

THE OPEN UNIVERSITY OF SRI LANKA

LL.B. DEGREE PROGRAMME - LEVEL IV

FINAL EXAMINATION – 2008

LAW OF CONTRACTS AND AGENCY – LWU 2311

DURATION – THREE HOURS

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Date: 25<sup>th</sup> March 2008

Time: 9.30a.m. – 12.30p.m.  
.....

Answer FIVE questions only

Illegible handwriting will be penalized

**PART I - LAW OF AGENCY**

Answer ONE question only from this part

1. (a) Explain the doctrine of “necessary authority” in the Law of Agency with reference to decided cases.  
  
(b) Discuss briefly the meaning of the “doctrine of estoppel” in relation to the Law of Agency.
2. (a) Discuss the maxim ‘*delegatus non potest delegare*’ in relation to the Law of Agency.  
  
(b) Hi-tech paints Ltd., appoints Gunadasa to sell their paints with a 10% commission on the sales made by him. Gunadasa, without the knowledge of Hi-tech paints Ltd, sells the paints to Skylark Industries. Skylark Industries is unaware that Gunadasa is an agent of Hi-tech paints Ltd. Gunadasa who is in debt to Skylark Industries, agrees to set off the debt against the paints sold to Skylark Industries. Skylark Industries does not pay for the paints.  
  
Advise Hi-tech Paints Ltd.
3. (a) “The most important duty of the principal is to remunerate the agent for services rendered”.  
  
Discuss.  
  
(b) Sirisena wanted Piyasena, his agent to find a person willing to advance him some money on the mortgage of his property. Piyasena, with

considerable effort on his part, found Jayatissa who was willing to advance the necessary cash. Later, it was discovered that Sirisena did not have proper title to the property and the transaction did not take place.

Advise Piyasena.

## **PART II - LAW OF CONTRACT**

Answer **FOUR** questions **only** from this part.

4. Ranjan, a sporting enthusiast published an advertisement in the newspaper stating that he would pay Rs.25, 000 to anyone who could walk from Colombo to Kandy in four days. The competitors had to begin the walk from the Kelaniya bridge on 1<sup>st</sup> January. A large number of competitors set off at the appointed time but only Rohan, Mohan and Sohan completed the walk in four days. On the last day of the walk, Ranjan published a second advertisement in the newspaper, announcing that he was withdrawing the offer as he did not have enough money to pay all the possible winners.

- (a) Rohan heard of the withdrawal when the walk was over.
- (b) While still on the road Mohan was told by a journalist that the offer was withdrawn but did not believe the news and completed the walk.
- (c) Sohan knew nothing of the original offer and took part in the competition as a physical endurance test.

Can Rohan, Mohan and Sohan claim the prize?

Discuss.

5. David, a stockbroker was approached by Henry who asked him about the suitability of investing in the shares of Sunhill Enterprises Ltd. David said, "You should, it is a very strong company, which improves its performance on a regular basis. A well known company director called Norton de Alwis is also a director of that company, well I own 10,000 shares in that company, which I am prepared to sell to you." Henry purchased the shares of David for Rupees four Hundred Thousand. About two months later, the company went into liquidation. The shares are now worthless. It was revealed that,

- (a) Norton de Alwis resigned from the Board of Directors two weeks after David's statement was made, and that;

- (b) David's statement regarding the prospects of the company was based on an article contained in a business journal which actually referred to 'Sunhill Enterprises' but gave the name of 'Sunhill Enterprises Ltd' due to a printing error.

Advise Henry.

6. (a) "Courts are prepared to exercise a great deal of caution and ingenuity to restrict the scope of exemption clauses."

Comment.

- (b) Agricola company agreed to supply a certain quantity of seed potato to Ranjan for Rupees Fifty Thousand. The contract between the company and Ranjan contained a clause which purported to limit the liability of the company in the event of the seed potato proving defective, to replacing the defective seed or refunding the purchase price thereof, and further stated that all other liabilities whatsoever were to be excluded. As a result of the negligence of the company's employees, the seed supplied was not of the variety agreed upon and was unusable.

Ranjan lost a year's production from the three acres of land he intended to cultivate and claims damages from the Agricola Company.

Discuss.

7. (a) Discuss briefly the rules relating to the scope and applicability of the doctrine of frustration in contract law.
- (b) Saman agreed to allow Suresh and his family the use of Saman's Tourist Bungalow for one week for Rs. 15,000. Suresh paid a deposit of Rs. 5000, the balance being payable the day before the holiday was to commence. Two days before the holiday was due to begin, Suresh's children were taken ill with mumps and Suresh sent a medical certificate to this effect to Saman stating that the holiday would have to be cancelled. Saman expressed regret but demanded the balance agreed sum.

Advise Suresh.

8. "Irrespective of whether the innocent party elects to treat the contract as being discharged by the breach or not, he has a right to sue for the recovery of damages resulting from the breach. But to what extent he is entitled to receive compensation for the damages suffered by him, depends upon the rules relating to remoteness of damage".

Discuss the above statement with reference to decided cases.

9. (a) "Although a donation made during the lifetime of a donor (***donatio intervivos***) is as a general rule irrevocable the donor may, under special circumstances, set aside such a donation with the sanction of a court order".

Discuss.

- (b) "A ***donatio mortis causa*** is a special kind of gift which has characteristics of both contract and legacy".

Discuss.

10. Write notes on any two of the following.

- (a) Duress
- (b) Undue influence
- (c) Unassisted contracts of minors
- (d) Novation
- (e) Liquidated damages and penalty.

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