



CCP PART II SECTION 4

LAW GOVERNING CREDIT PRACTICE

THURSDAY: 23 May 2019.

Time Allowed: 3 hours.

Answer any FIVE questions.

ALL questions carry equal marks.

**QUESTION ONE**

- (a) Simon pledged a pawn in form of a gold watch worth Sh.1,000,000 to secure a loan of Sh.500,000 from Moses Chapaa. Unfortunately, Simon was unable to pay the loan and so Moses Chapaa sold the watch and realised Sh.800,000 out of which he utilised Sh.530,000 to pay the loan and the recovery costs and he was left with a surplus of Sh.270,000.

As fate would have it, Simon was immediately after the sale, declared bankrupt and a trustee in bankruptcy appointed.

Moses Chapaa is at a loss on how he should deal with the surplus of Sh.270,000 in his possession.

Identify the legal principles applicable and advise Moses Chapaa. (10 marks)

- (b) Explain two circumstances which will render a pledge contract terminated for re-delivery of the pawn. (4 marks)
- (c) With reference to chattels securities, describe the nature of a security agreement. (6 marks)

**(Total: 20 marks)**

**QUESTION TWO**

- (a) Oliver Mtunzi has been a leading rhumba musician in Mingingo Island for the last 20 years and has acquired a name as Oliver Rhumba, which he has registered as a trademark. His songs are popular in the whole of East and Central Africa.

In 2017, Oliver Mtunzi suffered a decline in his business and required capital to market his music to the world, he has approached Pesa Bank for a loan. Pesa Bank insists that he must have a good security for him to secure a loan.

Oliver Mtunzi does not have land and so he is confused.

- (i) Identify four ways through which Oliver Mtunzi can use intellectual property as collateral and advise him. (8 marks)
- (ii) Enumerate two features of a trademark. (4 marks)
- (b) Highlight two circumstances upon which a guarantor will be liable to pay the principal creditor without a demand to pay. (4 marks)
- (c) Summarise four ways through which a contract of indemnity might be terminated. (4 marks)

**(Total: 20 marks)**

**QUESTION THREE**

- (a) (i) Explain three safeguards that have been introduced in the Land Laws to safeguard a chargor in a charge contract. (6 marks)
- (ii) Highlight five types of content that might be included in a Charge Instrument. (5 marks)

- (b) Explain two circumstances upon which an earlier floating charge securing a debenture will take priority over a later fixed charge. (4 marks)
  - (c) With reference to government (treasury) and corporate bonds, highlight five factors which might determine the re-sale value of a bond. (5 marks)
- (Total: 20 marks)**

**QUESTION FOUR**

- (a) Arrow Root Bank Limited entered into a security agreement with Aaron in which Aaron has severally defaulted on his monthly payments and the Bank intends to issue him with a notification of its intention to dispose of the collateral. The credit officer of Arrow Root Bank Limited seeks your legal advice regarding the format of the notification.

**Required:**

Outline eight ingredients of the notification of intention to dispose the collateral for official use by Arrow Root Bank Limited. (8 marks)

- (b) Summarise three obligations and three categories of assets that might be secured or encumbered by a security right under a security agreement. (6 marks)
  - (c) Explain the meaning of securities within the context of the law governing credit practice. (6 marks)
- (Total: 20 marks)**

**QUESTION FIVE**

- (a) Discuss five credit card consumer rights provided for under credit card agreements. (10 marks)
  - (b) Summarise the procedure followed by the chargee in the application of the proceeds of sale of charged land. (7 marks)
  - (c) Identify three persons who might apply to court for relief in case the chargee purports to deprive the chargor of his right to redeem the charged property. (3 marks)
- (Total: 20 marks)**

**QUESTION SIX**

- (a) Explain seven powers of the Board of the Sacco Societies Regulatory Authority. (7 marks)
  - (b) In the context of corporate governance, discuss four categories of conflict of interest that might be experienced by the Board of Directors. (8 marks)
  - (c) With reference to the management of co-operative societies, summarise five agenda that might be dealt with in the general meetings of co-operative societies. (5 marks)
- (Total: 20 marks)**

**QUESTION SEVEN**

- (a) Summarise five requirements that a small e-money issuer must meet to be registered by a bank. (10 marks)
  - (b) Highlight four corrective actions that a Central Bank might take where an institution or persons participating in the general management of the institution is engaged in any practice likely to occasion a contravention of any legal provisions on banking. (4 marks)
  - (c) Explain three ways through which liens placed on properties by creditors might be removed. (6 marks)
- (Total: 20 marks)**
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