

’BOWEN UNIVERSITY, IWO, OSUN STATE
COLLEGE OF LAW
SECOND SEMESTER EXAMINATION 2022/2023 SESSION
LAW OF CONTRACT II - PCL 202

INSTRUCTIONS: a. Answer **at least one** question from each Section and a total of **four** **questions in all**

b. Time allowed: **3 hours.**

Section A

1. (a) Trace the evolution of the doctrine of duress in contracts from common law times to the present day.

(b) Dr. Emilokan, a medical practitioner, was approached by Jane for the treatment of a condition known as *chronic cardiac ischemia*, a disease of the heart. In the course of further diagnostic investigations, it was discovered that Jane’s left kidney was also affected and that unless urgent surgery was done, her both kidneys could be permanently damaged. The cost of surgery was fixed at N25 million. Jane could not afford the cost but considered selling her 4 bedroom duplex for N45 million to raise the funds. A buyer agreed to pay the sum in three monthly instalments but time was of essence as the surgery needed to be done in the next two weeks. Jane and her parents, then agreed to convey the duplex to Dr. Emilokan, as full consideration for the cost of surgery. The surgery was successfully done, whereupon Jane instituted an action in court seeking to void the conveyance on the ground of undue influence. Discuss with the aid of decided authorities the likelihood of Jane’s success in court.

2. The rule of law is that a stranger to a contract cannot sue or be sued on the contract as there is no privity of contract between the stranger and the parties. Discuss the validity of this assertion, with the aid of decided cases.

Section B

3. (a) *“Where a contract is illegal as formed and prohibited either by statute or at common law, neither party can derive any right or interest from it and neither party can therefore sue on the contract”* Discuss this statement viz-a-viz the maxims *ex turpi causa non oritur actio* and *in pari delicto portior est condition defendentis*.

(b) Osas enters into a contract with Medina to help the latter keep 5 laptops he stole from a computer store. Osas promised to pay Medina N200, 000.00k under the agreement, but he has failed to fulfil his part of the agreement. Medina is planning to sue Osas for breach of contract and has engaged your services as a legal practitioner. **Advise Medina on any liability of Osas under the contract.**

4. a) Mrs. Adekile, an illiterate woman who could not read or write, was induced to sign a document which she was told was a guarantee by Mr. Twoface. In fact, it was a bill of exchange upon which the claimant ultimately became entitled. Mr. Twoface has brought an action claiming Mrs. Adekile is bound by the contract because she already signed it. **Advise Mrs. Adekile on any liability whatsoever on the contract.**

b) A Workshop has been organized on the Vitiating Elements of a Valid Contract by Bowen University for the University community to sensitize people on the rudiments of an enforceable contract. You have been invited to speak on *Misrepresentation and its Operative Effect on a Contract*. **Write a detailed paper on the topic as an expert in Law of Contract.**

Section C

5. Didi Toke (Dito), a musician, signed a contract in Lagos State in which he undertook to perform and record solely and exclusively for Classic Songs Ltd for five years. Sometime during the subsistence of the contract, Didi in breach of this contract went to Akure in Ondo State and entered the service of another record company and started performing and recording for them. Classic Songs Ltd has gone to court to seek the following remedies for breach of contract:

- a. An Injunction to compel Didi to move to Kano State to record solely for them
- b. An Injunction to put an end to the distribution of records already containing music recorded.
- c. An Injunction to withdraw the records from the public.
- d. Specific performance to compel Didi to perform his contract to their record company (record and perform solely for them) and;
- e. An Injunction to prohibit Didi from doing live performance for fees.

Citing relevant authorities, discuss the appropriateness of each of the reliefs (remedies) sought, whether or not the court would grant the reliefs and advise Classic Songs Ltd accordingly.

6. **With the aid of statutory and judicial authorities, examine the validity or otherwise of the following:**

- a. Ahmed contends that the underlying basis for damages was finally crystallised by *Parker. J. in Victoria Laundry v Newman Industries*.
- b. Nneka asserts that the rule in *Hadley v Baxendale* is divided into two parts, the first dealing with pecuniary damage and the second with non-pecuniary damage.
- c. Adebola states that the rules on non-enforceability of specific performance still apply to the modern relationship of employer and employee.
- d. Godwin contends that a plaintiff is under a duty to take all steps to mitigate his losses caused by a breach of contract.
- e. Freggy contends that an injunction is another way by which a court can order specific performance.
- f. Chichi asserts that it was held in a decided case that a plaintiff could sue on a quantum meruit to recover his remuneration for work done under a void contract provided he acted in good faith and without knowledge of the voidness.