



SCHOOL OF LAW
NLLB105 LAW OF CONTRACT

END OF FIRST SEMESTER EXAMINATIONS

JAN/JUN 2024

LECTURER: C. MUNGUMA

DURATION: 3HRS

GENERAL INSTRUCTIONS TO CANDIDATES

1. Do NOT write your name on the answer sheet.
2. Answer any 2 questions from Section A and any 2 questions from section B.
3. Begin your answer for each question on a new page.
4. Credit is given for neat, logical and well written work.

Section A

Answer any two (2) questions from this section.

Question 1

Discuss the following doctrines which Roman and Dutch Law of Contract is founded upon:

- a) Freedom of contract
- b) Sanctity of contract.

In your discussion show how those doctrines have been developed by the Courts in Zimbabwe. [25marks]

Question 2

- a) With the aid of case law *distinguish* between *duress* and *undue influence* and explain the effect of each on the validity of a contract. [15marks]
- b) Compare and contrast novation and compromise as methods of terminating a contract. 10marks]

Question 3

- a) It has been said a right without a remedy is no right at all. In the light of this statement discuss any **two remedies** available to a party who has been a victim of a misrepresentation under the law of contract. [18marks]
- b) What is the attitude of Zimbabwean courts to contracts in restraint of trade? [7marks]

Section B

Answer any two questions from this section.

Question 4

Tinashe a medical doctor and an MBA student at UZ owns a residential stand in Mandara, Harare. He met his friend Sandra also a student, whom he told that he intended to sell his residential stand for RTGS50,000,000. Sandra told Tinashe that she would be interested in buying it but Tinashe did not say anything. During the week Sandra received an e-mail with an attachment of Tinashe's business letterhead. The email was in relation to a class group activity. The letterhead had Tinashe's bank account details. Upon receiving it, Sandra proceeded to

deposit RTGS50,000,000 into the account. She also sent an email to Tinashe confirming that she had paid the purchase price for the Mandara stand. She phoned Tinashe the following day requesting that he effects a change of title and transfer the title deeds of the stand into her name. Tinashe did not reply to this nor to the email message. Tinashe realized that he could have made more profit had he sold the stand in foreign currency. As a result, he refused to transfer the stand to Sandra, but instead insisted on repaying Sandra the money paid to him. Tinashe maintained that there was no contract between them. He says this is because there was never a written agreement of sale between the parties.

You are required to:

- a) Explain whether a valid agreement of sale for the stand was entered into by the parties in this case? [15marks]
- b) Explain to Sandra whether she has any remedies available to her. [10marks]

Question 5

Paida is a land developer in Mutare. On the 6th of January 2023, she sold a 4000 square meter stand to Johns for USD45 000. During the negotiations Paida assured Johns that the stand was outside the 50 year flood plain. The written agreement signed by the parties did not include this provision. After purchasing the stand Johns applied for a building permit from the authorities, at which point he is advised that the stand is within the 50 year flood plain. This development means that while Johns can still technically build on the land, the following will apply:

- i) It is expensive to build on the land since special foundations are needed.
- ii) The property is prone to flooding hence it is very expensive to insure any house he will build on it.

Advise Johns if he can successfully sue Paida for any remedy? [15marks]

5(b) How is impossibility of performance treated in Zimbabwean Law? [10marks.]

Question 6

The Consumer Protection Act (Chap 14:14) has been hailed by some commentators as a great piece of legislation that protects consumers from the clutches of unscrupulous business people. Discuss any four (4) ways that the Act protects consumers from unfair business practices indicating whether the law goes far enough in protecting the public. [25marks]

End of Examination Paper