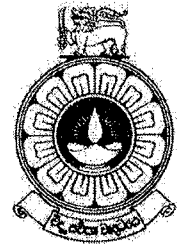


THE OPEN UNIVERSITY OF SRI LANKA
FACULTY OF HUMANITIES AND SOCIAL SCIENCES
DEPARTMENT OF LEGAL STUDIES
LLB DEGREE PROGRAMME - LEVEL 4
FINAL EXAMINATION- 2022/2023
LLU4805/ LWU2311 - LAW OF CONTRACT
DURATION- 3 HOURS



DATE: 7 April 2024

TIME: 1.30 P.M.- 4.30 P. M.

Answer FIVE (05) questions only including ONE (1) question from Part One and any FOUR (4) questions from Part 2.

Candidates will be penalized for illegible handwriting.

Part 1

Answer one (1) question from this part.

1. A contract of agency can come into existence even in instances where the principal has not expressly authorized another person to act on his/her behalf.

Explain how such contracts can arise, supporting your answer with the law regarding creation of agency. (20 Marks)

2. Anna appointed Bill as her agent to ship frozen berries to customers in other countries. She paid him a monthly salary for his services. Discuss the legal consequences of the following incidents relating to this contract of agency.

- a) Bill collected money for an order for berries from Cathy but did not ship the goods. He also did not give the money to Anna. Cathy demanded the money back from Anna.

(6 Marks)

- b) Bill shipped a box of berries to Tom in a ship without refrigeration facilities and the berries were spoilt when it reached Tom. (6 Marks)
- c) Would your answers in (a) and (b) above be different if Bill had not been paid a salary for his services? Explain the reasons for your answer. (8 Marks)

Part 2

Answer any FOUR (4) questions.

3. Write short notes on any **TWO (2)** of the following:

- a) Contracts entered into by minors.
- b) Exceptions to the maxim *in pari delicto potior est conditio defendentis*
- c) The plea of *non est factum* (10 Marks x 2 = 20 Marks)

4. Explain **the difference** between the following:

- a) Cross offer and counter-offer
- b) Substantial performance and tender of performance
- c) *Donatio mortis causa* and *donatio inter vivos*
- d) Remedies for innocent misrepresentation and remedies for fraudulent misrepresentation
- e) *Justa causa* and consideration (4 Marks x 5 = 20 Marks)

5. Discuss the legal consequences of the transactions given below, supporting your answer with case law.

- a) ABC & Co. is a software manufacturing company located in Colombo. Damindri is a software engineer involved in developing software for the

company. ABC & Co. included a term in Damindri's contract of employment preventing her from joining a similar organization anywhere in the world for three years after leaving the company. (8 Marks)

- b) 'Vitamins for Health' is a company which imports vitamins into Sri Lanka. The Minister of Health granted the company permission to import a vitamin which was still being tested to ensure it was safe for human use, because the company agreed to pay 10% of the import cost into his personal account.

(6 Marks)

- c) Dorothy an owner of a brothel, refused to pay Sweetie who was working as a prostitute in the brothel, the amount promised for her services.

(6 Marks)

6. a) Explain the instances in which a breach of contract will entitle an innocent party to terminate a contract. (6 Marks)

- b) Sophie has undertaken a project to build a hotel. Explain the legal effect of the following incidents on contracts she has entered into for this project.

- i. Mohideen, a major supplier is refusing to go ahead with a shipment of goods, because of increased shipping costs resulting from ships using longer sea routes following the Red Sea crisis. (6 Marks)

- ii. Sheeba who was to supply carpets for the hotel from Russia is unable to deliver the goods which Sophie has already paid for because Sri Lanka has prohibited business with Russia following the Russia-Ukraine war. (6 Marks)

- iii. Kamala a famous interior decorator who was contracted to design the hotel rooms, died in a car accident before she commenced work on the contract.

(2 Marks)

7. Nawala University decided to renovate an old three-story building situated at the University. As there is a shortage of space, the employees on the top floors continued working in the building while the renovation was taking place. As a result, several injuries have occurred in the building. Amanda a student, who had an appointment to meet her supervisor in the building, slipped on a loose brick at the entrance to the building and fell and broke her leg. A beam fell on Saman, a lecturer, and he suffered serious head injuries. His laptop was also badly damaged. Several employees had to be hospitalized for chest infections due to the dust raised during construction. The employees have complained to the University authorities, who argue that they are not liable because they have put up a notice at the entrance to the building which states as follows: 'This is a construction site. Exercise caution when you enter this building. The University will not be responsible for any injury or loss occurring to anyone while inside this building'.

Do you agree with the position of the University authorities? Explain your answer supporting it with applicable case law and statutory provisions. (20 Marks)

8. Significant changes have occurred in contract law in recent years. These include how contracts are formed, what subject matter they cover and the remedies available when a contract is breached.

Identify at least **four (4)** areas where principles of contract law have needed to be expanded to deal with such situations and discuss how successfully the existing law has been modified to face these challenges. Use statutory provisions and case law (if any) as well as practical examples to illustrate your answer. (20 Marks)

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