



CCP PART II SECTION 4

LAW GOVERNING CREDIT PRACTICE

THURSDAY: 30 November 2017.

Time Allowed: 3 hours.

Answer any FIVE questions.

ALL questions carry equal marks.

QUESTION ONE

- (a) Petro Shida applied for a loan of Sh.1 million from Tuko Bank Ltd. The bank required a security for the loan and Petro Shida provided his title to land with the agreement that the title shall only act as a security and not a transfer.

Tuko Bank Ltd. accepted the title but advised that no loan amount will be disbursed until the security contract is created and perfected.

**Required:**

In relation to security contracts, advise Petro Shida on the security to be created and the procedure for perfecting it.

(10 marks)

- (b) You have approached the legal expert within the credit department of the bank you work for. Your sole purpose is to be advised on covenants, conditions and powers implied in charges. You need this information to assist Samson Nieleze who has charged his property for purposes of obtaining a loan from your bank.

**Required:**

With reference to the above scenario, explain to Samson Nieleze the implied covenants by the chargor.

(10 marks)

**(Total: 20 marks)**

QUESTION TWO

- (a) With specific reference to corporate securities:

(i) Describe four types of corporate bonds. (8 marks)

(ii) Highlight the order of priority of charges. (6 marks)

- (b) Chattels mean any movable property that can be completely transferred by delivery and includes machinery, stock and the natural increase of stock.

With reference to the above statement, identify three categories of property that are not chattels. (6 marks)

**(Total: 20 marks)**

QUESTION THREE

- (a) Helen Sema got compensation of Sh.500,000 from her employer for injuries she sustained while at work. Helen Sema is interested in investing in a secure investment like treasury bonds.

**Required:**

Advise Helen Sema on risks associated with investing in treasury bonds.

(8 marks)

- (b) With specific reference to bailment, pledge and lien:

(i) Explain four characteristics of liens. (4 marks)

(ii) Identify six forms of pledges. (6 marks)

(iii) Outline two factors which a bailor needs to prove in order to successfully sue a bailee for breach of the bailment contract. (2 marks)

**(Total: 20 marks)**

**QUESTION FOUR**

- (a) Describe eight standard clauses commonly found in guarantees. (8 marks)
- (b) Tom Tafuta is an employee of Jipange Sacco. He would like to obtain a loan from his sacco. Tom Tafuta is aware that a sacco society might give loans to its employees and board members, however, he has no information on the conditions to be met before he can be granted a loan.
- Advise Tom Tafuta on the conditions to be met before he can be granted a loan by his employer. (8 marks)
- (c) Outline four remedies available to a chargee in case a chargor is in default within two months. (4 marks)
- (Total: 20 marks)**

**QUESTION FIVE**

- (a) (i) Explain eight best corporate governance practices that every board of directors should embrace for the benefit of their companies. (8 marks)
- (ii) Highlight four principles of corporate governance. (4 marks)
- (b) Describe the procedure applicable to a director who has an interest when disclosing an issue of conflict of interest. (8 marks)
- (Total: 20 marks)**

**QUESTION SIX**

- (a) (i) Explain two ways through which a borrower might purchase the insurance required under a credit agreement. (4 marks)
- (ii) Highlight eight types of errors which might be corrected by the lender under a credit agreement for open credit. (8 marks)
- (b) Alex Fundi, a tailor, has declined to release Brenda Suti's designer suit and intends to sell the same to recover his unpaid repair charges. Brenda Suti is adamant and maintains that Alex Fundi has no legal right to sell the suit. Alex Fundi feels aggrieved and has approached you for advice.
- Analyse the legal principles applicable in the above case and advise Alex Fundi on his legal rights, if any. (8 marks)
- (Total: 20 marks)**

**QUESTION SEVEN**

- (a) James Kopa borrowed a loan of Sh.1 million from Mkopo Bank Ltd. He used his title deed as security for the loan. Unfortunately James Kopa was retrenched from employment after servicing the loan for one year.
- After two months of default, the bank procured the services of auctioneers and the land was sold at Sh.300,000.
- James Kopa feels aggrieved and approaches you for advice.
- Identify the legal principles applicable and advise James Kopa on his rights. (8 marks)
- (b) Suggest three measures that lending institutions could put in place for prospective foreign customers who intend to open accounts without face-to-face contact. (6 marks)
- (c) With reference to provision of information to a consumer of an institution's products or services, explain three types of information a consumer is entitled to from the institution. (6 marks)
- (Total: 20 marks)**
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