BOWEN UNIVERSITY, IWO, OSUN STATE

2ND SEMESTER EXAMINATIONS, 2023/2024 SESSION

COURSE: Commercial Law II

CODE: PCL 302

TIME: 3 Hours

INSTRUCTIONS: Answer Two (2) Questions from each section

SECTION A

1.(a) Citing relevant statutory provisions, what is a Sale of Goods Contract? (2 marks)

(b)How is a sale different from:

(i) Agreement to sell (2 marks)

(ii) Hire Purchase (2 marks)

(iii) Mortgage of Chattels (2 marks)

(iv) Equipment Leasing (2 marks)

(v) Barter (2 marks)

(c) How is the price determined in a Contract for sale of goods (5 $\frac{1}{2}$ marks) Total = 17 $\frac{1}{2}$ marks)

2. Rosadaj Autos is a Car Dealer whose registered office/showroom is at Bowen University Road, Iwo. Michael approached Chief Pius, the Managing Director of Rosadaj in November 2023 and told him he wanted to buy a 2010 Model of Toyota Hilux that would be strong enough to transport his woods from the farm to the warehouse. Chief Pius showed him a white Toyota Hilux which he described as a very strong, reliable and dependable 2010 Toyota Hilux. He promptly paid the sum of N6 million for the vehicle. Unknown to Michael, the Vehicle which was a 2006 Model, but facelifted to 2010 was given to Chief Pius by Mr Lucas to sell for him without the former knowing that the vehicle was actually stolen by Mr Lucas from the garage of Chief Odigie in Benin. Michael was stopped by the police on his way to Ibadan sometime in January, 2024 and on searching the vehicle, it was discovered that it was actually stolen from someone in Benin. The Toyota Hilux was seized and handed over to the true owner, Chief Odigie in Benin while Michael is facing criminal prosecution for stealing the vehicle.

(i) With the aid of statutory and case law authorities, identify and discuss all the sundry legal issues (12 ½ marks)

(ii) In what major ways are goods classified in a contract of sale of goods (5 marks) Total = $17 \frac{1}{2}$ marks)

3. Chief Marcus lost his mother in April 2024 and the burial was fixed for May 2024. As part of the preparation for the burial, he was accompanied by Mukaila, a Cow seller to Bodija Cow Market in Ibadan and on that Sunday morning, they bought two(2) cows valued at N1.5million from Alhaji Yekini which they quickly loaded in a truck and brought to Iwo. A day to the burial and shortly before the cows were to be slaughtered, Alhaji Yekini was brought in Handcuffs to Iwo where he identified the cows as the ones he had earlier stolen from Alhaja Bilikisu somewhere in Ibadan. The cows were taken away despite Chief Marcus insistence that he had actually bought the cows.

(i) Citing relevant statutory provisions and decided cases, advise Chief Marcus on his claim to ownership of the cows. (5 marks)

(ii) Discuss the general rule in Section 21 of the Sale of Goods Act in relation to transfer of title by a non-owner and all the exceptions thereto, with the aid of relevant statutory and case law authorities. (12 $\frac{1}{2}$ marks) Total = 17 $\frac{1}{2}$ marks)

SECTION B

4. (i) What is Hire Purchase Agreement? (3 marks)

(ii) How is a Hire Purchase Agreement different from a credit sale? (2 marks)

(iii) Identify and discuss the features/characteristics of Hire Purchase Agreement at Common Law (12 $\frac{1}{2}$ marks) Total = 17 $\frac{1}{2}$ marks)

5. (a) Distinguish Hire Purchase from:

(i) Credit sale (ii) Conditional sale (iii) Equipment Leasing (iv) Mortgage of goods (8 Marks, 2 each)

(b) Mr Patrick approached Messrs Lovely Enterprises in December 2023 for the acquisition of ten (10) units of fire proof cabinets valued at N65,000 each. They both agreed that after making a down payment of N50%, the balance would be paid in two equal instalments. Mr Patrick paid the first instalment but defaulted in paying the last instalment. Lovely Enterprises has seized the fire proof cabinets from Mr Patrick and is equally asking for the payment of the outstanding sum on the cabinets. Citing relevant statutory and case law authorities, advise the parties. (9 $\frac{1}{2}$ marks) Total = 17 $\frac{1}{2}$ marks)

6. (a) Mention and discuss five (5) major abuses of hire purchase at Common Law (10 marks)

(b) Compare and contrast the cases of Helby v. Matthews (1895) and Lee v. Butler (1893) $(7 \frac{1}{2} \text{ marks})$ Total = 17 $\frac{1}{2} \text{ marks})$