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(University of Choice)

MASINDE MULIRO UNIVERSITY OF SCIENCE AND TECHNOLOGY (MMUST)

MAIN CAMPUS

UNIVERSITY EXAMINATIONS

2023/2024 ACADEMIC YEAR

FOURTH YEAR FIRST SEMESTER MAIN EXAMINATIONS

FOR THE DEGREE

OF BACHELOR OF EDUCATION

COURSE CODE: BCB 124/BCB 106

COURSE TITLE: BUSINESS LAW

DATE: WEDNESDAY, 13TH /12/2023 TIME: 3:00 – 5:00PM

INSTRUCTIONS TO CANDIDATES

1. ANSWER QUESTION **ONE** AND ANY **OTHER TWO** QUESTIONS
2. DO NOT WRITE ANYTHING ON THE QUESTION PAPER

TIME: 2 HOURS

MMUST observes ZERO tolerance to examination cheating

This Paper Consists of 2 Printed Pages. Please Turn Over.

QUESTION ONE

The defendant company manufactured and owned a drug named''Marbolic sweet ball'' which the company thought was the best cure for influenza, cold and other diseases associated with taking cold water.

The company put an advertisement in the newspaper to the effect that a kshs 10,000 reward would be given to any person who contracted influenza or related diseases after taking the sweet ball as prescribed i.e.2 tablets, 3 times a day for 2 weeks. The advertisement further stated that the company had deposited kshs. 100,000 with Apple bank on Kren street as a sign of their sincerity in the matter. Mrs Carley who had read the advertisement bought and took the sweet balls as prescribed but contracted influenza. The company rejected her claim and she sued. The company argued that the advertisement:

- Was nothing but mere sales talk
- Was not an offer to the whole world
- Was not intended to create legal relations

a.Examine the legal position in the instant case (4 marks)

b.Explain the legal rules governing acceptance of an offer. (5 marks)

c. Describe the reasons why business persons prefer arbitration rather than litigation (6 marks)

d.Highlight five features of a bill of exchange (5 marks)

e.You have been appointed as a consultant to draft an employment contract for Chetty Ltd which is a company that was recently incorporated and has employed several employees. Taking into consideration the contents of an employment contract, proceed. (5 marks)

f.Write a note on ways of acquiring citizenship in Kenya. (5 marks)

QUESTION TWO

a.Distinguish between a Hire purchase agreement and the following transactions;

i.Credit sale (2 marks)

ii.Conditional sale (2 marks)

b.State and explain the terms implied in a Hire Purchase agreement. (10 marks)

c.What is bailment? Explain the duties of a bailee. (6 marks)

QUESTION THREE

a. Patty purchased 700kg of canned fruits from Rax Fruits Company. It was agreed delivery was to be in boxes containing 40 tins. Some of the boxes supplied contained 27 tins and others 43 tins and Rax Fruits Company made a delivery of 750kg of canned tins of fruits. Patty has received the delivery and is aggrieved. She seeks your advice on her legal rights in regards to the consignment delivered.
(3 marks)

b.In relation to Sale of goods Act discuss the rights of the unpaid seller. (10 marks)

c. Ralph is the proprietor of a newspaper that published an article last week to the effect that Nana the ceo of Brinx Ltd a child welfare organization had embezzled thirty five million shillings from the organization to purchase a private residental house which was an eight bedroomed mansion in the leafy suburbs. Investigation revealed that Nana bought the house out of a loan advanced to her by Chelton bank.
Nana is aggrieved and seeks your legal advice. Advice Nana on;

i.the cause of action she can bring and the remedy available to her. (3 marks)

ii. Essentials of the wrong committed. (4 marks)

QUESTION FOUR

a. Annah tells Brandy in the presence and within the hearing of Prisca that she (Annah) is Prisca's agent and Prisca does not contradict this statement. After some time Brandy enters into a contract with Annah honestly believing that Annah is Prisca's agent. Is Prisca bound by this contract? Explain the circumstances surrounding agency creation in this case. (5 marks)

b.Explain ways through which agency relation may come to an end. (10 marks)

c. Differentiate between companies and partnerships as forms of business organizations. (5 marks)

QUESTION FIVE

a.Equity is a mere gloss on common law. Elucidate on the short comings of common law that led to the development of Equity. (10 marks)

b.The relationship of partners comes into existence by mutual agreement and the rights and liabilities of partners between themselves are primarily governed by their partnership agreement; but if this silent on any particular matter, reference is made to the Provisions of Partnerships Act. Identify and explain rights of a partner. (10 marks)