

CHUKA



UNIVERSITY

UNIVERSITY EXAMINATIONS

EMBU CAMPUS

EXAMINATION FOR THE AWARD OF DEGREE OF BACHELOR OF
COMMERCE

BCOM 301: BUSINESS LAW II

STREAMS: BCOM (Y3S1)

TIME: 2 HOURS

DAY/DATE: TUESDAY 09/04/2024

8.30 A.M. – 10.30 A.M.

INSTRUCTIONS:

- Answer question one and any other two questions
- Do not write on the question paper

QUESTION ONE

- a) Shezi offers to sell his Nissan vehicle to Parbhoo. Parbhoo is concerned that the vehicle may be defective in certain respects. When he raises his concerns, Shezi says 'Don't worry, before I deliver the vehicle, I will have Speedy Motor Repairs overhaul it and repair any defects'. Parbhoo accepts Shezi's offer on this understanding. A few days later, he takes delivery of the vehicle and pays the price. He then discovers that Speedy Motor Repairs have not overhauled or even seen the vehicle. The manager of Speedy tells Parbhoo that they (Speedy) ceased to have any dealings with Shezi two years before, when he failed to fully pay the price of the Nissan vehicle and threaten to recover it from Parbhoo . Use your understanding of the sale of goods act to advice Parbhoo on his legal position. (10 marks)
- b) Elaborate the nature of hire purchase agreement. (8 marks)
- c) Matilda insures her car against damage for Ksh 1 000 000. The car is involved in an accident and damaged beyond repair. The insurance company tenders to pay Matilda Ksh 750 000, as this is the current 'book value' of the car. Matilda insists on being paid the full

amount of K sh 100 000 since she knows that the main duty of the insurer under a contract of insurance is to pay the insured a sum of money or render him an equivalent upon the occurrence of an event. Advice Matilda [7 Marks]

- d) Outline ways in which a surety might be discharge from a contract of guarantee. (5 marks)

QUESTION TWO

- a) Shane, Patty and Danny are friends, who decided verbally to construct a commercial building on a plot owned by Patty. Danny who is a contractor agreed to construct the building, while Shane who is a real estate agent agreed to secure financing for the project and market the property once it is completed. Each friend handled their responsibility without exchanging any monies. The friends agreed that their contributions to the project were equal and that each would be entitled to a third of the gross proceeds. Shane managed to obtain financing through an unsecured loan in her name. The project began and was progressing well at first. However, the construction costs exceeded the project financing once the basic structure was up, and as a result, the suppliers and sub-contractors were not paid. Use understanding of law of partnership to answer (i) and (ii) below.

- i) Critically examine Whether a partnership exists between the friends, relying on the provisions of the Partnership Act 2012. [6 Marks]
- ii) Situations in which the Partnership Act 2012 does not deem persons to be carrying on business together. [8 Marks]

- b) In relation to law of property, explain ways through which ownership may be acquired [6 Marks]

QUESTION THREE

- a) Discuss the meaning of intellectual property rights. Evaluate any four examples [12 marks]
- b) Linda Nduti, had authority to buy horticultural goods on behalf of her principal. Without consulting her principal, she bought goods which were not in good condition. Soon after, the goods got damaged and the principal suffered heavy losses. The principal holds her liable for the loss. Explain the legal principles in this case. [8 marks]

QUESTION FOUR

- a) Peter asked Jane for a Hot water bottle and enquired whether it would stand boiling water. Jane sold to Peter an American rubber bottle, saying it would stand hot, but not boiling water. The bottle which was purchased by Peter for his wife burst and injured her when it was filled with hot water. Does peter have any remedy? [6 Marks]
 - b) In relation to negotiable instruments, discuss three acts that might be held to amount to amount to negligence on the part of the collecting banker. (7 marks)
 - c) Elaborate on the situations in which a partnership may be dissolved. (7 marks)
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