

UNIVERSITY OF ESWATINI
INSTITUTE OF DISTANCE EDUCATION
BACHELOR OF COMMERCE
EXAMINATION PAPER – NOVEMBER 2019
(MAIN)

TITLE OF PAPER: COMMERCIAL LAW I

COURSE CODE: IDE - LAW 213/AC201

TIME ALLOWED: THREE (3) HOURS

MARKS ALLOCATED: 100 MARKS

/

INSTRUCTIONS:

1. Answer Question 1 (ONE) which is compulsory, & any three (3) questions of your choice.
2. Each question carries 25 marks
3. In answering your questions, note that the quality of the content, proper use of case law authorities (where applicable), clarity of expression and legibility of handwriting are absolutely essential. Presentation is of essence.
4. Begin each question in a new page.

**THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION HAS BEEN
GRANTED BY THE PROCTOR.**

Question 1

Your uncle Julian sees a vacant plot in the suburbs in Mbabane and he approaches Ms. KayBee with the desire to purchase her property. Ms. KayBee tells Julian that since the property was in a prime place in the City it was worth E2.5 Million, but since she was rushing to go settle all her debts before relocating to Mexico in December, she is willing to sell the property at E1.9Million.

Julian jumped to the opportunity and bought the property, which is sold after a properly executed Deed of Sale with an “as is, where is” clause. Very pleased with himself, he embarks on developing the property and is immediately met by an unpleasant discovery, half of the land was an old graveyard, which Ms. KayBee had carefully hidden, and obviously not mentioned a word of it to Julian during the sale. Not only that, the neighboring plot owned by a church called ‘Touch Me Touch Fire Ministries’ had encroached significantly into the property now bought by Julian with a new development they had made for their social community service center as a church, taking away almost a quarter of the property Julian has bought, claiming it as theirs.

Advise your uncle about the legal issues and remedies available from the facts presented.

[25 marks]

Question 2

With reference to case law where applicable, fully discuss what an aggrieved party must prove for a claim of damages to be successful arising from a breach of contract.

[25 marks]

Question 3

[A] With reference to case law, discuss the principle of *vacuo possessio* as it relates to contracts of sale.

(15 marks)

[B] Clearly distinguish between a set-off and a merger where parties terminate contractual obligations.

(10 marks)

[25 marks]

Question 4

[A] Fully define and discuss what is misrepresentation in the law of contract.

(15 marks)

[B] Define what is a contract and list the essentials of what makes a lawful contract.

(10 marks)

[25 marks]

Question 5

In your line of duty as a professional accountant you shall be expected to protect the best interests of your employer or business, how do you guard against dilatory performance where time is of essence?

[25 marks]
