

NATIONAL UNIVERSITY OF LESOTHO**FACULTY OF LAW****LL.B – FINAL EXAMINATIONS****L3309 – SPECIAL CONTRACTS I****JANUARY 2024****MARKS: 100****TIME: 3 HOURS**

INSTRUCTIONS:

1. This paper contains **SIX (6)** questions. Answer any **FOUR (4)** questions.
 2. All questions carry equal marks.
 3. All answers must be numbered and begin on a new page.
 4. Refer to decided cases to support your answer.
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QUESTION 1

Potso appoints Mosebetsi as his agent to find buyers and sell for him two cows and three sheep for the price of M800 per sheep and M2000 per cow. The animals are kept at Potso's home at Morija. Mosebetsi immediately starts on the mandate and three days later he has managed to negotiate the sale of the animals with two clients, Tefo and Boss. Tefo agrees to buy two sheep and Boss agrees to buy a sheep and two cows.

Before Mosebetsi can finalise the sale with both buyers, he receives an emergency call from his brother informing him that their mother is very sick and had to be hospitalised. Mosebetsi informs Potso that he is unable to continue with the mandate and must attend to the family crisis. Potso agrees to release Mosebetsi and he later appoints Kutlo who completes the two sales.

Two weeks later, Mosebetsi calls Potso about payment of his commission that he needs to pay for his mother's hospital bill. Potso rejects Mosebetsi's request and informs him that he had to pay Kutlo and that Mosebetsi is fully aware that the mandate was left incomplete.

Advise Mosebetsi whether he has any basis to claim payment.

[25 MARKS]

QUESTION 2

Bashemane meets Tlotliso at a social event in town. In their discussion, Bashemane discloses to Tlotliso that he is searching for land to start his farming business. Tlotliso approaches Zick and professes to be Bashemane's agent. He is able to negotiate the price of Zick's land down by 20 percent. When Bashemane discovers the sale, he immediately accepts the deal and arranges to make payment the same day.

- a) With reference to decided cases, explain whether Bashemane is bound by the contract, even though Tlotliso acted without authority. **15 Marks**
- b) Would Tlotliso be liable to Zick if Bashemane had rejected the contract? Discuss. **10 Marks**
- [25 MARKS]**

QUESTION 3

Thabang, a well – known businessman, wishes to enter into a sale contract with Mohlanka to purchase the latter’s state of the art sound system. Thabang however wishes to remain anonymous to Mohlanka throughout the entire sale. He intends to appoint Raboi as his agent.

- a) Advise Thabang whether it is legally possible for him to remain anonymous and for the seller to never know of his existence. **12 Marks**
- b) In the event of breach by Mohlanka in the contract, advise Thabang of his rights and extent of his liability. **8 Marks**
- c) Would you recommend Raboi to go ahead and accept the mandate? Explain the extent of his liability if any. **5 Marks**
- [25 MARKS]**

QUESTION 4

Joy is employed as a guard at Lipeleng Stocks, a brick manufacturing company at Mangopeng, Roma. During lunch hours, she usually assists by showing clients the products and even concludes sale of bricks with them. Botle, a manager of the company, is aware of this. Joy sold 1000 bricks to Tompi who paid cash. Delivery is agreed to be the following day. A month later, the bricks are still not delivered. Tompi telephones the company to demand his money back or immediate delivery

of his bricks. Botle does not dispute that Joy at times deals with clients but insists that it only happens during very busy rush hours, otherwise she is just a guard.

Is the company liable to the client? Are contracts concluded by Joy binding on the company? **[25 MARKS]**

QUESTION 5

Hire purchase agreements are a special type of sale. Unlike ordinary sales, it has distinctive features that distinguish it from ordinary credit sales.

Discuss fully the **five** main distinctive features of a hire purchase agreement. **[25 MARKS]**

QUESTION 6

The *Hire Purchase Act of 1974* stipulates the formalities that must be complied with by the parties for conclusion of a valid hire purchase agreement.

Discuss the **five** main formal requirements as laid out in section 7 of the Hire Purchase Act. **[25 MARKS]**