

UNIVERSITY COLLEGE LONDON

University of London

EXAMINATION FOR INTERNAL STUDENTS

For the following qualifications :-

LL.B.

LL.B. Intermediate: Contract and Tort I

COURSE CODE : LAWSINT1
DATE : 07-MAY-02
TIME : 10.00
TIME ALLOWED : 3 hours 15 minutes

02-N0189-3-210

© 2002 *University of London*

TURN OVER

CONTRACT & TORT I

Answer **FOUR** questions, including at least one question from **PART A** and at least one question from **PART B**.

PART A : Contract

1. “The doctrine of consideration may be too firmly planted to be uprooted by a sidewind, but it has nevertheless lost much of its importance in consequence of the modern development of promissory estoppel.”

Discuss.

2. On 1 March, Andy sends a letter to Betty stating his willingness to sell her his pygmy hippopotamus, Stumpy, for “no less than £1,500”. Andy states that a lot of interest has been shown in Stumpy, so Betty should not wait too long before responding to his “offer”. He also informs Betty that a similar letter has been sent to a limited number of other people.

Discuss the rights and liabilities of the parties in **EACH** of the following alternative circumstances:

- (a) On 3 March, seeing Andy in the street, Betty says that she has been giving the matter serious thought and that Andy should consider Stumpy sold to her for £1,500 if Andy hears nothing to the contrary by 5 pm on 10 March. All Andy has to do is to have Stumpy ready for delivery from 11 March onwards. On 11 March, Carlos, who had not been sent a letter by Andy, makes Andy an offer of £1,750 for Stumpy. Andy says with regret that Stumpy has already been sold. On 12 March, Betty informs Andy that she has changed her mind.

AND

- (b) On 20 March, Andy sells Stumpy to Dahlia. Two days earlier, on 18 March, Betty hears that Andy has been negotiating with Dahlia for the sale of Stumpy and immediately dispatches to Andy a letter agreeing to purchase Stumpy for £1,500. The letter is addressed to Andy at 24 Limpopo Terrace, Gruntingham. There are two Limpopo Terraces in Gruntingham. The postal authorities deliver Betty’s letter to the wrong address. Betty has not used the postal code supplied by Andy and her letter never reaches him.

TURN OVER

3. Emma owns a pedigree wire-haired fox terrier called Freddy. She inserts an advertisement in the *Dog Breeders' Gazette* indicating that Freddy is for sale at £1,000 or near offer. The advertisement also states that Freddy was exhibited as a six-month-old puppy at Crufts' Dog Show in 1997.

Gordon sees the advertisement and offers £900 for Freddy. He asks Emma: "Are you willing to put it in writing that Freddy was exhibited at Crufts'?" Emma replies: "Only if you pay the full asking price." Gordon is not prepared to pay more than £900, which becomes the agreed sale price.

Two weeks later, Emma suffers a change of heart and delivers the following document to Gordon at the same time as she delivers Freddy: "CERTIFICATE. I declare to all interested parties that Frederick Humpstummer III [Freddy] was exhibited by me at Crufts, in 1997 Signed: Emma."

When Gordon sells Freddy to Harriet in 2001, he supplies Harriet with the certificate signed by Emma. Several months later, when combing through the records of Crufts', Harriet discovers that Freddy could not possibly have been exhibited there in 1997 or in any other year.

Discuss.

4. Jasper owns a second home on the Norfolk coast. He stays there for about six weeks in every year, the rest of the time renting it out to holidaymakers. In order to bring the property up to a suitable standard for his purposes, he engages the services of C & D Decorators to decorate the property from top to bottom. C & D Decorators present Jasper with a choice between their Gold Star and their Silver Star service, the former costing £10,000 and the latter £7,500. Jasper selects the Silver Star service.

The work is completed in March 2000, in time for the start of the holiday season. When Jasper complains about peeling wallpaper and flaking paint in July 2001, C & D Decorators explain that this is due to dampness in the property. A special anti-damp treatment could have been applied to the walls and woodwork prior to decorating, but this was part of the Gold Star service, not the Silver Star service. Jasper complains that none of this was explained to him at the contract date. C & D Decorators also point to clause 8 in the contract, which reads: "Silver Star service. In no circumstances will C & D Decorators incur responsibility for peeling wallpaper and flaking paint caused by dampness in the property."

Advise Jasper.

