



NATIONAL OPEN UNIVERSITY OF NIGERIA
FACULTY OF LAW, DEPARTMENT OF COMMERCIAL LAW
Plot 91, Cadastral Zone, Nnamdi Azikiwe Express Way, Jabi – Abuja

JUNE 2021_1 EXAMINATION

COURSE CODE: CLL331

COURSE TITLE LAW OF COMMERCIAL TRANSACTIONS – I

CREDIT UNITS: 4

- INSTRUCTIONS:**
- (a) Indicate your Matriculation Number clearly
 - (b) Attempt Question one (1) and any other three (3) questions
 - (c) Question one (1) is compulsory and carries 25 marks; while the other questions carry 15 marks each.
 - (d) Using appropriate statutory and judicial authorities, present all your points in a straightforward, coherent and orderly manner.

TIME ALLOWED: 2.5 Hours

QUESTION 1

The recent election of Ms Ngozi Okonjo Iweala to the headship of World Trade Organisation has excited the interest of Nigerians in legal aspects of trade. One of the many questions on their lips is whether the law can be or has been an effective instrument in the regulation of trade between nations. They ask this question when it is considered against the near monopoly of China in the manufacture and distribution of medicaments for combating and controlling the coronavirus pandemic. A group of trade experts has approached you and sought solutions to the following legal problems:

- (a) Are there any options if one desires to enter into an F.O.B. type of contract? (5 marks)
- (b) Johnston placed orders for ten million pieces of KN95 face masks. The Chinese manufacturers delivered the goods to the Mother Nigeria, the carrier. Sea pirates attacked the ship, leading to the loss of fifty per cent of your goods. Who bears the risk of loss here? (8 marks)
- (c) On her part, Juanita stated that she placed order for five million bottles of Moderna hand sanitizers. When the South African manufacturer shipped the consignment, they failed to give her the name of the ship, the number of containers and pallets involved, the batch number among other information she required to insure the goods. Her insurers refused to underwrite the risk. She lost the entire shipment to pirates. Do you have any advice for her?

QUESTION 2

Your uncle is the Chief Executive Officer of Worldwide Logistics and Supplies Limited. The business has grown and rapidly expanded into international trade. To avoid making costly errors in the contracts the company enters into with international trade partners, your uncle has asked to advise him on the specific rights available to a buyer in a case where the seller falls in breach of a CIF contract. (15 marks)

QUESTION 3

Provide a sound opinion on the following legal situations:

- (a) An argument ensued between a Nigerian businessman (the buyer) and his Chinese counterpart (the seller), over the right of the latter in respect of the subject matter (10 million pieces of welding electrodes) of an FOB contract between the business partners. (10 marks)
- (b) Based on the notification of a confirmed letter of credit, Messrs Xinhua Chinese Tire Manufacturing began production of various sizes and types of tyres for Messrs Jimetta Ventures Ltd, a Nigerian entity. Before shipment, a misunderstanding ensued between Jimetta Ventures and Xinhua Tyres over the quality of tyres. To avoid a prospect of having the tyres rejected by the Nigerian Standard Organisation, Jimetta Ventures instructed its bankers to cancel the letter of credit pending the settlement of the question of quality of the tyres. Is Jimetta Ventures rightly guided in its decision? (5 marks)

QUESTION 4

- (a) Using judicial and statutory authorities, elaborate on the doctrine of *res perit domino*. (7 marks)
- (b) Enumerate the core provisions of the Hague Rules on Carriage of Goods by Sea. (8 marks)

QUESTION 5

Using the authority of *Esso Petroleum Ltd v Commissioners of Customs and Excise* (1976) 1 All ER 117, distinguish between a sale and gift. (15 marks)

QUESTION 6

Miss Prettie's wedding is scheduled to come up before her admission to the Nigerian Law School for her professional training. She discovered that wedding rings from her jeweller were 24-carat gold plated as against the 36-carat gold plate the jeweller described to her. It was also discovered that the rings were damaged as a result of wrong packing. As a result, the rings could not fit into her ring finger. Miss Prettie has asked for your advice on the following issues:

- (a) What is the determinant of unmerchantability? (3 marks)
- (b) List the conditions for the application of the law in the area depicted by the facts above (9 marks)
- (c) Would it matter if Miss Prettie had opportunity to examine the rings but did not do so? (2 marks)