



KIBABII UNIVERSITY

**UNIVERSITY EXAMINATIONS
MAIN EXAM**

2021/2022 ACADEMIC YEAR

SECOND YEAR FIRST SEMESTER

**FOR THE DEGREE OF MASTER OF BUSINESS
ADMINISTRATION**

COURSE CODE: MBA 812

COURSE TITLE: BUSINESS LAW

DATE: 06/06/2022

TIME: 9.00AM – 12.00AM

INSTRUCTIONS TO CANDIDATES

- ANSWER QUESTION **ONE** (COMPULSORY) AND ANY OTHER **THREE** QUESTIONS
- QUESTION **ONE** ATTRACTS **40 MARKS**
- ALL OTHER QUESTIONS ATTRACT EQUAL MARKS **20 MARKS**
- TIME ALLOWED IS **THREE** HOURS

QUESTION ONE

- a) Paul wrote a will and bequeathed all his property to his wife Nina. Two years later, Paul was diagnosed as suffering from a terminal disease. He blamed it on his wife Nina and then called his friends Mark and Matthew and verbally told them in case he died before Nina, she should not inherit his property, and instead, all his property should be inherited by his mother Tina. Paul died three weeks ago and Nina has sought to inherit his property under the will, but Paul's mother has vehemently resisted Nina's claim.

Required:

In relation to the Law of Property, discuss the legal position of Nina and Tina. (10 marks)

- b) One of the most significant shortcomings of the common law that led to the development of equity was inadequate remedies. As a result, many would be plaintiffs were left out; however, equity increased the remedies. With reference to the above statement discuss five maxims of equity (10 Marks)
- c) The constitution of Kenya provides that when a bill has been passed by the National Assembly it shall be presented to the President for assent. Explain the stages that a bill shall go through before it comes into operation as an Act of Parliament. (8 marks)
- d) Highlight under what circumstances may a person who is a citizen under naturalization or registration be deprived of citizenship (6 marks)
- e) Explain the meaning of the term "holder" in relation to a bill of exchange and outline the duties of a holder of a bill of exchange (6 Marks)

QUESTION TWO

- a) In relation to the law of tort, explain what is meant by the following:

- i). Private nuisance. (3 marks)
- ii). Public nuisance. (3 marks)
- iii). Giving examples, outline the circumstances when a private individual may sue on his own behalf for public nuisance. (4 marks)

b) Namweya and Nabayi are both tenants and neighbours at a residential estate. Namweya runs a posho mill business on the premises adjoining the house of her neighbour Nabayi. The posho mill is diesel propelled and when in use causes a lot of vibrations. Recently, as a result of the vibrations from the posho mill, a beam fell from the roof of the adjoining house occupied by Nabayi and injured her. Nabayi claims that the vibrations of the posho mill have been a nuisance and has as a result sued Namweya for damages

Required:

Explain the legal principles applicable in this case and advise both Namweya and Nabayi

(10 Marks)

QUESTION THREE

- a) Explain three ways in which terms might be implied in a contract (6 Marks)
- b) On 20th January 2021 Mr. Wafula entered into a written agreement with Mr. Zuma in which Mr. Zuma agreed to smuggle some goods into the country for Mr. Wafula by the end of March 2021. Mr. Wafula promptly paid Mr. Zuma the agreed consideration of Sh.500,000 in full, but Mr. Zuma has reneged on the deal. Mr. Wafula feels aggrieved and intends to sue Mr. Zuma.

Required:

Analyze the legal principles applicable in the above case and advise Mr. Wafula accordingly (8 Marks)

- c) Summarize six circumstances under which the principal might unilaterally cancel an agency relationship without being liable to the agent for breach of contract (6 Marks)

QUESTION FOUR

- a) Discuss the doctrine of "caveat emptor", as used in the context of the law governing sale of goods (8 Marks)
- b) Wesley Patel purchased 1,000 Kgs of canned fruits from Tunda Ltd. at a price of Sh. 500,000. It was agreed that delivery was to be in boxes containing 50 tins each upon delivery. Some of the boxes supplied contained 30 tins and others 55 tins and Tunda Ltd. made a delivery of 1,100 Kgs of canned fruits. Wesley Patel has received the delivery and feels aggrieved.

Required:

Explain to Wesley Patel the legal principles applicable in the above case (12 Marks)

QUESTION FIVE

- a) Where goods have been let under a hire-purchase agreement and two-thirds of the hire purchase price has been paid the owner shall not enforce any right to recover possession of the goods from the hirer otherwise than by suit.

Required:

Explain three consequences of contravention of the above provision by the owner (6 Marks)

- b) Jean Jipapa insured his ship against any losses while lying at Mombasa port for a sum of shillings 10 million with BADCE Insurance Company Limited. He further insured the same ship with Deep See Insurance Company Limited for a similar amount. Subsequently, the port caught fire and the ship was badly damaged. The estimated cost of repair of the ship is shillings 5 million. Jean Jipapa has lodged a claim for compensation from both insurance companies.

Required: Explain the legal principles in the case and advise Jean Jipapa (14 Marks)