

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
FINAL EXAMINATION, DECEMBER 2016

TITLE OF PAPER : LAW OF CONTRACT

COURSE CODE : LAW 203

TIME ALLOWED : THREE (3) HOURS

INSTRUCTIONS : 1. ANSWER ANY FOUR (4) QUESTIONS.

**2. MARKS ARE INDICATED AT THE END OF
EACH QUESTION. CANDIDATES ARE
THEREFORE ADVISED TO ALLOCATE
THEIR TIME ACCORDINGLY.**

**THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION HAS BEEN
GRANTED BY THE INVIGILATOR TO DO SO.**

QUESTION 1

Tsabedze bought Magagula's Mercedes Benz 300 motor-car for E250 000. Tsabedze alleges that he had been induced to purchase by the fraudulent misrepresentation of Magagula that the car was a 2009 model. Tsabedze before even discussing the purchase of the car with Magagula, or discovering the year of manufacture had taken a fancy to the vehicle, and determined to offer E250 000 for it.

Tsabedze wishes to rescission of the contract concluded. Advise him. (25 marks)

QUESTION 2

Mabuza is selling his house through an estate agent, Hlophe, who shows the house to Mazibuko. Mazibuko puts in a written offer by signing a standard – form offer – to – purchase document drawn by Hlophe. The document contains a clause stating that the offer is irrevocable for a period of 30 days. Mabuza thus has 30 days in which to accept or reject Mazibuko's offer. Within the 30 days period Gumedze offers a very attractive price for the house to which Mabuza agrees thus selling the house to Gumedze.

Mazibuko is not at all amused with this turn of events he has approached you for advise. (25 marks)

QUESTION 3

Mbuli saw an advertisement in the Times of UNISWA showing plots that were put up for sale by the National Housing Board at Coates Valley. The advertisement stated the price of each plot and the site of the property. The plot that Mbuli was in fact interested in was not the site indicated in the newspaper but was in site B, however the agent of the National Housing Board failed to point out to her this state of affairs at the time of the contract.

Being aware of the true state of affairs Mbuli wishes to cancel the contract. Will she succeed? (25 marks)

QUESTION 4

Maseko wanted to acquire a house for his family. He went to the Manzini Estate Agency to enquire if they had any houses for sale in a quiet residential township which is close to schools and shops. Khumalo the Sales Agent sold Maseko a house in Palm Beach Township, which Maseko immediately fell in love with. However, the agent did not disclose information which he had that the neighbouring land had been zoned for heavy industry.

Maseko discovered this fact after the contract. Can he set the contract aside? (25 marks)

QUESTION 5

A has suffered a series of misfortunes in his home. His fields were all damaged by hail storms, ten of his cows were struck by lightning and all died, during the lightning storm two of his mud huts were gutted down by fire destroying all his property which was in the huts and ten of his chickens were also killed.

A consulted his traditional healer who told him that his ancestors were not happy with him, and that in order to appease the ancestors A had to donate his remaining herd of fifteen cows to him. A duly delivered the cows to B, the traditional healer.

C, A's son upon hearing about this arrangement was very disturbed and told his father that there was no basis at all for him transferring his cows to B and that he should reclaim them immediately. On being approached by A and C, B refused to return the cows to A.

Discuss the legal position.

(25 marks)