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NATIONAL UNIVERSITY OF LESOTHO

FAULTY F LAW

L485- PRACTICAL LEGAL TRAINING

LL.B FINAL EXAMINATION

MAY 2017

MARKS 100

TIME: 3 HOURS

INSTRUCTIONS:

1. Answer any **FOUR (4)** questions.
2. Refer to decided cases.
3. You may bring your High Court Rules into the Exam room.
4. All questions carry equal marks.

Question 1

Section 6 of the Legal Practitioner's Act requires that before one can be admitted to practice as an advocate, he must be a "fit and proper" person.

Discuss the notion of a "fit and proper person."

[25 Marks]

Question 2

In terms of the Legal Practitioners Act, it is a requirement that one should have obtained an LL.B degree from the National University of Lesotho before they can be admitted as advocates in the Courts of Lesotho.

With the aid of decided cases, outline how the courts of law in Lesotho have interpreted the requirement of "a holder of an LL.B degree from the National University of Lesotho."

[25 Marks]

Question 3

Outline the duties of a legal practitioner towards:

- | | | |
|-------------|---|----------------|
| i. | His clients. | 5 marks |
| ii. | His colleagues | 5 Marks |
| iii. | The law of the land | 5 Marks |
| iv. | The court | 5 Marks |
| v. | A judge; in an application for recusal of a judge | 5 Marks |

[25Marks]

Question 4

Makakapa car sales have advertised a car in the weekly newspapers. The adverts read as follows:

2ND HAND CAR FOR SALE. MAKE: FORD ESCORT. LOW MILAGE. MODERN FUNKY COLOUR. GOOD SERVICE RECORD. NEW TYRES FITTED. PREVIOUS OWNER, OLD LADY. PRICE. M165, 000.00 NOT NEGOTIABLE. CALL 5444400022 FOR SALES OR MORE INFORMATION.

There is no picture of the car in the newspaper.

Lirethe Lieta comes across the advert and because he is really desperate for a car, he calls the number on the advert. He tells the receiver of the call that he has read the advert in the newspaper and does not require more information. All he wants is the account number where he can deposit the funds.

He deposits such funds after the conversation with the call receiver.

After 3 days the car is delivered to him at his work place. It turns out that the colour is shocking pink, the mileage is above 100 000 Km. The new tyres that are fitted are a cheap brand that would not last long.

He is of the view that the advert misrepresented the facts. He has come to you for advice.

(a) Draft consultation notes

10 Marks

(b) Draft a letter of demand

15 marks

[25 marks]

Question 5

Malebese Lebese (born Borocho) is a woman married in community of property. She is married to Mafi Lebese. A man who is a soldier. Mafi is an abusive husband who physically abuses her at least once a week. He also has an adulterous relationship with their maid.

They have three (3) children, one of whom is 21 years old, the other two (2) are minors. They own a house and two cars.

On the 27th March 2017, Malebese had left her wallet at home. She rushed back home to collect it. She found Mafi in bed with the maid in a compromising position.

Malebese feels that this is the last straw and she decides to leave the matrimonial home.

She has come to you for advice seeking a divorce.

Draft a combined summons instituting divorce proceedings.

[25 Marks]

Question 6

Mathe Leleme has received summons from Meno Masoeu in which Meno Masoeu has prayed for the return of a motor vehicle which she claims Mathe has failed to pay in terms of the agreed instalments. Below is the Declaration which Meno has filed in Court. You have consulted Mathe and her defence is that the contract of sale had a warranty wherein the seller had guaranteed that the car had its engine overhauled and was in good condition. The guarantee was for a period of 12 months. After 2 months of driving the car the engine ceased to function because it was never serviced nor was it overhauled.

IN THE HIGH COURT OF LESOTHO

HELD AT MASERU

CIV/T/22/17

In the matter between

MENO MASOEU

PLAINTIFF

And

MATHE LELEME

DEFENDANT

PLAINTIFF'S DECLARATION

-1-

PLAINTIFF is Meno Masoeu, a male Mosotho adult of Rapo -le- Bolila in the Maririba District.

-2-

DEFENDANT is Mathe Leleme, a female Mosotho adult Rapo-le Bolila in the Maririba District.

-3-

The Honourable has jurisdiction to entertain this matter.

-4-

On the 24th September 2016, the parties entered in to a contract of sale wherein the plaintiff sold to the defendant a motor vehicle, which was in good working condition described as thus;

MAKE: TOYOTA COROLLA 2010 MODEL

REG #: ABD 111

COLOUR: YELLOW

ENGINE NUMBER: 1197764

VIN NUMBER: 228563420

-5-

The agreed price of the motor vehicle was M150, 000.00 (One hundred and fifty thousand Maloti)

-6-

6.1 It was a specific term of the contract that the defendant will pay a deposit of 50,000.00 (fifty Thousand Maloti) as a deposit.

6.2 It was also agreed that thereafter the defendant will pay instalments of M20, 000.00 until the debt was extinguished.

6.3 The defendant duly paid the deposit and the first instalments

-7-

7.1 In breach of the agreement, the defendant has failed to the subsequent instalments per the agreement. To date the Defendant has paid the amount of M 70, 000.00 (seventy Thousand Maloti).

7.2 The amount outstanding is M 80, 000.00 (eighty thousand Maloti)

-8-

As a result of the Defendant's breach, the Plaintiff has suffered damages in the amount of M80, 000. 00 (eighty Thousand Maloti).

-9-

Despite demand, the Defendant has failed to pay the said amount despite being capable to do so.

WHEREFORE the Plaintiff claims against the Defendant;

1. Payment of the amount of M80, 000. 00 (Eighty Thousand Maloti).
2. Interest thereon at the rate of 13% per annum
3. Costs of suit
4. Any further and or alternative relief that the court may deem fit

(a) Draft a notice of Appearance to Defend of behalf of Mathe. **10Marks**

(b) Draft a plea on behalf of the defendant. **15Marks**

[25Marks]