

**THE OPEN UNIVERSITY OF SRI LANKA
 FACULTY OF HUMANITIES AND SOCIAL SCIENCES
 DEPARTMENT OF LEGAL STUDIES
 LL.B. DEGREE PROGRAMME -LEVEL IV
 FINAL EXAMINATION 2017/2018
 LAW OF CONTRACT- LWU2311/LLU4805
 DURATION – 3 HOURS**



Date : 22nd February 2020

Time: 09.30 a.m. – 12.30 p.m.

Total number of questions – 08

Students will be penalised for illegible handwriting .

Answer five (05) questions only selecting one (01) question from Part I and four (04) questions from Part II.

Part I- Law of Agency

Answer one (1) question only

1. Shalini is a famous cake maker in the town. She owns a cake shop called 'Cake Talks' and she appointed Mahima and Sameer as her agents to manage the sales and distribution of the orders of 'Cake Talks'. Mahima sold cakes at 'Cake Talks' by adding 10% to the price of a cake without the knowledge of Shalini. Mahima opened a shop called 'Cup Cake Talks' in the town without informing Shalini and collected orders for cup cakes from the regular customers of 'Cake Talks'. To maintain his store, Mahima employed Sameer. While being an agent of 'Cake Talks' Mahima delivered the customers of 'Cake Talks' some low-quality cupcakes which were actually prepared by his 'Cup Cake Talks'.

After acquiring the customer base and business techniques of 'Cake Talks', Mahima left the job.

Shalini learns that Mahima had taken a loan worth Rs.1 million in the name of 'Cake Talks' from a bank before leaving the job.

Discuss the legal consequences of the above transactions under the law of agency and advise Shalini.

(20 marks)

2. Discuss the validity of the following statements.
 - i. An agent owes certain duties to her/his principal.
 - ii. The undisclosed principal cannot intervene in a contract if a third party wants to deal only with the agent.

(10 x 2= 20 marks)

Part II- Law of Contract
Answer four (4) questions only

3. Explain the legal concepts which were established by any four (04) of the following cases:

- (a) *Entores Ltd, v. Miles Far East Corporation* (1888) 20 A.B.D. 640
- (b) *Central London Property Trust v. High Trees House Ltd* (1947) KB 130
- (c) *Hasley v. Baxendale* (1854) 9 Exch 341
- (d) *Carlill v. Carbolic Smoke Ball Co* (1893) 1 QB 256
- (e) *Jayawickrama v. Amarasuriya* (1918) 20 N.L.R at pp.293&294

(4x5= 20 Marks)

4. i. 'The law protects persons who are labouring under certain disabilities by not giving them full contractual capacity'. Comment with relevant examples.

ii. Perera raises his grand daughter, Hema who has lost her father in an accident. He gifted two hundred thousand rupees and a diamond ring to Hema on her 16th birth day. Hema's mother, Saumya accepted the gift. Hema gifted the diamond ring to her boyfriend, Lakkika on remembrance of their relationship. She also used the two hundred thousand rupees to buy a valuable branded laptop for her studies.

Discuss the legal consequences of the above transactions.

(10x2 = 20 marks)

5. Discuss the validity of the following statements:

- (a) *Donatio Inter Vivos* ,as a rule, are irrevocable;
- (b) Performance must conform to exactly what was stipulated in the contract.

(10 x 2 = 20 marks)

6. ' ... Sometimes the conditions in standard form contracts exclude or limit the liability of one party far beyond the limits to which the other party freely consenting would ever agree. In these instances the concept of freedom of contract disappears because there is no equality of bargaining power between the contracting parties. It was to alleviate the position of the disadvantaged party to the contract that the common law formulated certain rules'

Law of Contract, Block II, The Open University of Sri Lanka,pg 7.

Evaluate the above statement . Support your answer with suitable examples from decided cases.

(20 marks)

7. i. 'Owl Eyes' is a private detective agency, owned by Ryan, well known for its services such as searching legal records to uncover clues; conducting surveillance; collection of evidence in cases and verification of employment, income and other details about a person. Ryan recruits employees to 'Owl Eyes' under a contract which stated that at the end of the service at 'Owl Eyes' they cannot work for another detective agency in the country for two years after the termination of the contract.

Ram and Secta, husband and wife work at 'Owl Eyes' respectively as a private detective and a receptionist. They wish to seek your opinion regarding the validity of clauses of their contract of employment as they are planning to resign from 'Owl Eyes'. Advise them.

- ii. Explain the meaning of '*in pari delicto potior est conditio defendentis*' with case law illustrations.

(10 x 2 = 20 marks)

8. Explain any **TWO (02)** of the following statements on vitiating factors illustrating your answer with case law:

- (a) Mere silence is not misrepresentation;
- (b) Roman Dutch law recognises a third category of mistake in the law of contract;
- (c) A contract may be voidable where the consent of one of the contracting parties is not voluntary and influenced by words or conduct of the other.

(10 x 2 = 20 marks)