



NATIONAL OPEN UNIVERSITY OF NIGERIA
FACULTY OF LAW, DEPARTMENT OF COMMERCIAL LAW
Plot 91, Cadastral Zone, Nnamdi Azikiwe Express Way, Jabi – Abuja
2022_2 Examination

COURSE CODE: CLL234

COURSE TITLE Law of Contract II

CREDIT UNITS: 4

INSTRUCTIONS:

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

TIME ALLOWED: 3 Hours

QUESTION 1

- What are the differences between ‘duress’ and ‘undue influence’? Do the two concepts together constitute a law against unconscionable contracts? - **15 marks**
- Betty, an administrative staff in one of the high-profile schools in Port Harcourt, whose husband has recently died, is very concerned about how she is going to manage without his income and take care of their large house and 2 young children. She explained her worries to Chief Leonard, a friend, who is a successful businessman and has advised her many times in the past. He suggested that she should “downsize” by selling her five-bedroomed house and moving into a smaller property. Later he offered to buy the house for N20M. Betty accepted this offer and entered into a written contract to sell the house to Chief Leonard. Two weeks after signing the contract she discovered that the house was worth well over N50 Million. Advise Betty- **10 marks**

QUESTION 2

Mistake in contract law is an incorrect understanding by one or more parties to a contract and may be used as grounds to invalidate the agreement. Common law has identified three different types of mistake in contract. Discuss **15 Marks**.

QUESTION 3

- List and explain any three of the exceptions to the doctrine of privity under the law of contract. **10 Marks**
- Miriam has purchased an old warehouse to convert into an event hall. She has hired Dayo to lay a suitable floor for her at a cost of N5000. In their contract Dayo asked that the money be paid directly to his estranged wife, Nneka. Miriam insisted that Dayo purchase a specified type of flooring from a specialist supplier, Patchy Flair Ltd. Patchy Flair Ltd provided written assurances to Dayo that the floor would last for at least 10 years. The contract also provided that only a party to the contract could assume rights and obligations under the contract.
Dayo fitted the floor appropriately. Unfortunately, he was killed in a motor accident before Miriam could pay him. The floor he laid has begun to buckle and show signs of wear and tear after only a few weeks. This was because of the materials, not Dayo's workmanship.

Advise Miriam as to whether she has an obligation to pay the money owed to Dayo to Nneka and whether she can rely on the assurances given to Dayo as to the durability of the flooring provided by Patchy Flair Ltd. 5 Marks

QUESTION 4

The general rule is that since contracts are created by agreement they can be extinguished by agreement.' Discuss. **15 Marks**

QUESTION 5

NeXT Generation Stars are musicians that specialised in afro hip-pop songs. They are planning an exclusive music concert on a floating stage, which will sail up and down the Apapa wharf past Marina waterfront on Easter Sunday on 5 April. The Lagos Docks Boatyard Ltd had contracted with the NeXT Generation Stars for the hire of Blue Anchor. On 2 April Lagos Docks Boatyard Ltd received a better offer from Victoria Island Local Government to host a floating firework display and had to inform NeXT Generation Stars that the that the barge is not available. The NeXT Generation Stars expressed their disappointment but still wanted to hire the Blue Anchor. On the morning of 1 April NeXT Generation Stars had agreed with Top Promotions Ltd to run a series of advertisements on 31 March, 2 and 3 April using both radio and TV jingles and adverts at a cost of N500,000. They rang Top Promotions Ltd on the afternoon of 1 April to cancel their deal. They decided with just posters and flyers that would be sufficient. Top Promotions Ltd said it was too late and they would run the promotion regardless. On 4 April the Blue Anchor was struck by lightning and sank.

- a) Advise the NeXT Generation Stars as to whether they have any cause of action against the Lagos Docks Boatyard Ltd for breach of contract. **7 Marks**
- b) Whether NeXT Generation Stars must pay Top Promotions Ltd, who had already ran the Radio and TV promotions and are now threatening to sue for price? **8 Marks**

QUESTION 6

- a) Explain and discuss the following terms in a contract,
 - i. Discharge of contract **–4 Marks**
 - ii. The different between recession and variation in a contract– **4 Marks**
- b) Madam Rebecca wanted to build a shop on land in the corner piece by her house. Makepeace Builders Ltd (MBL) agreed to do the work at an overall price of N3.5 million with 50 per cent payable in advance and 50 per cent on completion. Madam Rebecca paid MBL N1.75M and work started. Two weeks into the project Madam Rebecca realised that she did not specify that she wanted an electrical power supply and separate Meter to the shop. MBL said that this could be arranged for an additional N350,000. Madam Rebecca agreed, and MBL engaged Prince of Light Electrics (PLE) to carry out the work. On 1 June, following completion of the work MBL asked for payment of the outstanding payment of N2.M. On inspecting the shop Rebecca found that the way in which the windows and doors had been fitted left small gaps through which rainwater could seep through. In addition, the door lock on the front of the shop did not work. Inside the shop, the shelves for display of goods, the woods were thinner than had been specified in the contract, and to Madam Rebecca's mind is too flimsy to be suitable for shelves. Finally, Madam Rebecca discovered that when the lights in the shop are switched on the lights in the upstairs rooms of her house did not work. Madam Rebecca told MBL that she would not make any further payment until all the defects are put right. On 3 June a representative of SE came and rectified the problem in relation to the lights. He asked Madam Rebecca to pay PLE N350,000 direct for the electrical work, which is the price that PLE charged MBL, but Madam Rebecca refused to do so.

Advise Madam Rebecca as to whether she is entitled to withhold all payments until all the work is completed to her satisfaction. – 7 Marks