



PAMIBIA UNIVERSITY
FACULTY OF HUMAN SCIENCES OF SCIENCE AND TECHNOLOGY
DEPARTMENT OF SOCIAL SCIENCES

QUALIFICATION: BACHELOR OF ACCOUNTING (CA) / DIPLOMA IN ACCOUNTING AND FINANCE	
QUALIFICATION CODE: 06DPAF; 07BACP	LEVEL: 5
COURSE CODE: BLW512S	COURSE NAME: BUSINESS LAW
SESSION: JANUARY 2024	PAPER: THEORY AND CASE STUDIES
DURATION: 2 HOURS	MARKS: 100

SECOND OPPORTUNITY EXAMINATION	
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INSTRUCTIONS	
<ol style="list-style-type: none">1. The paper has NINE questions.2. ALL the questions are compulsory.3. Read carefully before answering.4. Write clearly and neatly.5. Number the answers clearly and according the structure in the examination question paper.6. Candidates will be penalised for incorrect spelling and illegible handwriting.	

PERMISSABLE MATERIAL

None

THIS QUESTION PAPER CONSISTS OF 7 PAGES excluding this front page)

QUESTION 1

Choose the correct answer from the given options in each of the following questions. Only mark the correct letter on the answer sheet provided next to the corresponding question number. Should you mark more than one answer to a question, your answer(s) will not be marked.

- 1.1 Delivery of a copyright is effected by means of:
- a) Cession
 - b) Registration
 - c) Symbolic delivery
 - d) *Constitutum possessorium*
- 1.2 An agency relationship will terminate if:
- a) The parties have fulfilled their obligations
 - b) The agent dies
 - c) The principal is declared insolvent
 - d) All of the above
- 1.3 Delivery of immovable property is affected by means of:
- a) By long hand
 - b) Cession
 - c) Registration in the Deeds Registry
 - d) Actual delivery
- 1.4 A purchaser will not be protected by the guarantee against eviction if:
- a) He does not hand over the *merx* to the person posing the threat
 - b) He notifies to seller of the ensuing threat
 - c) Eviction occurred without the fault of the seller
 - d) He conducts a strong defence in protecting the *merx*
- 1.5 The Credit Agreements Act will not apply to one of the following transactions:
- a) Where the Minister declared the goods that are sold fall within the application of the Act
 - b) The purchase price is to be paid in installments at a fixed date in the future
 - c) When the agreement is concluded for less than 3 months
 - d) When the goods are not sold or leased with the sole objective of selling or leasing the goods to others

- 1.6 When a seller delivers the *merx* sold to the purchaser, he undertakes to give the purchaser:
- a) Ownership
 - b) Possession
 - c) A personal right
 - d) None of the above
- 1.7 The risk which passes to the buyer when the contract is *perfecta* is the risk of:
- a) Negligent damages or losses
 - b) Accidental damages or losses
 - c) Loss or damages caused by the seller
 - d) Loss or damages caused by the purchaser
- 1.8 When a seller delivers the *merx* sold to the purchaser, the purchaser is protected against disturbance in his possession by virtue of the:
- a) Guarantee against latent defects
 - b) Passing of the risk rule
 - c) *Actio empti*
 - d) Guarantee against eviction
- 1.9 If a contract of purchase and sale is subject to a suspensive condition the risk passes to the buyer when:
- a) The *merx* is delivered to the purchaser
 - b) The condition is fulfilled
 - c) The contract is signed
 - d) The *merx* is damaged due to an accident
- 1.10 Actual authority can be conferred:
- a) By ratification.
 - b) By estoppel.
 - c) Only in writing.
 - d) Expressly or by operation of law.

(2 marks each) [20]

QUESTION 2

Indicate whether the following statements are true or false. You need not motivate your answer.

- 2.1 A and B enter into a partnership agreement, in terms of which A contributes a warehouse valued at N\$5 million and B contributes 5 trucks worth N\$1 million each. The partnership uses both the warehouse and the building as partnership assets; however the warehouse remains registered in the name of A. After an unsuccessful business transaction the partnership owes creditor C N\$6 million. Creditor C can attach the warehouse.
- 2.2 Ben leases his house to Andy for N\$15 000.00 per month. Andy then purchases the house at a purchase price of N\$1 250 000.00. The form of delivery is known as delivery *brevi manu*.
- 2.3 A, B and C are partners in a business providing transport to and from Windhoek International Airport. One evening, on his way home in a vehicle belonging to the partnership, A is involved in an accident and D is injured. A, B and C will be liable, because they are co-owners of the vehicle.
- 2.4 The Credit Agreements Act will not apply when the agreement is concluded for less than 6 months.
- 2.5 Patrimonial gain for each partner implies that the partners must receive equal shares of the profit.
- 2.6 When the credit receiver has failed to pay his instalment and the credit granter has regained possession of the article without a court order, the credit grantor has to grant the credit receiver a period of 60 days in which he can pay the monies in arrears and regain possession of the article.
- 2.7 A notice of dissolution by one of the partners in a partnership will dissolve the partnership only if the notice is reasonable.
- 2.8 Section 13 of the Credit Agreements Act of 75 of 1980 is available to the credit receiver when the contract was signed at a place other than the business premises of the credit grantor or as a result of the initiation of the credit grantor.
- 2.9 The Children's Trust concludes an agreement with the Windhoek Toast Masters Club in terms of which the club agrees to donate N\$ 150 000.00 which it raised during a recent

fundraising function, for the benefit of a children's home administered by The Children's Trust. This legal concept is known as agency.

