

CHUKA



UNIVERSITY

UNIVERSITY EXAMINATIONS

EXAMINATION FOR THE AWARD OF DEGREE OF BACHELOR OF LAWS

BLAW 214: COMMERCIAL LAW

STREAMS: BLAW

TIME: 2 HOURS

DAY/DATE: MONDAY 16/12/2024

8.30 A.M – 10.30 A.M.

INSTRUCTIONS:

- ANSWER THREE QUESTIONS.
- QUESTION ONE IS MANDATORY.

QUESTION ONE (30 MARKS)

a)

Kananu hired Ronny's car to use for a day as she intended to visit her friends in Isiolo town. Ronny gave her the car with the understanding that she would return it by 7.00 PM that day. Unknown to Ronny, Kananu had entered into a sale agreement with Collins for the sale of the car. She had made representations to Collins to the effect that she owned the car and she would deliver it to him by evening that day. Collins had no reason to doubt Kananu since he had seen her with the said vehicle on several occasions including weekends and late hours on various days. As promised, Kananu delivered the car and transferred its possession to Collins promising to effect the transfer in a week's time arguing that she had misplaced her log book. He made payment of Kshs 400,000 which was the agreed consideration. In fact Collins was not concerned about the log book since the price sold to him was very affordable and he was sure he could not secure such a deal anywhere in the world! The next day, Collins was lucky to strike a better deal and he sold the vehicle to Meshack at Kshs. 1,000,000 but since Meshack Gave him Kshs 700,000 they agreed that transfer would be effected once the balance was paid. However, two days later, while the vehicle was being driven by Meshack, it was impounded by police who informed Meshack that the car had been stolen. Meshack is aggrieved as he opines that the actions of the police constitute a violation of his property rights since he had partly paid for the vehicle hence the vehicle belonged to him.

With the aid of relevant authorities, advise Meshack on the legal position regarding the eventualities noting whether there are any circumstances under which the law protects him

(20 marks)

- b) Brian is in the business of buying and selling second hand motor vehicles. The vehicles are

usually displayed at a large yard located along Langata Road in Nairobi. Brian also receives and sells cars on behalf of individual owners at a commission. Such cars are also usually displayed at the same yard. At around 9.00 a.m. on 1st May 2015, Wendo went to Brian's yard and saw a car which she wanted to buy. The owner of the car, Oscar had left it with Brian with instructions that Brian was to obtain "good offers" but that he (Brian) was not to accept any offers without first consulting with Oscar. Unfortunately, Oscar had, inadvertently left the car's logbook in the car's glove compartment. Using this document, and holding himself out to be Oscar, Brian sold Oscar's car to Wendo. Wendo paid the full purchase price in cash. She also obtained from Brian (who was pretending to be Oscar) the car's log book together with a duly executed transfer form. Wendo did not, however, drive away the car on the day as she was travelling out of town. On the same day in the afternoon, Oscar came and took away his car, telling Brian that he had changed his mind and was no longer interested in selling it. Upon her return, Wendo made several unsuccessful attempts to collect the car from Brian. She has now "unearthed the truth" but is not sure what to do. Identify and discuss the legal issues raised by the above fact pattern.

QUESTION TWO (20 MARKS)

- a) Examine the conditions necessary for creation of agency by ratification (10 marks)
- b) Discuss the circumstances under which an unpaid seller loses the right of lien. (10 marks)

QUESTION THREE (20 MARKS)

- a) With reference to a contract for the sale of goods, and in the absence of any special agreement, Examine when property in the goods passes to the buyer? (20 marks)

QUESTION FOUR (20 MARKS)

- a. 'The general rule is that it is the duty of a buyer to inspect the goods he intends to buy and be satisfied with them failure to which the seller is not liable for any defect. Discuss. (14 marks)

- b. Cynthia agreed to sell to Gitobu, at a price of Kshs 3,000 per crate mangoes, from Tanzania. Delivery was agreed to be weekly over two months effective from two weeks after the date of execution of the contract. On five occasions, Gitobu took the consignments: but later, when Cynthia sought to deliver the subsequent consignments as contracted, Gitobu declined to accept the mangoes saying that since the market prices of mangoes had fallen drastically he could not, indeed it would be unfair to expect him to, accept the mangoes at the contract price. He sought to renegotiate the price, a proposal Cynthia flatly refused to consider.

Advise both parties as to their rights and remedies, if any.

(6 marks)

QUESTION FIVE (20 MARKS)

- a) A contract of hire purchase is not a sale. In relation to the law on hire purchase, discuss the veracity of this statement (10 marks)
- b) Examine the factors that terminate an agency relationship (10 marks)
