



FACULTY OF MANAGEMENT AND ADMINISTRATION

COURSE TITLE: MMS 512, BUSINESS LAW AND ETHICS
SEMESTER 1: FINAL EXAMINATION-NOVEMBER/ DECEMBER 2013
LECTURER: MRS M MANDINGWA
TIME: 3 HOURS

INSTRUCTIONS

Answer all questions in Section A , any two questions in Section B and any one question in section C

The marks allocated to each question are shown at the end of the question.

Credit will be awarded for logical, systematic and neat presentations. Show all working.

Section A: Answer all questions in this section

1. Explain custom as a source of law. [2]
2. Explain that an offer may be made to the whole world. [1]
3. A contract may be set aside on the basis of impossibility of Performance. Explain this statement. [2]
4. List 4 duties of a seller to a contract of sale. [4]
5. When does risk pass in contract of sale. [1]
6. Distinguish between useful and necessary improvements in the contract of lease. [5]
7. What are stipulatio alteri contracts? [2]
8. Define an agent of necessity or negotiorum gestio. [2]
9. What is the duty of disclosure in insurance law? [2]
10. Explain why a contract to allow Francis to extract gold from Temba's mining claim is not a contract of lease. [3]
11. "Formalities in a contract are not a necessity except in certain situations," explain this statement. [1]
12. Explain the difference between indemnity contracts and non-indemnity contracts in insurance law. [3]

Section B

Answer any 2 questions from this section

Tembalani sold his second hand vehicle to Rutendo for US\$5 000.00. The agreement was not reduced to writing. At the time of the sale certain regulations by Zinara made it mandatory for he type of vehicle that Tembelani sold to be sold at US\$3 000.00 per month. Rutendo pays a deposit of US\$2 000 and was due to pay the balance at the end of the month. Rutendo however failed to pay the balance due to the fact that the liquidity crunch in the country her bankers were not able to avail the cash. She was told by her manager to check with the bank within 3 days. Tembalani needed to offset his arrears in rentals from the balance expected from Rutendo. Rutendo wants to pay the balance so that she retains the car for her use. Rutendo comes to you, for legal advice before she pays.

Does Rutendo have any defence to the claim by Tembelani. Advise her fully [10]

13. Mega estates is an estate agent in town. They manage the property belonging to one Brighton. Lawrence rents a shop in a building belonging to Brighton. Another tenant Shupai is also renting a room in the building. Unknown to Mega Estates and unknown to Brighton Shupai is using the room for the purposes of gambling during the night. As far as the Estate Agent is aware the room is used as an office. Furthermore Shupai's patrons mess up the communal ablution facilities on the property. Traces of drug abuse are left in the toilets (twists of mbanje). Human faeces are left on the floor of the toilets. Lawrence brings the issue to the attention of Mega Estates. Mega Estates takes no action at all. Lawrence refuses to pay rental on the basis that Shupai was a nuisance.

Discuss the rights available to Lawrence.

What remedy can he take besides refusing to pay rental [10].

14. Anesu leases a 3 bedroomed house in Murambi. In the lease agreement there is no reference to the issue of subletting. He decides to rent out one bedroom to his workmate for US\$100.00 per month. The lease agreement places the burden to pay rates and taxes on Anesu over and above the monthly rental. Now that Anesu is sharing the property with his workmate, he decides to extend the main bedroom to include an ensuite so that he does not share the communal bathroom with his workmate. Anesu claims the cost of the improvement from the rental. In fact he approaches the landlord and argues that there is a value addition to his property. He further argues that the landlord would be unjustly enriched.

Discuss all the legal consequences emanating from this contractual relationship [10]

15. Samuel is an owner of the farm in Nyanga. Samuel borrows money from Pepukai in the sum of US\$30000.00. This money Samuel uses it to effect improvements on the farm. However Samuel is not in a position to pay back the money to Pepukai, he approaches Pepukai and offers that she leases 3 hectares on the farm at the rate of US\$500.00 per month making a total of US\$6 000.00 per annum. The lease will run for 5 years in order to fully off-set Samuel's indebtedness to Pepukai. Two years down the line, Samuel is involved in an accident. He dies on the spot. His son Puwai is appointed an Executor over his estate. He decides to sell the farm. He approaches Tafadzwa who agrees to purchase the farm for US\$100 000.00. An agreement of sale is concluded between the two. Tafadzwa however insists that Pepukai can remain on the farm until her lease with Samuel comes to an end. He however insists that the rentals in the sum of US\$500 should now accrue to him.

Pepukai refuses to pay anything to Tafadzwa on the basis that she had an agreement of lease with Samuel which agreement should be enforced.

a) Advise Tafadzwa fully. [6]

b) What remedy is open to Tafadzwa. [4]

Section C

Answer any one(1) question from this section

- 16 "Concepts of corporate social responsibility and corporate governance issues are key to business ethics." Discuss. [10]

17 "The concept of unfair labour practice can vitiate against the contract of employment." Define this statement with specific reference to the Labour provisions. [10]

18. Show why some businesses are conducted as companies and others as partnership. [10]

19 Explain legislature and judicial precedents as sources of law. [10]