
**CERTIFIED PUBLIC ACCOUNTANT
FOUNDATION LEVEL 1 EXAMINATIONS**

F1.2: INTRODUCTION TO LAW

DATE: WEDNESDAY, 28 APRIL 2021

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:

In 2019, a new substantive law was published in the official gazette and was to enter into force with immediate effect. That same law repealed the previous law that governed the same matters. By the time this law came into force, Mr Karake had already seized the court with his claim and it was under court proceedings. Upon the news, Mr Karake's opponent argued and demanded that the court apply the new law since it had entered into force upon publication in the official gazette. To Mr Karake's disbelief, the court accepted his opponent's argument and applied the law. Mr Karake argues that a certain key principle of law was violated by the court in this regard. He further argued that the same court had overlooked the principle of double jeopardy in another case last year.

Required:

- a) **Name and explain the key principle of law (providing what that principle in question means and its essence) that Mr Karake believes the court violated in the above case;**
(10 Marks)
 - b) **Name and explain any one exception to the principle.** (5 Marks)
 - c) **Explain the principle of double jeopardy.** (5 Marks)
- (Total 20 Marks)**

QUESTION TWO:

In 2018 a new law protecting people with any sort of disabilities was published repealing the one of 2017 and punished anyone who discriminated against any person with disabilities. Paul fell the first victim to the law's criminal provisions where he was sentenced to paying a fine and civil damages for his criminal conduct against Jack, a disabled business person who does business with Paul. Paul's friend who read the law said that the law was not general as such, because it only protected people with disabilities instead of everyone. He also added that it was not fair for Paul to be charged to pay both a fine and civil damages. Further, Paul's friend also added that Paul should have been tried by the commercial courts because he is a business person.

Required:

- a) **As a characteristic of law, what does the statement the "law is general mean"?**
(2½ Marks)
 - b) **And was Paul's friend right to claim the law protecting people with disabilities was not general?** (2½ Marks)
 - c) **What is the difference between a fine and civil damages, if any, and how are the two determined?** (5 Marks)
 - d) **Was Paul's friend right in his claim that Paul's offense against the disabled business person should be tried by commercial court based on Paul's status as a business person? If yes, why? if no, why?** (5 Marks)
 - e) **With examples for each, differentiate between specialized courts and ordinary courts.**
(5 Marks)
- (Total 20 Marks)**

QUESTION THREE:

Thomas entered an agreement with John where the latter was to process and pile enough plywood to fill up two large trailers in his industry's open space by 16th March 2020 at which date Thomas' hired transporters who would collect the plywood and deliver it to him. Both parties agreed that Thomas would pay Frw 3,000,000 for the plywood and also agreed that ownership would only pass to him upon payment of the full price and John had piled the wood where he had been directed (in his industry's open space). John offered to keep the wood inside a safe storage for a fair price over concern that the plywood would be ruined in case it rained or stayed in the open for so long without any covering for it, but Thomas declined the offer and said he was fine with the open space, after all his hired transporters were ready to collect the plywood at the agreed date.

Upon piling of the plywood in the open space, Thomas paid half of the price and promised the rest upon delivery of the plywood. On 16th March 2020, all of a sudden, a national lockdown was enforced due to the Covid-19 outbreak which occasion made it impossible for Thomas's hired transporters to collect the plywood. Upon receiving the news, Thomas informed John and added that the impossibility would be overcome within 3 days after 16th March 2020, to which John replied, it's your loss, I had warned you, even though John's business was among those allowed to continue working, though under strict restrictions. During those days, it rained heavily.

Finally, when the hired Transporters arrived to pick up the plywood exactly 3 days after 16th March 2020, the plywood had been damaged beyond use due to heavy rains. The two parties had a disagreement. You are the judge. Resolve the following:

Required:

- a) **What is an event like the Covid-19 outbreak and the subsequent nationwide lockdown referred to in the law of contract and what are its implications on the contract?** (5 Marks)
 - b) **John is arguing that their dispute should not have come to court because of the arbitration clause/agreement. What is an Arbitration clause/agreement and how does it affect the court proceedings between John and Thomas?** (5 Marks)
 - c) **Thomas claimed that the plywood would not have been ruined had it not been for John's bad faith and stubbornness, and as such, John should be held liable for the loss. Is John right, if yes, why? If no, why?** (5 Marks)
 - d) **John argues that there is ample case law on the same issue and that it was binding to the court in their dispute even though the same so-called case law was still under appeal. What is case law and is John right in his claim? Explain.** (5 Marks)
- (Total 20 Marks)**

QUESTION FOUR:

MIKO Logistics, a pan-African transport company, contracted the shipping of merchandise from Madagascar all the way to Rwanda for Tidings Ltd. To secure payment for the services upon delivery, MIKO Logistics demanded that a certain form of payment in which Tidings Ltd.'s bank guarantees payment for the services on Tidings Ltd.'s behalf by giving MIKO Logistics a written irrevocable promise to pay without any further conditions and also make this written promise endorsable and payable against upon presentment. Tidings Ltd.'s bank made the promise to MIKO Logistics. Upon delivery of the merchandise to Tidings Ltd.'s office in Kigali and reception thereof, Tampa Ltd. presented the written promise given to MIKO Logistics to Tidings Ltd.'s bank which the bank refused to pay against the promise primarily because the promise was never given to Tampa Ltd., but also because the bank had learned that insolvency proceedings had been commenced against Tidings Ltd. This refusal to pay against the promise cost Tampa Ltd. an opportunity for closing a huge deal and exposed it to fines for missing a loan payment, to which Tampa Ltd. vowed to make Tidings Ltd.'s bank pay.

