

THE OPEN UNIVERSITY OF SRI LANKA
LL.B. DEGREE PROGRAMME
LEVEL 4
1st CONTINUOUS ASSESSMENT TEST 2008/2009
LWU 2311 – LAW OF CONTRACTS
DURATION . 40 MINUTES



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DATE : 02nd October 2008
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TIME : 10.00 a.m. – 10.40 a.m.
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Answer one question only.

1. Perera owns, three benz cars manufactured in 1950, 1960 and 1970 respectively. He wants to sell the 1970 model but wishes to ensure that the buyer is a private car collector. Accordingly, he advertised it for sale in the newspaper as 'For sale only to a private buyer'. Unfortunately, due to a printing error, the car advertised for sale was the 1960 model. Fernando, a car dealer, wished to buy the 1950 model and was informed incorrectly by a friend that Perera had the 1950 model advertised for sale in the newspaper.

Fernando knew, because he was a car dealer, Perera would not sell the car to him. He therefore telephoned Perera and said 'Hello, I am Mr. Jayarathna. I would like to buy the car you have advertised in the newspaper and I will give Rupees Two Million for it'. Perera replied, 'I am pleased to sell the car to you Mr. Jayarathna and I am glad you will take good care of it'. When Perera delivered the 1970 model he discovered the buyer's identity and refused to complete the sale but Fernando wished to enforce the contract even though the car was not the 1950 model.

Discuss the legal position.

2. Peiris is a retired lorry driver who has just set up his own distribution service. Gunarathna & Company is a firm with a nation wide network of retail outlets. Peiris entered into a contract with Gunarathna & Company to delivery container loads of their food items at a charge of Rupees Five Thousand per container load within a certain designated area irrespective of the distance for a period of 03 years beginning on 01st October.

Peiris relies on this contract to obtain a bank loan to increase his fleets of lorries. Unfortunately, after a lapse of 1 ½ years, Gunarathna & Company expressed its wish to re-negotiate the delivery charge, threatening immediate withdrawal unless the delivery charge is reduced to Rupees Four Thousand per container load. Peiris agrees as the prospect of losing Gunarathna & Company's business was an unbearable loss.

At the end of the contract period, Peiris requests for your advice as to whether he can re claim the lost of Rs.1000/- on every delivery he made on the ground that the contractual modification was voidable for economic duress.

Advise Peiris: