



NATIONAL UNIVERSITY OF SCIENCE AND TECHNOLOGY

FACULTY OF THE BUILT ENVIRONMENT

DEPARTMENT OF CONSTRUCTION MANAGEMENT

CONTRACTS LAW

BCM 5208

Main Examination Paper

August 2024

This examination paper consists of 3 pages.

Time Allowed: 3 Hours
Total Marks 100
Special Requirements None
Examiner's Name: Mr N Khupe

INSTRUCTIONS

1. Answer question **One (1)** and any other **three (3)**
2. Credit will be awarded for appropriate use of decided cases.

MARK ALLOCATION

QUESTION	MARKS
1.	25
2.	25
3.	25
4.	25
5.	25
TOTAL	100

Question One (Compulsory)

M & E Construction Company, a renowned contractor, was contracted by Goldstein who is in diaspora to construct his house, a double storey building in Selbourne Park. The contract was signed on the 5th of April 2022 and the house was supposed to be completed on or before the 21st of January 2023. Based on the schedule of materials provided by M & E, Goldstein bought all the building materials and gave it to the Contractor. Instead of doing the work himself, the Contractor delegated his inexperienced subcontractors because he had other building projects running at the same time. This fact was never communicated to Goldstein. The subcontractors took advantage of his absence and sold half of the bags of Goldstein's cement and built the house with fewer bags of cement than required. This compromised the strength of the building. The house was completed three months earlier and the contractor was given his money plus performance bonus. On the 15th of May 2023, part of the house collapsed and killed 3 people staying in Goldstein's house and destroyed property worth \$5000. Upon investigations, it is indeed found that the house was not built according to recommended specifications. Advise Goldstein whether he can sue delictually from M & E Construction Company or his subcontractors.

[25 marks]

Question Two

- a) Highlight the importance of time and place for conclusion of contract. [5 marks]
- b) Mr Timson, a Plumber was employed by M & E Construction Company. In terms of the contract, Mr Timson was not permitted to start his own company or work for a competitor should he leave M & E Construction Company. Mr Timson worked for M & E from 2018 to 2022. In 2023 he got a good offer from City Contractors and left M & E. As a result, M & E is contemplating on suing Mr Timson for breach of contract. Advise M & E Construction. [10 marks]
- c) Mr Moyo, a marketing manager of PC properties assures Mr Randy the prospective buyer that the house he wanted to buy from PC Properties was 'well built'. The house belonged to Mr Khumalo and PC Properties was selling it on his behalf. The contract was then concluded between PC Properties and Mr Randy. Soon thereafter, Mr. Randy discovered that the house was starting to crack because of substandard materials which were used to build it.

Advise Mr Randy whether he can sue Mr Moyo or alternatively the PC Properties for misrepresentation. [10 marks]

[25 marks]

Question Three

- a) Explain the following terms as used in case law
 - i. Ratio Decidendi [5 marks]
 - ii. Obiter Dictum [5 marks]
 - iii. Distinguishing [5 marks]
 - b) Explain the importance of stare decisis in law [10 marks]
- [25 marks]**

Question Four

- a) Discuss the consequences of an illegal construction contract [10 marks]
- b) Mr Ronald, a Project Manager working for Typek Construction Company bought 80 door frames from Laser Hardware. He paid for the door frames and was promised that delivery was to be effected on the following day. Overnight, thieves broke into the shop and stole all 300 door frames in the Hardware. The company then called Mr Ronald in the morning to tell him what transpired and further informed him that they were not refunding his money since it was not their fault that the doorframes were stolen. Mr Ronald comes to you for advice. Advise Him. [10 marks]
- c) Would your advice be different in (b) above if his 80 door frames had been separated from the rest of the stock? [5 mark]

[25 marks]

Question Five

- a) Explain two (2) original methods of acquiring ownership. [10 marks]
 - b) With the aid of examples, distinguish between Traditio Brevi Manu and Constitutum Possessorium [6 marks]
 - c) Explain three (3) factors that affect consensus in Contracts Law [9 marks]
- [25 marks]**

END OF EXAMINATION