2.10 The seller is exempted from liability for latent defects in a lay-by agreement.

QUESTION 3

Samuel is the owner of a 1995 Nissan Sentra. After a standard service he is informed that the rings in the engine are damaged and this may result in serious damage to the engine if not repaired. Outwardly there is nothing wrong with the motor vehicle, the performance is good and there is no excessive smoke.

Samuel decides to sell the motor vehicle without having it repaired. He sells the motor vehicle to Peter for the purchase price of N\$ 3 000.00 without disclosing the fact that the vehicle is in need of repair. In order to inspect the vehicle Peter only walks around it and checks that there are no dents.

A week after the contract is concluded the engine ceases. The garage owner advises him that the rings were damaged and the cost of the repairs to the engine as such would be N\$ 7 000.00.

Advise Peter as to his rights and remedies, if any, he may have against Samuel.

[10]

QUESTION 4

Jono leases an apartment from Hannah but for the last 2 months has found it impossible to pay the rent. Hannah is aware that Jono bought a big screen TV and DVD worth N\$ 10 000.00. Hannah attached the TV and DVD to recover his arrear rental. It is then discovered that the TV and DVD belong to Game Namibia under a credit agreement in terms of the Credit Agreement Act 75 of 1980, as amended. Is Hannah still able to sell the goods in a sale in execution? Motivate your answer.

[5]

QUESTION 5

John and Joni enter into a partnership for the packaging and distribution of grapes on a farm owned by Joni. John contributes N\$500 000, with which they buy a truck to transport the grapes. The truck is registered in the name of JJ farming, while the farm remains registered on Joni's name. Unfortunately, because of a devastating drought and because neither of them was smart enough to realise that you cannot farm with grapes in the middle of the Kalahari, the business fails to make any money.

Answer the following questions based on the above facts:

- 5.1 About two months after they start doing business together one of Joni's creditors obtains a judgement against her for a personal debt unrelated to the grape-farming business. Can this creditor attach the farm in satisfaction of his debt? (4)
- 5.2 A creditor of the partnership threatens John and Joni that he will attach their personal assets; but Joni tells him that she is not liable for business debts. Is she correct? (3)
- 5.3 Eventually John gets fed up and decides to end the partnership. He claims that the truck belongs to him, because he paid for it. Is he correct? (3)
- [10]**

QUESTION 6

Briefly answer the following questions:

- 6.1 The remedy known as the *actio empti* (claim for damages) is not always available to the purchaser in the event that the merx contains a latent defect. Name the instances in which a claim for damages will be allowed. (3)
- 6.2 Why must an extra-ordinary partnership must always have at least one ordinary partner? (5)
- 6.3 In terms of the law of purchase and sale, what is the meaning of the term "delivery"? (2)
- [10]**

QUESTION 7

In each of the following instances, state whether a valid contract of purchase and sale has been formed. Motivate your answers.

- 7.1 Heston steals Charles's motorbike and sells it to Peter for the amount of N\$ 25 000.00.
- 7.2 Suzy sells Ndapewa all the diamonds that she (Suzy) can mine on the moon at a price of N\$100.00 each.
- 7.3 John sells his farm to the Government of Namibia at a price to be determined by an independent valuator.
- 7.4 Mary sells her tractor to her neighbour. The neighbour is under the impression that he is merely renting it.
- 7.5 Sarah sells her cell phone to Peter. They agree that, instead of paying her, Peter will do her Business Law assignments for her.

(2 mark each) **[10]**

QUESTION 8

Mr. Mulati entered into a contract with ABC Car dealers for the purchase of a vehicle. In terms of the contract, the purchase price was agreed upon and there was no condition attached to the contract. The buyer and the seller agreed on the type of the car to be sold but did not agree on the colour. The purchaser paid the purchase price in full. A day after concluding the contact, a fire broke out at the dealer's premises. (Not due to the fault of the seller). Most of the cars were damaged. The dealer now claims one of the damaged cars was that of Mr. Mulati and that he (Mr Mulati) therefore bears the risk. Do you agree with the dealer's argument? Advise Mr. Mulati.

[10]

QUESTION 9

Gero and Susan form a partnership to prospect for and to acquire rights to platinum on a certain farm. They agree that all contracts in excess of N\$500 000 require the consent of both partners.

Six months later Gero buys second-hand mining equipment at a price of N\$600 000, without having consulted Susan. Susan is so angry that they decide to terminate their relationship. The purchase price of the second-hand mining equipment remains unpaid. Susan then finds out that platinum had been discovered on a neighbouring farm and, without informing Susan, Gero had obtained the rights to this platinum for himself.

Answer the following questions, motivating your answers as required:

- 9.1 Was Gero permitted to obtain the rights to the platinum on the neighbouring farm for himself? (5)

[5]