



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

2021_2 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

Examine and advise on the following contractual situations:

- (a) Bisola had a second-hand power generating set which she bought new in January 2020 and had been used for only six months or 75 running hours. Abubakar who lives in Sabon Gari Kano agreed to buy the equipment and pay for the delivery costs, if the generator is delivered to the Lagos-based logistics company. It turned out that Bisola had no generator at the time; she merely took steps afterwards to acquire the machine for the contract. On delivery Abubakar rejected the generator as being too old and that it required repairs. He sought to return the generator, but Bisola argued that she would rely on Rule 1 to press for her rights. Advise her. (7 marks)
- (b) The Young Shall Grow Cooperative Society entered into a contract to buy a milling machine from Worldwide Investments Limited. The machine which weighed 45 tons was, at the time of the contract, still attached to and embedded in a cement floor. By the contract, the sellers were to dismantle, remove and load the machine onto a delivery truck. They had to incur extra costs. Sadly, the engine got damaged while it was being loaded on a truck for delivery to the buyers. The sellers are relying on Rule 2 to enforce their rights under the contract. Advise them. (10 marks)
- (c) Briefly discuss the elements of liability in a contract of carriage of goods by air. (8 marks)

Question 2

Twist and Smart are friends. Twist agreed to sell his Rolex wristwatch at an agreed price of US\$6,500:00 to Smart, who did not intend to use the wristwatch. In fact, the contract was on the basis of “sale or return”. Smart needed money to pay his bills; he deposited the wristwatch with Madam Cashless, a pawnbroker. This fact was agreeably known to Twist. However, discussing with his wife, Twist now brought action against Madam Cashless for recovery of the wristwatch.

- (a) Recast the statements of Rule 4 (6 marks)
- (b) Under what provision of the law would you find Rule 4? (2 marks)
- (c) What aspect of the Rule 4 (if any) is applicable in the circumstances? (4 marks)
- (d) What is authority for your answer in (c) above? (3 marks)

Question 3

- (a) The general rule of contract law is that “in the absence of fraud, duress or misrepresentation the courts will not question the adequacy of consideration. Identify and explain the circumstances in which the courts will hold consideration insufficient to support a contract. (10 marks)
- (b) List the situations in which the right of the buyer to reject the goods will be lost. (5 marks)

Question 4

Mallam Nasir just returned from Ukraine. He was introduced to Mr. Mindless, who had a car for sell. Mallam Nasir convinced his father to buy the car for him at a fair price of 3 million NGN. It turned out that the car was stolen; Mr. Mindless was later tried and convicted of the offence of theft by Kwara State High Court. Of course, Mallam Nasir did not have these facts, and proceeded to sell the car to his friend, Prince Borgu, at 3.5 million NGN. Two weeks' later, the police confiscated the car from Prince.

- (a) If Prince decides to recover his money, what specific provision of the law would he rely on? (4 marks)
- (b) Do you have any judicial authority for your answer in (a) above? (4 marks)
- (c) Would your answer be different, if on the same facts Mallam Nasir had bought the car from an open, public and legally constituted market for automobile? (5 marks)

Question 5

Mikel Sprint bought a fairly used 2019 Lexus 350 for his wife. The car cost him a whopping 7.5 million NGN. The dealers, Messrs Nigeria Car Outlets Limited, had told him that the gear selection system was faulty and had to be fixed. They offered Mr. Sprint two options: either he pays the 7.5 million and assumes the duty to repair the gear system, or the dealers would fix, and he pays 8 million NGN instead. Ready to make the most of the opportunity, he chose the latter. However, he found the problem was greater than imagined as he spent additional 1.2 million NGN to fix the gear system. He is now spoiling for action.

- (a) As the learned counsel, what are the chances of Mr. Sprint? (10 marks)
- (b) Briefly state the principle behind holding in the case of *Mayfield Photographic Ltd v Baxter Hoare Ltd* (1972) 1 LR 410 (5 marks)

Question 6

Extrapolate the duties of the seller as against that of the buyer in a typical contract free on board contract. (15 marks)