of the grapes.

Nxumalo is considering suing Ngubeni.

Advise him making reference to decided cases.

[25 MARKS]

**QUESTION 5**

Nyawo sold a Honda Fit Car to Khumalo, which car was known to both parties to be a stolen vehicle. Nyawo delivered the car but Khumalo has refused to render the purchase price.

Would Nyawo succeed if he were to sue Khumalo for either the return of the car or for the purchase price?

Illustrate your answer with decided cases.

[25 MARKS]