

CENTRAL UNIVERSITY



END OF SECOND SEMESTER EXAMINATIONS: 2016/2017

FACULTY OF LAW

LAW 106: LAW OF CONTRACT II

TIME ALLOWED: 2 HOURS 30 MINUTES

LEVEL 100 & 200

STUDENT ID No.....

INSTRUCTIONS

1. There are a total of six (6) questions. Candidates are to answer three (3) questions only.
2. **Question One (1) is compulsory.**
3. Answer Sheets will be provided. Each answer must begin on a fresh page.
4. Any extra answer sheet should be properly tied to the original answer sheet. Write your index number on any extra sheet you use.
5. Marks will be awarded for good presentation, clarity in legal arguments and proper use of legal authorities.
6. Please write legibly.

DO NOT TURN OVER THIS PAGE UNTIL YOU HAVE BEEN TOLD TO DO SO BY THE INVIGILATOR.

Examiners: Mr. Joseph Ashalley & Mrs. Susanna Afutu

QUESTION ONE (Answer both A and B)

- a) Yakubu owns a Television store in Navrongo. Hamida wished to buy a high-powered Samsung Smart Television for her Cinema from Yakubu. Hamida met with Yakubu and Yakubu showed her a "Samsung Smart Television". Yakubu read out detail about the Samsung Smart Television from a list of specifications provided by the supplier of the Television including that the Television can use the internet to download videos. Hamida was impressed and one week later she entered into a written contract with Yakubu which merely stated: "Sold for GHC 3500 - one Samsung Smart Television set" Hamida later discovered that she could have purchased a similar Samsung Smart Television Set for GHC 2000 and that the Television sold to her needed a Streaming Stick to access the internet. It will cost GHC 200 to upgrade the Television to access the internet.

Hamida wished to acquire a 3D Projector that would project the image from her Television onto a large wall-sized screen. Jude sold such 3D Projectors in Navrongo but Hamida knew that these 3D Projectors had to be expertly installed and maintained every four (4) months and that the nearest maintenance facility was in Lomé, Togo. Jude, whose sales had drastically reduced over time because there was no maintenance facility in Navrongo, told Hamida that he would have a maintenance facility in Navrongo within the next 3 months to convince Hamida to buy the 3D Projector from him. Based on this, Hamida purchased 3D Projector from Jude. Four months later, Hamida took the 3D Projector to Jude for maintenance but was told she would have to go to Lomé, Togo. Hamida now wants to return the 3D Projector.

Advise Hamida.

- b) Would it make a difference to your answer if when Yakubu told Hamida that the Samsung Smart Television can access the internet to download videos without a Streaming Stick, He was not reading from the supplier's specification on that particular Samsung Smart Television but from the specifications of another model? (40 Marks)

QUESTION TWO

- a) With the aid of decided cases, discuss the doctrine of privity of contract at common law.
- b) What is the scope of the doctrine of Privity of contract in Ghana with the introduction of Contracts Act, 1960 (ACT 25)? (30 Marks)

QUESTION THREE

"In our opinion, therefore, the courts in Ghana have the right to set aside as unconscionable any dealing, whether by contract or by gift, where on account of the special disability of one of the parties, he or she is placed as a serious disadvantage in relation to the other.... Poverty or need of any kind, sickness, age, sex, infirmity of body or mind, drunkenness, illiteracy or lack of education, lack of assistance or explanation where assistance or explanation is necessary: these

are all circumstance which in the right context can justify the court's intervention on the basis of the equitable principles embodied in the doctrine of unconscionable bargain"

CFC CONSTRUCTION CO (WA) LTD, RITA READ V. ATTITSOGBE [2005-2006] SCGLR 858, SC

With reference to the statement above discuss how the Courts in Ghana have developed the doctrine of "unconscionability"? (30 Marks)

QUESTION FOUR

Wofa Yaw recently got acquainted with Rob, an American who has been seconded to Wofa Yaw's organization in Accra, Ghana, for five years. On one of Rob's holiday trips to the United States of America, Wofa Yaw met him briefly at the departure hall of Kotoka International Airport and asked him to buy "Polo Ralph Lauren" pants for him from the United States when returning to Ghana, with the promise to refund Rob's money. Rob returned with "Polo Ralph Lauren" for Wofa Yaw but Wofa Yaw has refused to take the pants or to refund the price because Rob bought a pair of trousers instead of underwear for Wofa Yaw. To Rob, as an American, the word pants referred to trousers, while to Wofa Yaw, a Ghanaian, it means underwear.

Advise the parties. (30 Marks)

QUESTION FIVE (Answer both A and B)

(Comment on the following Scenarios)

- a) Kofi Mensah is a business man with a shady past. He has ambitions of receiving an order of the Volta award, and for this reason he approaches Mrs. Vincentia Odoi, who is well known for her influence in high places, and suggests to her that if she can get him included in the New Year's Honours List he will pay her GHC 100,000.

Kofi is worried, however, Kelvin Addae who knows about his various illegal currency transactions will disclose these in the national press, thus ruining his career. He approaches Mr. Punisher, and says that he will give him GHC 10,000 if Mr. Punisher will "do something permanent" about Kelvin Addae.

Punisher asks for cash in advance but Kofi Mensah refuses. However, he says that as a token of his good faith he will leave his Jaguar car in Punisher's care until the deed is done, when full payment will be made. Punisher accepts these terms. He goes immediately to Harriet Finest corner shop, where he is well known, to purchase a carving knife with which to kill Kelvin Addae. He tells Harriet that it is to carve his Christmas turkey and asks if he can pay for it when he has received his next wage packet: she agrees.

Mrs. Vincentia Odoi succeeds in getting Kofi Mensah onto the Honours List, but Kofi Mensah has refused to pay her the amount of GHC 100,000 as promised. Punisher fails to kill Kelvin

Addae at the first attempt, because he could not get the protective wrapping off the knife, and before he can try again Kofi Mensah says that he has changed his mind. Because he has not received any payment, Punisher refuses to hand back the car and fails to pay Harriet for the knife.

- b) Harriet was so desperate for money that she agreed with Punisher a telephone soliciting job where she telephones men engaged to be married and in a sultry voice tries to convince them that they should remain single. She does this for a month but at the end of the month Punisher refuses to pay her. **(30 Marks)**

QUESTION SIX

Ajaz Drumline Company Ltd wanted to engage in a donation exercise at the National Orphanage Home. In view of this, they contracted with Kpogas furniture to purchase 300 benches and 100 tables for the children to use during their meal times. The agreement between the two parties was that, payment will be made after all 400 furniture pieces have been delivered intact. After two weeks, the Kpogas furniture delivered the goods to Ajaz Drumline Company Ltd. But Ajaz Drumline Company has refused to pay for the goods because it realized that some of the furniture legs got broken while they were being transported and it will cost them 8% of the total contract cost to repair them.

Ajaz Drumline Company Ltd also engaged the services of Lingogo Printing Company Ltd to produce 150 exercise books and 100 magic cups. Lingogo Printing services after signing a contract to that effect with Ajaz Drumline Company Ltd, only produced the 150 exercise books. Ajaz Drumline Company Ltd has agreed to accept the 150 exercise books. After realizing that the amount of money that Ajaz Drumline Company Ltd transferred into their account does not correlate with the agreed price for the exercise books, Lingogo Printing Company contacted Ajaz Drumline Company Ltd and the latter explained that it was not a mistake but a punishment because Lingogo only did half of the job. Ajaz Drumline has refused to top up the balance.

Advise the Parties

(30 Marks)