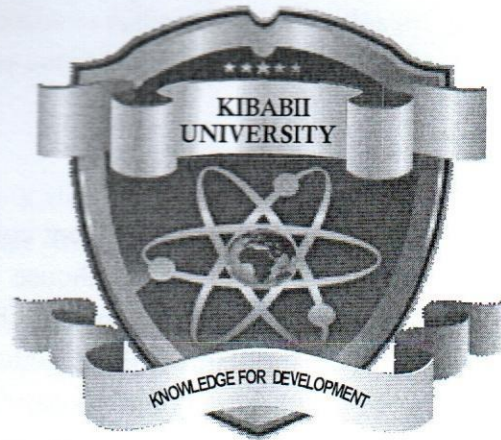


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UNIVERSITY EXAMINATIONS
MAIN EXAM
2020/2021 ACADEMIC YEAR
SECOND YEAR FIRST SEMESTER
FOR THE DEGREE OF MASTER OF BUSINESS
ADMINISTRATION

COURSE CODE: MBA 812

COURSE TITLE: BUSINESS LAW

DATE: 25/02/2021

TIME: 2.00PM-5.00PM

INSTRUCTIONS TO CANDIDATES

Answer Question ONE (compulsory) and ANY OTHER THREE Questions

TIME: 3 Hours

KIBU observes ZERO tolerance to examination cheating

QUESTION ONE

- a) Ambrose Mpaka employed Bernard Mpole, an independent contractor to undertake some excavation work on his land. In the process, a greenhouse belonging to Eli Jirani, a neighbour was damaged by the debris from the excavations. Eli Jirani's employees took advantage of the situation and looted all the plants in the greenhouse. Eli Jirani is aggrieved and seeks your legal advice as to whether he could successfully sue Ambrose Mpaka. Advise Eli Jirani on the legal principles applicable in the above case. (4 Marks)
- b) Explain the defences available to an occupier, who is sued by a person injured within the occupier's premises (6 Marks)
- c) Describe four remedies available to a plaintiff in a civil action (4 Marks)
- d) One of the most significant shortcomings of the common law that led to the development of equity was inadequate remedies. As a result, many plaintiffs were left out; however, equity increased the remedies. With reference to the above statement discuss five equitable remedies (5 Marks)
- e) The general rule that "for a contract to be discharged by performance, the performance must be precise and exact" was modified by exceptions to mitigate its harshness. Discuss five exceptions to this general rule (10 Marks)
- f) Highlight six ways in which a bill of exchange might be discharged (6 Marks)
- g) The Copyright Law is meant to protect literary works. Outline five literary works that could be protected by the Copyright Law in your country (5 Marks)

QUESTION TWO

- a) In relation to law governing partnerships, explain the legal position in each of the following cases
 - i) The liability of the firm in torts committed by one partner (5 Marks)
 - ii) The liability of an individual partner for the liability of the firm (5 Marks)
- b) Winy Kay and Evans Jay have been long time friends. They have decided to form a partnership but do not want to be governed by a partnership agreement. Explain to Winy Kay and Evans Jay the rights and duties of partners in a partnership with no partnership agreement (10 Marks)

QUESTION THREE

- a) Janet Rama, a business lady sent a telephone message to Mary Kale a fellow business lady, accusing her of "stealing" her clients. The message contained abusive words to the effect that Mary Kale was "a witch" who uses "herbs" and witchcraft to lure customers to her saloon and boutique. In addition to sending the message to Mary Kale, Janet Rama sent the message to several customers of Mary Kale. As a result, Mary Kale has lost many

customers and her business is threatened with closure. All the contents of the message were false. Mary Kale has come to you for legal advice.

Required;

- i). Explain to Mary Kale the term "defamation" (4 Marks)
 - ii). Advise Mary Kale on her legal rights, if any. (6 Marks)
- b) The general rule is that motive is irrelevant in the law of tort for the purpose of liability explain the exception to this rule (10 Marks)

QUESTION FOUR

- a) Explain three circumstances when an unpaid seller could exercise the right of resale (6 Marks)
- b) On 31 December 2012, Smith Lemaiyan, appointed Aggrey Mchuzi as his moneylending agent. In January 2013, Aggrey Mchuzi without Smith Lemaiyan's authority advanced Sh.100,000 to Jimmy Cheney without disclosing to Jimmy Cheney that lie was Smith Lemaiyan's agent. Jimmy Cheney has since refused to refund the Sh.1 00,000 advanced to him.

Required

Analyse the legal principles applicable in the above case and advise Smith Lernaiyan, Aggrey Mchuzi and Jimmy Cheney on their liability (14 Marks)

QUESTION FIVE

- a) Outline five provisions which govern termination of a hire purchase agreement by the hirer (5 Marks)
- b) Beatie Osolika took a fidelity medical policy with Hope Insurance Company Ltd. While completing the proposal form, Beatie Osolika answered in the affirmative a question by the insurance company asking "are you pregnant?" Four months later, Beatie Osolika was admitted to the insurance company's designated hospital where it was established that Beatie Osolika was a man and he had never been pregnant. Hope Insurance Company Ltd. has since refused to settle Beatie Silica's medical bill, and Beatie Osolika intends to sue Hope Insurance Company Ltd. for payment.

Analyse the legal principles applicable in the above case and advise Beatie Osolika.

(15 Marks)