



**UNIVERSITY OF ESWATINI  
INSTITUTE OF DISTANCE EDUCATION  
BACHELOR OF LAWS  
RE-SIT EXAMINATION PAPER JANUARY 2020  
(SPECIAL PAPER)**

**COURSE NAME : LAW OF CONTRACT**

**COURSE CODE : IDE LAW204**

**TIME ALLOWED : THREE (3) HOURS**

**INSTRUCTIONS**

- 1. QUESTION ALL QUESTIONS**
- 2. MARKS ARE INDICATED AT THE END OF EACH QUESTION**
- 3. CANDIDATES ARE THEREFORE ADVISED TO ALLOCATE THEIR TIME ACCORDINGLY.**

**THIS PAPER IS NO TO BE OPENED UNTIL PERMISSION HAS BEEN GRANTED BY THE INVIGILATOR**

**\*\*\*GOOD LUCK\*\*\***

**QUESTION 1**

It is common cause that breach of a contract could result in the termination of a contract but there is a difference between breach and termination of a contract. With reference to case law, unpack this statement.

(25 marks)

**QUESTION 2**

X enters into a contract with Y for the sale of shares. Y pays for the shares and a day before the shares are due for transfer, X informs Y that he will not be transferring the shares to Y. With reference to case law discuss the legal issues arising from the given set of facts.

(25 marks).

**QUESTION 3**

Gabriel Couto a construction company based in Matsapha is awarded a tender by the Eswatini Gov for the construction of the Sicunusa Public Road. The project is scheduled to be completed on or about the 26<sup>th</sup> February 2019. Due to the magnitude of the work, Gabriel Couto subcontracts Polezwa Civils a reputable civils engineering company for the construction of sideways and pavers on the 25km road. Polezwa agreed to complete the works by the 26<sup>th</sup> February since it is one of the expert companies in civils. It is further agreed as follows between the parties:

- Before commencement of work, Polezwa was to be paid E50,000.00 as advance payment.
- The total amount of work subcontracted to Polezwa was E250,000.00

- Upon completion of the work done, Polezwa shall submit a certificate of completion for endorsement by the Senior Quantity Surveyor who shall certify the due amount.
- Before processing of payment as certified by the Senior QS, a plus certificate from the Project Manager shall be submitted to the Accountant authoring her to release payment.

Subsequent to the signing of the contract, Polezwa started work on the pavers and sideways. However, on completion, a report is submitted by the Senior QS that the work is sub-standard and the project manager as well submits a negative report for the work done by Polezwa.

With reference to case law advise both parties on legal issues that may arise from the given set of facts.

(25 marks)

**QUESTION 4**

With reference to other relevant case law, discuss the important principle established in the Appellate Division case of **Haynes v Kingwilliamstown Municipality** 1951(2) SA 31 (AD) 371 at 378H.

(25 marks)