



KENYATTA UNIVERSITY

EXAMINATION FOR THE DEGREE OF BACHELOR OF LAW

LCC 309: COMMERCIAL LAW 1

1ST SEMESTER 2021/2022

TIME: 2 HRS

INSTRUCTIONS

1. Answer question **ONE** and any other **TWO** questions. Penalties accrue for failure to answer question **ONE**
2. Support your answer with relevant illustrations from case law, statutory provisions and any other references
3. Your writing must be **NEAT** and **LEGIBLE**
4. Your answer booklet must bear your assigned **REGISTRATION NUMBER**, both on the cover and every written page therein
5. Do not scribble or draft answers on the inner or outer cover pages or your question paper
6. Do not write anything except your **REGISTRATION NUMBER** on this question paper
7. All Kenyatta University Examinations rules apply as if they were contained herein

QUESTION 1

- a) Disko set out to buy a radio set for use with his record player. He explained this to Sanyo, a dealer in radio and other electrical goods giving him the make of his record player. Sanyo recommended and offered to sell to Disko "a suitable" model; but Disko could not immediately raise Kshs.6,000/= required at once. However Sanyo gave Disko the set upon a down payment of Kshs.2,400/=, the balance to be paid by equal installments over eight subsequent months before final transfer. A clause in the agreement duly signed by both

parties stated in effect that no implied conditions or warranties should arise, whether at common law or under any statute. Disko took the radio set to his residence but it would not work with the record player. He returned it as soon as he could to Sanyo and claimed back his down payment. Sanyo refused to take back the set and would not refund the money.

Discuss issues arising from the foregoing facts and advise both parties (10 Marks)

- b) Yasmin wants to sell her car. She gives possession of the car to Alexander Motors Ltd ('Alexander'), a car dealer, and Alexander agrees to sell the car on her behalf, but for not less than Ksh.500,000. John, one of Alexander's employees, persuades her to sign a letter, which states that Alexander has authority to sell the car. He tells her that this will make it easier to convince potential buyers that she is intending to sell.

John later sells the car to Derek for Ksh. 350,000. Derek decides to advertise the car for sale. Harry buys with a cheque. After Harry has driven off, Derek rings the bank on which the cheque was drawn. The bank tells him the cheque was stolen and will not be paid. Derek immediately contacts the police, but the local police station is not staffed at weekends, so he leaves a message on the answer phone. Harry sells the car to Sarah. What rights, if any, do Yasmin, Derek and Sarah have? (15 Marks)

- c) Following a takeover, the new owners of a hotel, Hip Hotels Ltd, have continued to employ the hotel's previous owner, Ms Harvey, as its manager. However, they have expressly forbidden her from buying alcohol from anyone other than Drink Ltd. Last month, in breach of this restriction, she bought some alcohol from Booze Ltd who have now sued the hotel for payment as Ms Harvey's principal.

Advise Booze Ltd as to whether their action is likely to succeed. (5 Marks)

QUESTION 2

- a) Gardens-'N'-You Ltd ('Gardens') sells bags of 'Compo', an artificial compost. This product is made by Acme Ltd ('Acme'), a manufacturer of chemical products, according to a recipe provided by Gardens Ltd. This recipe stipulates the use of particular constituent elements in the compost. The recipe also permits Acme to use 'a stabilizer,' but does not specify what

this should be. The stabilizer used by Acme is a chemical product known as Blixo. Unfortunately, Blixo, while harmless to other garden flowers, is poisonous to roses when mixed with the other elements specified in the formula by Gardens. Gardens is unaware that Blixo has been used. Janet, a professional rose grower, buys some Compo and digs it into her rosebeds. As a result, she loses her crop of roses. Advise Janet on her rights under the Sale of Goods Act. (15 Marks)

- b) What difference might it have made to your answer if the bags of Compo have a label stating they contain Blixo and the possible effect of Blixo when used in (5 marks)

QUESTION 3

- a) With the aid of examples and case law, elaborate on the conditions and warranties implied into a contract for the Sale of Goods by the Sale of Goods Act. (15 Marks)
- b) Briefly explain five ways through which agency is formed (5 Marks)