

BOWEN UNIVERSITY, IWO
COLLEGE OF LAW
2024/2025 SECOND SEMESTER EXAMINATION
COURSE CODE: PCL 302 COURSE TITLE: COMMERCIAL LAW II
ATTEMPT FOUR QUESTIONS IN ALL. AT LEAST ONE QUESTION FROM EACH
SECTION. EACH QUESTION CARRIES 17½ MARKS
TIME ALLOWED: THREE (3) HOURS

SECTION A

- 1(a) Okin reached out to Akin in order to purchase the newly built 1, 500 Seater Hall in Bowen University for 50 million naira which he made payment for already while Dove has just bought an automobile from Dave for the sum of 40 million naira. Dove later realised that the dealer beside her house sells the same brand for 30 million naira and therefore, felt cheated and aggrieved. Examine the kinds of goods sold and/or capable of being sold.
- **7½ Marks.**
- 1(b). Pepe has no title to certain goods he wants to sell. With the aid of statutory and judicial authorities, highlight the instances he would be allowed to pass title of the goods to another in a sale of goods contract. - **10 Marks.**

Total = 17½ Marks.

- 2.(a) Distinguish Sale of Goods from the following :

- | | | |
|-------|-------------------|------------------------------|
| (i) | Exchange/Barter.- | 1 ½ Marks. |
| (ii) | Bailment. | 1 ½ Marks. |
| (iii) | Hire Purchase. - | 1½ Marks. |
| (iv) | Gift. - | 1 ½ Marks. |
| (v) | Loan. - | 1 ½ Marks.(7 ½ marks) |

- 2.(b) Terms in a contract of Sale of Goods are sacrosanct. Some are expressed, others are implied. With the aid of statutory provisions and case Law, discuss the implied terms-(**10 marks**)**Total = 17½ Marks.**

SECTION B

- 3(a) Explain the characteristics of a hire purchase transaction.-(**5 marks**)

- (b) Hire purchase is afflicted by a number of abuses at common law. Identify and briefly discuss five(5) of such abuses.-(**6 marks**)

- (c) Mr Stephen, a Lagos socialite approached the Managing Director of Memunat Motors with a Branch office at Iwo. He requested to buy a 2024 Model of a Toyota Highlander XLE, Black in colour and 0 mileage which he clearly identified in the garage. The price was put at N120m which he quickly paid with a promise that the vehicle would be delivered within three(3)days. Unknown to him, the vehicle had been sold to Chief Gregory as at the time of the transaction. One week after, Mr Stephen was supplied with a 2023 Toyota Highlander, Red colour and with 25,000

mileage. He has refused to take delivery of the vehicle insisting that Memunat Motors had breached the contract of Sale.

Citing relevant case Law and statutory authorities, advise the parties as to their respective rights under the sale.-(6 ½ marks) **Total – 17 ½ marks**

4 (a) In what ways can price be determined in a contract of Sale?-(6 marks)

4(b) How is a sale different from an agreement to sell-(4 marks)

(b) Mr Crooker took possession of Mark Lorry from Innosons motors on the agreement that he paid 20%of the total sum of N20m and the remainder to be paid in five equal instalments. He had paid the fourth instalment when his business ran into problem and could not continue the payment He now wants to return the Lorry after two years and recover all that he had paid under the agreement. **Advise the parties, citing relevant cases.-(7 ½ marks) Total- 17 ½ marks)**

SECTION C

5(a). Hire purchase is often confused with similar transactions. Distinguish Hire Purchase from the following:

- i. Credit Sale-2 marks
- ii. Loan on security of goods-2 marks
- iii. Contract of sale-2 marks
- iv. Conditional Sale-2 marks
- v. Equipment leasing-2 marks
- vi. Chattel mortgage- 2 marks

5(b) How is the judgement in the case of **Helby v. Matthew** different from the judgement in **Butler v. Lee**?-(5 ½ marks) **Total- (17½ marks)**

6(a) A Finance company put out an advert of a 2025 Model of a Sienna vehicle which they described as 'strong with a reliable and durable engine' for sale. Femi entered into a hire purchase agreement with the finance company to acquire the 2025 Model of the Sienna. The agreement provides that Femi will pay a deposit of N500,000 and monthly installments of N200,000 for 24 months. Femi discovers that the vehicle has a defective engine, which renders it unusable.

- i. Discuss the liability of the finance company under the Hire Purchase Act? (5 marks)
- ii. What are the remedies that will avail Femi? (6½ marks)

6(b). Aisha, an illiterate market trader, entered into a hire purchase agreement with Mr. Ojo, the owner of a generator, to purchase the equipment for N1.7 million. The agreement stipulated that Aisha would pay an initial deposit of N500,000 and monthly installments of N100,000 for 12 months. After paying the initial deposit and two monthly installments, Aisha sold the generator to Mrs. Ade, a neighbour, without Mr. Ojo's knowledge or consent. **Identify and discuss all the legal issues arising-(6 marks)**