
**CERTIFIED PUBLIC ACCOUNTANT
FOUNDATION LEVEL 1 EXAMINATION**

F1.2: INTRODUCTION TO LAW

MONDAY: 2 DECEMBER 2019

INSTRUCTIONS:

1. **Time Allowed: 3 hours 15 minutes** (15 minutes reading and 3 hours writing).
2. This examination has **seven** questions and only **five** questions are to be attempted.
3. Marks allocated to each question are shown at the end of the question.

QUESTION ONE

Mr. SENGO is an accountant at a commercial bank in Kigali. He has an open-ended contract with his employer. Recently, he ran short of money at home due to her wife's health conditions, for which she has been hospitalized for the last six months. Consequently, Mr. SENGO requested salary advance loan from his employer to cover his wife's medical expenses. The loan worth five million Rwandan francs (Frw 5,000,000) was granted. After receiving the money, he has never come back to work and has not paid any bit of the debt.

Now you are the Head of Risk Controller of the bank. The CEO has instructed you to file a criminal case at Rwanda Investigation Bureau for recovery of that debt and prosecution of SENGO's before a criminal court for non-payment of the loan.

- a) Discuss the legality of this instruction and the possibility of recovering the debt through a criminal procedure. **(8 Marks)**
 - b) With examples, differentiate public from private law as major branches of law. **(5 Marks)**
 - c) Do the above acts of SENGO (Non-payment of debt and not coming back to work) form part of public or private law **(2 Marks)**
 - d) What procedure should the bank (employer) follow in recovering the unpaid debt of Mr. SENGO and before which court **(5 Marks)**
- (20 Marks)**

QUESTION TWO

Mr. ABAYISENGA while drunk had a dispute with his wife which ended into a serious fight, ending in assault and batteries, causing her several wounds all over her body. Luckily, his father-in-law interrupted the fight and took his daughter to hospital. The wife was discharged after three days with a permanent incapacity of 20%.

ABAYISENGA's father-in-law has already filed a criminal case for assault and batteries and the case is at the prosecution's level, the file is about to be submitted to a criminal court.

However, ABAYISENGA has learnt that there is an alternative dispute resolution mechanism called "arbitration". His friend told him it is the best way to resolve a dispute, since it keeps the matter in secrecy and avoids exposure of family privacy, thus protecting their family's reputation.

ABAYISENGA, his father-in-law and his wife have now entered into an arbitration agreement to submit the case to arbitration to ensure a confidential and speedy trial and to minimize the cost.

- a) Advise Mr. ABAYISENGA about the validity of their arbitration agreement. **(5 Marks)**
- b) In light of the above, describe the advantages of choosing arbitration over court litigation in case of a dispute. **(10 Marks)**

- c) What is the competent organ to administer justice in criminal matters **(5 Marks)**
(20 Marks)

QUESTION THREE

Mrs. NGOGA is a farmer in Nyaruguru. She owns the biggest corn and sorghum plantations in the area. For the last two months, she has been suffering from a terminal disease and has been hospitalized in Care Hospital. Before she fell sick, she had negotiated a supply contract with GIGA Ltd, a manufacturing company based in Kigali Economic Zone, which produces cassava, corn and sorghum flours.

Unfortunately, due to her health conditions, she sent her son Jonas, who is seventeen years old to sign on her behalf. However, being concerned with her capacity to enter into a contractual relationship. She approaches a law student Mr. NDABIZI who advised her to give Jonas powers of attorney, to ensure GIGA Ltd of his authority to sign the contract. The powers of attorney were successfully received by the company and the supply contract was duly signed between GIGA Ltd and Jonas on behalf of Mrs. Ngoga.

- a) By virtue of the contract law in Rwanda, discuss the validity of the supply contract between GIGA Ltd and Jonas. **(5 Marks)**
- b) Discuss the validity legal nature (type of contract) of the Power of Attorney signed between Mr. NGOGA and his son Jonas. **(5 Marks)**
- c) In light of the above scenario, discuss the essential conditions of validity of a contract under Rwandan Law. **(10 Marks)**
(20 Marks)

QUESTION FOUR

On Christmas of 2018, Mrs. Hannah went to Kigali Vehicles Ltd (KV Ltd) to purchase a car. She signed a sale contract with KV Ltd and paid half of the agreed price immediately after signature of the sale contract. They agreed that the remaining balance would be paid on the following day. The parties further agreed that the car would stay in the premises of KV Ltd until the official transfer in her name takes place at the competent authority. In the night that followed, there was a thunderstorm at the premises of KV Ltd and the said car was completely destroyed. Mrs. Hannah learning of the incident, she immediately came to request a refund of her money (half price) already paid. KV Ltd responded that the payment cannot be refunded since the risk and title of the property was already transferred to the buyer at the moment of signature of sale agreement.

- a) Discuss the legality of Mrs. Hannah's request for refund and the legality of KV Ltd's response. **(10 Marks)**

- b) Would there be any difference if they had rather signed an ‘agreement for sale’ than a sale agreement **(7 Marks)**
- c) KV Ltd wants to sue Mrs. Hannah for the remaining balance, even if the car was destroyed. Will this claim be successful **(3 Marks)**
- (20 Marks)**

QUESTION FIVE

Mr. KARASIRA is a sole trader who runs several retail fashion shops in Kigali. In 2015 he took a bank loan to finance his business activities and gave his car worth 40 million Rwandan francs as collateral for the loan amounting to 35 million Rwandan francs. From last year, his business has failed to grow due to financial losses and poor management which he administers alone. Now the total loan with interests is equal to 80 million Rwandan francs which continues to accumulate until final payment. The bank has initiated recovery process and sold the car in auction for only 25 million Rwandan francs.

Now the bank has learnt that Mr. KARASIRA owns a limited liability company called KK Corporation Ltd. This company is engaged in real estate business and has 5 apartments’ flat in Kicukiro and Nyarugenge, worth 900 million Rwandan francs. Now the bank seeks your advice on the following:

- a) Can the bank initiate recovery action against KK Corporation Ltd (solely owned by KARASIRA) and its properties, to recover the remaining balance given to KARASIRA as a sole trader Justify your answer. **(10 Marks)**
- b) In light of the above scenario, discuss the advantages of running a business as a sole trader compared to a limited liability company. **(5 Marks)**
- c) Suppose that KK Corporation Ltd was just an unincorporated association which has no legal personality. Would it make any difference to the bank’s right over the properties owned by KK Corporation Ltd **(5Marks)**
- (20 Marks)**

QUESTION SIX

- a) Discuss the characteristics of a ‘reparable damage’. **(8 Marks)**
- b) Discuss the conditions required for the liability of the employer for the damage caused by the employee. **(6 Marks)**
- c) Differentiate tort liability from contractual liability. **(6 Marks)**
- (20 Marks)**

QUESTION SEVEN

- (a) Describe distinct characteristics of negotiable instruments. **(10 Marks)**
- (b) Describe the prerogatives of the ownership right. **(6 Marks)**
- (c) Differentiate patrimonial from extra-patrimonial rights and give examples. **(4 Marks)**
- (20 Marks)**