



THE UNIVERSITY OF THE WEST INDIES



EXAMINATIONS OF DECEMBER 2001

CODE AND NAME OF COURSE: LA21A - LAW OF CONTRACT II

DATE AND TIME:

DURATION: 2 HOURS

INSTRUCTIONS TO CANDIDATES: This paper has 2 pages and 6 questions.

Answer THREE (3) questions, at least ONE (1) of which must be selected from SECTION B. Answers may be confined to the law of any jurisdiction in the Commonwealth Caribbean unless the context indicates otherwise.

SECTION A

1. "As a general rule, money or property transferred under an illegal contract cannot be recovered."

To what extent is this an accurate statement of the present law?

2. "In order for a contract to be held void for common mistake, thereby excusing a party from all performance, that mistake must be 'fundamental'."

Comment on this statement and critically examine the meaning of 'fundamental' in this context.

3. Answer EITHER (a) OR (b)

(a) Critically analyse the doctrine of 'anticipatory breach' of contract.

OR

(b) "The victim of a breach of contract may, in some circumstances, nevertheless opt to rescind the agreement even though she has not suffered a substantial deprivation of expected benefit as a result of that breach."

Critically discuss the circumstances in which this may occur.

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SECTION B

4. While negotiating with Gina for the sale to her of his hot dog stall at the National Stadium, Fred tells Gina that he intends to use the proceeds of the sale to go on a Caribbean cruise and to enjoy his retirement. He claims that his hot dog stall is the most popular in the whole island and also informs Gina that he makes on average \$2,500 a month from the stall during 'a good year'. He offers to allow Gina to check these figures with his accountant, but Gina declines since she has observed for herself the popularity of Fred's stall when she attends shows at the Stadium. Had she consulted his accountant, however, she would have learnt that Fred has never made more than \$1,500 profit in any one month. Gina agrees to purchase the business.

Six months later, Gina is having difficulty making a profit, mainly because Fred, who has not gone on a cruise, is now running a hamburger stand near the Stadium. This stand is frequented by most of his old customers. In addition, most of those who are still buying hot dogs at the stadium are patronising the stall of one of Gina's competitors, Hal, which is easily the most popular.

Advise Gina.

5. Idris purchases five (5) tickets for the National Soca Finals which are to take place outdoors in Central Park on December 29. The tickets are priced at \$100 each. Two days before the finals, there is a severe thunderstorm which floods the park. There is brilliant sunshine for the next two days, but the Cultural Affairs Committee (CAC) cancels the finals on that date since the park is still soft underfoot, a factor which the CAC fears will deter patrons and thus reduce the takings at the gate.

The CAC reschedules the event for the following week on January 5, but since Idris is going to be out of the island on that date, he demands a refund of the price of the five tickets. However, the CAC refuses to refund this money on the ground that the tickets are valid for the next week's show and that the postponement of the event was due to an act of God.

Advise Idris.

6. Leonardo's Taxi Services Ltd. (LTS) contracts with Matador Garage Ltd. (MGL) to have LTS's fleet of 25 limousines repaired and/or serviced by MGL at a fee of \$10,000 per month. In the written contract, it is provided that in the event of failure to redeliver a car sent for repair/service within two weeks, MGL would pay to LTS a sum of \$500 per day for each day the car remains overdue.

Last month, LTS had a very lucrative government contract to transport a team of visiting dignitaries for \$5,000 per day for 3 days. LTS decided that it would need its 5 best cars for this arrangement. Two such cars sent to MGL for repair/service three weeks earlier are not redelivered to MGL until the day after the departure of the dignitaries.

In order to fulfil the government contract LTS was forced to lease two cars from its main competitor at \$2,000 each per day.

Advise LTS.