To what extent, if at all, would your answer be different if, in place of clause 8 (above), there had been a clause limiting liability to £100 if the work proved unsatisfactory to Jasper within two years of its completion?

CONTINUED

PART B: Tort

5. Answer **BOTH** (a) **AND** (b).

- (a) Anthony is a prominent anti-globalisation protestor, who is particularly agitated by the activities of Black Gold Ltd, a multinational oil company. With his comrades Blake and Catherine, Anthony decides that drastic action is necessary to put pressure on Black Gold Ltd to change its ways, and begins to stage peaceful protests at public events attended by Black Gold's chairman, Deirdre.

One evening, Deirdre is due to give a public lecture, and Anthony and his comrades begin to protest outside the venue. As Deirdre emerges from his car, surrounded by her large security escort, Anthony gets very emotional and begins to shout at Deirdre, telling her that "we know where you live, any day now we're coming there". Catherine surges forward, shouting "I'm coming to do you, exploiter" but is held back by the security team. Deirdre walks on, untroubled, but is suddenly confronted by Blake, who has slipped through the security cordon. He waves his placard threateningly in her face, shouting "I'd break this over your head if I wasn't a peaceful protester." A security guard blocks his path as Deirdre is hustled into the building. Blake tries to push past the guards but is surrounded. He is unable to proceed and is kept isolated and surrounded by the ring of guards until Deirdre is safely inside. Deirdre is very distressed by the incident and wants to take action against the protesters to make sure that similar incidents do not happen again. Anthony and his friends are very angry by what they see as the brutal and fascistic response of the security guards.

Advise the parties.

AND

- (b) What legal remedies might be available to Black Gold Ltd. if Anthony and comrades begin to put pressure on their business customers to cease trading with Black Gold, by threatening that they will organise a campaign to encourage consumers not to buy Black Gold's products?

TURN OVER

6. Bruce is a very experienced truck driver. One morning, as Bruce is driving his truck, Colin, who has been drinking all day as a result of being left by his girlfriend, swerves violently in front of him. Bruce is slow to brake and crashes into Colin. Colin's car is knocked off the road and over an adjacent train embankment. Moments later, a passenger train collides with his car. Colin is killed, and several people on the train are severely hurt. Deborah, a passenger, tries to drag out one of the injured passengers but suffers severe burns and trauma. Ambulance crews rush to the scene in minutes, and several also suffer deep emotional trauma on seeing the burns suffered by the victims. Colin's mother, Laetitia, hears about the accident on the radio, and suffers a nervous breakdown from grief.

It emerges soon after the accident that the private rail company in charge of safety on the line, Grabbit and Run Ltd., were aware that there was a risk that a car could go over the embankment. However, they considered that the chance of such an accident occurring was very low and, given the high cost of raising the height of the embankment, had decided not to take any action.

Advise the parties.

7. "A state of uncertainty mushroomed the minute the English law of negligence met Article 6 of the European Convention of Human Rights...*Osman v United Kingdom* has cut through an entire forest of immunities and restrictions that kept litigation in check."

Discuss, with reference to decided cases.

8. Mohsen is a small businessman who decides to invest in the hotel trade by buying a new hotel being built for X Ltd. by Harvey Bros. Ltd., a building firm. As Mohsen is anxious that the hotel is structurally sound and wants to make sure that Harvey Bros. are competent, he talks to a close friend, Darius, who is in the building trade. Darius tells Mohsen that he is an expert on the building trade and the various local builders, and that Mohsen can rely completely on him to check out the work done by Harvey Bros. After examining the almost completed hotel structure, Darius reassures Mohsen that Harvey Bros. are competent and have done an excellent job. In reality, however, Darius conducted a very superficial examination. He is also aware, but does not mention to Mohsen, that the electric wiring in the hotel has been subcontracted out to Useless & Co, an awesomely incompetent and inept firm of electricians.

Mohsen is delighted with the reassurance he has obtained from Darius, and relies completely on his advice. He purchases the hotel on the completion of the construction work from X Ltd. for the sum of £250,000. However, within weeks it becomes apparent that the hotel has been constructed appallingly. The plaster on the walls begins to peel, large cracks appear in the walls, and Mohsen is eventually obliged to close the hotel after a small fire triggered by defective wiring causes serious damage. Repairing the damage from the fire will cost £100,000, repairing the plaster £12,000, repairing the wiring £5,000, and repairing the cracks will cost £90,000.

Advise Mohsen.

END OF PAPER