Required:

- a) **In legal terms, what is the document containing the promise in the case above called? Define the document.** (2 Marks)
 - b) **What is the general term used under Rwandan law for other instruments like the promise in (a) above and can you name any other 2 besides the one already mentioned?** (6 Marks)
 - c) **Was Tidings Ltd.'s bank's refusal to pay Tampa Ltd. against the promise upon presentment legally founded, if yes, why? If no, why?** (6 Marks)
 - d) **Tampa Ltd. vowed to make Tidings Ltd.'s bank to pay for the loss suffered at its refusal to pay it against the promise, is that possible legally, if yes, under what specific law(s) can Tampa recover payment for its suffered loss from the bank and how?** (6 Marks)
- (Total 20 Marks)**

QUESTION FIVE:

In 2008, Mr Patrick, the owner of Matope Real Properties started his company with his eldest brother's 5-hectare land which he had occupied since 1996. He made the decision to register the land under his names after realizing that perhaps his brother may never return. Today the company owns the entire Rwiza estates covering half of Kabeza Cell with leasehold titles of 90 years. To ensure the 5 hectares were completely untraceable, Mr Patrick transferred the land to Matope Real Properties as the owner. Recently, Mr, Patrick's brother returned and wants his land back. At the same time, Mr Patrick's newly ordered Mercedes Class A got completely destroyed by fire when the shipping company decided to sail through hot mess - a designated active volcano area with unpredictable volcanic activities - to save time. Experts determined that the car had been consumed by volcanic fires which are all too common in the hot mess area. Mr Patrick is very confident his insurance policy covers him on the car whereas his lawyers will cover him concerning the land. Mr. Patrick's brother wants to sue Mr. Patrick as the sole shareholder of the company, but is been told that would not work because of a separate legal personality.

Required:

- a) **Mr Patrick's brother wishes to understand separate legal personality under company law and how it affects his law suit. Explain that to him;** (5 Marks)
 - b) **Mr Patrick believes his brother's claim over the land has been hit by prescription and is therefore inadmissible. Mr Patrick is wrong on two points, what are they and how?** (5 Marks)
 - c) **There was an issue concerning the land title held on the land in dispute. Name the different land title regimes and differentiate between them.** (5 Marks)
 - d) **Mr Patrick's claim against his insurance company for the destroyed car was rejected and declared not payable by the same insurance company, was the company's determination correct? If yes, why? If no, why?** (5 Marks)
- (Total 20 Marks)**

QUESTION SIX:

Mr Amuli bought land from Mr Jafari for five million Rwandan Francs and paid cash immediately. Before Mr Jafari could hand over land titles or transfer the land title to Mr Amuli, Mr Jafari sold the same land to another person. That other person sued Mr Jafari and the court ordered Mr Jafari to refund the money he had received as payment for the land. Mr Amuli went ahead and enjoyed his land freely. However, Mr Amuli is now having problems with his neighbour over servitudes and the bank over mortgages.

Required:

- a) **How come Mr Amuli could already use the land even before it could be transferred to him?** (2 Marks)
- b) **Why couldn't Mr Jafari re-sell the land to another person yet he had not yet transferred it to Mr Amuli? What could have been the court's basis for its decision ordering Mr Jafari to refund the money?** (3 Marks)
- c) **What are servitudes and can you name any one such servitude?** (3 Marks)

- d) Under what circumstances would Mr Amuli be entitled to servitude? (2 Marks)
- e) What is a mortgage and what are some of the common contractual or otherwise rights of a mortgagee over it, name any three? (5 Marks)
- f) Explain whether and to what extent private laws apply to land rights. (2 Marks)
- g) Explain how Mr Amuli can have private rights over land yet land belongs to all Rwandans and related rights are governed by the government. (3 Marks)

(Total 20 Marks)

QUESTION SEVEN:

Mr Mabano is a farmer who has invested in banana plantations and has also planted several hectares of banana plantation on what looks like a slope in what could be described as disregard for the environment and human life. In June this year, suddenly there was a landslide which washed away a large chunk of his banana plantation on the slope, confirming what people had always feared as they had continually warned him. Unfortunately, the landslide fell over some houses some meters away from the slope. It was confirmed the landslide was a result of the agricultural work that was being done on the slope and that there is no way the area could have suffered landslides if no one had tampered with the slope. Mr Mabano is being sued for the loss. He comes to you for advice. On the other hand, he needs to know if he can initiate criminal proceedings against a business person who failed to pay him after Mr Mabano had delivered 2 tons of Bananas to him under a contract, he had entered in with that business person. Plus, he wishes to know whether he is responsible for the loss caused by his cows grazing on a neighbour's farm yet the neighbour's guards' work is to keep Mr Mabano's from entering the neighbour's land.

Required:

- a) Surely Mr Mabano cannot be responsible for the landslide? Do you agree or not? Please explain your answer. (5 Marks)
- b) Do you think Mr Mabano can initiate criminal proceedings against the business man for failure to fulfil contractual obligations? Yes or No? Please explain your answer; (5 Marks)
- c) Is Mr Mabano responsible for the loss caused by his cows' grazing on his neighbour's farm? Yes or No? Please explain your answer. (5 Marks)
- d) What difference does it make if a person fails to perform under a contract and when they commit a fault under a contract? (5 Marks)

(Total 20 Marks)

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