



**UNIVERSITY OF ESWATINI
FACULTY OF SOCIAL SCIENCE
BACHELOR OF LAWS
RE-SIT EXAMINATION PAPER JANUARY 2020**

COURSE NAME: LAW OF CONTRACT I

COURSE CODE: LAW203

TIME ALLOWED: THREE (3) HOURS

- INSTRUCTIONS:**
- 1. Answer any four (4) questions of your choice.**
 - 2. Marks are indicated next to each question. The length of your answer must be guided by the marks allocated.**

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

Question 1

Carefully consider the situations below and briefly discuss whether a party to a contract may rescind the contract on grounds of misrepresentation by the other.

(a) Sigodvo is the owner of the Blue Lagoon Restaurant, specialising in Chinese food. He offers to sell the restaurant to Mazambane for E5 million. Mazambane says: 'I can't afford more than E3 million.' Sigodvo replies: 'Mazambane, this is a potential gold mine! If you devote your full attention to the business you should achieve a gross turnover of well over E750 000 a month.' This last statement convinces Mazambane to buy for E5 million. After running the restaurant for a short period, he discovers that Sigodvo, despite having worked long hours in the business every day for several years, never managed to obtain a turnover of more than E400 000 per month. **(5 marks)**

(b) Wood offers to sell his Nissan bakkie to Potatoes. Potatoes is concerned that the vehicle may be defective in certain respects. When he raises his concerns, Wood says 'Don't worry, before I deliver the bakkie, I will have Liao Motor Repairs overhaul it and repair any defects'. Potatoes accepts Wood's offer on this understanding. A few days later, he takes delivery of the vehicle and pays the price. He then discovers that Liao Motor Repairs have not overhauled or even seen the vehicle. The manager of Liao tells Potatoes that they (Liao) ceased to have any dealings with Wood two years before, when he failed to settle a debt which he owed them. **(5 marks)**

(c) Tsetla lives a short distance from the central business district (CBD) of Manzini. Across the road from his house he owns 2 hectares of land on which he exercises his dogs. His friend, Mhango, who is a property developer, says to him one day: 'It's a shame to see that large piece of land lying idle; it seems to be ideal for township development. I'll offer

you E3 million for it.' Tsetla has recently learned that the town-planning scheme for the area does not permit subdivision and that the market value of the land is only E500 000. Realising that disclosure of these facts will put Mhango off, Tsetla does not mention them and simply accepts Mhango's offer. After the parties have signed a written contract, Mhango discovers that he cannot establish a township on the property.

(5 marks)

(d) Skipa, a farmer in the dry area of Lavumisa, is approached by Mabhawodi, who says that his son, Bhozo, has 'X-ray eyes' and can 'see water underground, sometimes as far down as 100 metres.' Mabhawodi offers to have his son look for water on Skipa's farm for a fee of E20 000. Skipa is impressed with the son's apparent supernatural abilities, and he decides to accept Mabhawodi' offer. Bhozo's divining efforts are unsuccessful and Skipa reluctantly gives Mabhawodi a cheque for the agreed contract price. Later that day, a police sergeant tells Skipa to be 'on the look-out for a pair of tricksters, Mabhawodi and Bhozo' who are defrauding people by pretending to be water diviners. Skipa realises that he is one of the victims and decides to stop payment on the cheque.

(5 marks)

(e) Masoso is the owner of the 'ICC & FISH Restaurant', which overlooks a small dam. He advertises the restaurant for sale and Pansula comes to inspect it with a view to buying. Pansula says: 'I am prepared to offer you E4 million.' Masoso, who is in need of more money than this, decides to try and persuade Pansula to offer more. He says to Pansula: 'Look, this is no ordinary restaurant. Our customers include the President. With the liquor licence attaching to the premises you can hold moonlight parties alongside the lake. It's a real bargain at E4.5 million.' This speech tips the balance in Pansula's mind and he buys at the asking price of E4.5 million. When he takes over the restaurant, he discovers that the President previously visited only on one occasion, and that nearly all the restaurant's business is done during the day so regular patrons have no interest in holding parties next to the dam.

(5 marks)

Question 2

In law of contract, terms have been classified into two (2) categories, Roman- Dutch classification and modern law classification.

With the aid of decided cases and examples, discuss the terms as follows:

- (a) Roman Dutch Classification **(10 marks)**
(b) Modern law classification **(15 marks)**

Question 3

Thoko a 17 year old minor enters into a hire purchase agreement with Tracar, in terms of which she acquired a car. On reaching maturity, she continued using the car as her own but refused to continue paying the instalments arguing that the contract is void. Advise Tracar on their rights under the law of contract. **(25 marks)**

Question 4

A has suffered a series of misfortunes in his home. His fields were all damaged by hail storms, ten of his cows were struck by lightning and all died, during the lightning storm two of his mud huts were gutted down by fire destroying all his property which was in the huts and ten of his chickens were also killed. A consulted his traditional healer who told him that his ancestors were not happy with him, and that in order to appease the ancestors A had to donate his remaining herd of fifteen cows to him. A duly delivered the cows to B, the traditional healer. C, A's son upon hearing about this arrangement was very disturbed and told his father that there was no basis at all for him transferring his cows to B and that he should reclaim them immediately. On being approached by A and C, B refused to return the cows to A. Discuss the legal position.

(25 marks)

Question 5

Fakudze wrote to Simelane to sell him his BMX motorbike. Fakudze posted the letter of offer on the 18th May and it was received by Simelane on the 24th May. Simelane accepted this offer and posted his letter of acceptance on the morning of the 26th May. On the same day at 2.00 p.m. Fakudze had changed his mind about selling his bike and posted a letter revoking his offer. This letter got to Simelane on the 30th of May. Discuss. Support your answer with authorities. **(25 marks)**