

QUESTION 1

- (a) i. A condition is a fundamental term which goes to the root of the contract. Its breach entitles the injured party to treat himself as discharged from the contract as well as giving himself the right to sue for damages.

A warranty is a contractual term of lesser importance than the breach. The breach of which gives the injured party the right to claim damages only and not to treat himself as discharged.

- ii. A representation is a statement which induces a contract but does not form part of it. A term is a promise or undertaking that is part of the contract itself.
- iii. An invitation to treat is preliminary communication. It is a mere declaration of the willingness to enter into negotiations. It is an offer to negotiate, an offer to receive an offer, or an offer to chaffer. It cannot be accepted to result into a contract.

An offer is an expression of willingness to contract on certain terms which become binding on its acceptance by the person to whom it is addressed.

- iv. Past consideration is something done before the promise was made. It may constitute a motive but is not valuable consideration.

Executory consideration consists of a promise to do or forbidden from doing some act in the future. They may be provided by mutual promises.

- (b)
- There was a contract between the organizers and fans.
 - This was based on the contract between the organizers and Michael Jackson.
 - The death of Michael Jackson frustrated the contract.
 - The parties are therefore discharged from the contract.
 - Money paid by the fans is recoverable.
 - The organizers may be entitled to removal of expenses from the money collected.

QUESTION 2

(a) The sources of law in Ghana are:

- The 1992 constitution which is the highest and fundamental law of the country. Supreme law of the land and any law inconsistent with it void.
- Enactments made under the authority of the Parliament established under the 1992 Constitution. All Acts of Parliament or statutes by Parliament since 1992.
- Any Orders, Rules and Regulations made by any person or authority under a power conferred by this Constitution. Delegated or subordinate legislation as they are known are controlled by Parliament Bye laws are examples.
- The existing law made up of the written and unwritten laws of Ghana as they existed immediately before the coming into force of the 1992 Constitution. They include the NLCDS's, NRCDS's, SMCD's, AFRCDS and PNDCL,s and the Act of the various Republics.
- The Common law made up of the rules of law generally known as the common law, the doctrines of equity and the rules of customary law. The rules of common law are the body of laws developed in England in the 12th Century of the English customary laws.
- Equity developed in the 15th Century by the Court of Chancery to investigate the harshness and rigours of the common law. Customary laws are rules of which by custom are applicable to particular communities in Ghana.

(b)

- Agency of co-habitation by which there is the husband's pledge to pay the debts of the wife.
- Mr. Anku's arguments for not being liable- the items affected by Mrs. Anku were not necessarily suitable to their station in life.
- He had made adequate financial provision/ similar goods for the house.
- Expressly forbidden the wife to pledge his credit.

- Warned 'Classique shopping mall' not to give credit to the wife.
- Goods taken excessive and thus extravagant.

QUESTION 3

Hire Purchase decree 1974 (NRCD 292) S 1,3,& 8.

(a)

- A hire purchase agreement must be in writing and signed before it can be enforceable by the owner or seller.
- Every hire purchase agreement must contain a statement of the cash price and the hire purchase price or total purchase price of the goods.
- It should state the amount of each installment by which the price is to be paid and the date or the mode of determining the date upon which each installment is to be paid.
- There should be a description or list of goods to which the agreement relates sufficient to identify them.
- It must include a notice relating to the rights of the hirer and the buyer to terminate the agreements and the restrictions on the owner and the seller's rights recover the goods.

(b)

Protected goods are goods that have been let under a hire purchase agreements or sold under a conditional sale agreement, that one half of the hire purchase price or total purchase price has been paid or tendered by on behalf of the hirer or a guarantor and that the hirer or buyer has not terminated the hire-purchase agreement or conditional sale agreement or the bailment in the case of the hire-purchase agreement.

The owner or seller shall not enforce any right to recover possession of protected goods from the hirer or buyer except by action.

Where the owner or seller recovers possession otherwise:

- The hirer or buyer shall be released from all liability under the agreement and shall be entitled to recover from the owner or seller in an action for money had and received all sums paid by the hirer or buyer and any security given by him in that respect.
- Any guarantor is entitled to such recovery.
- The court may upon application by the hirer or buyer make an order for the rescheduling of the goods to the hirer or the buyer and for the rescheduling of payment due under the agreement.

QUESTION 4

Companies Code, 1963 (At 179) S 14 (a), (b) (c) (e)

(a)

- Delivery to the Register for registration a copy of the proposed Regulations of the Company.
- Registration of the Regulations by the Registrar upon satisfaction.
- Certification by the Registrar under his seal that the company is incorporated.
- Insertion of a notice in the Gazette by the Registrar stating the issue of the certificate.

Effects of Incorporation

- Legal entity distinct from its members.
 - Vested with power to do what it is expected to do.
 - Has its own rights and liabilities.
 - May own property.
 - Can sue and be sued.
 - Has a common seal.
 - Has perpetual succession.
- (b) On incorporating, a company becomes an artificial legal person separate and distinct from the persons behind it. It becomes clothed with a corporate veil.

Whenever the separate legal status of a company is ignored and liability is ascribed to various individuals and corporations in it, the corporate veil is said to have been lifted or pierced.

Circumstances under which the veil may be lifted:

- A company ceases to have members for ... Months.
- A company carries in business for more than four weeks with less than 2 directors.
- A company limited by guarantee carries on business for profits.
- Failure to identify company outside its registered office.

QUESTION 5

Companies Code, 1963 (Act 179) S. 219

Where it appears to the Registrar that-

- Any provisions of the Companies Code are not being complied with.
- Any document which the company is required to send to him under the Code does not disclose a full fair statement of the matters it relates to.
- The business of the company is being conducted with intent to defraud its creditors or the creditors of any other person.
- The business of the company is being conducted for a fraudulent or unlawful purpose.
- The business of the company is being conducted or the powers of the directors are being exercised in a manner oppressive to some part of the members or debenture holders.
- The persons connected with its formation or the management of its affairs have in connection with it been guilty of a breach of duty towards it or its members.
- The members of the company have not been given all the information with respect to its affairs that they might reasonably expect.

QUESTION 6

Bodies Corporate (Official Liquidation) Act, 1963 (Act 180) S 1 & 4

(a.)

- A special resolution of the company.
- A petition addressed to the Registrar.
- A conviction from a private liquidation.

(b.)

- A creditor of the company.
- A member or contributory of the company.
- The Attorney General.

(c.) The Court may order the official winding up of a company in such petition where,

- The company does not within a year from its incorporation commence to carry on all the time businesses authorized by its Regulations.
- Suspends any of its businesses for a whole year.
- The company has no members.
- The business or objects of the company are unlawful or the company is operated for an illegal purpose or the business carried on by the company is not authorized by its Regulations.
- The company is unable to pay its debts.
- The court is of the opinion that it is just and equitable that the company should be wind up.

QUESTION 7

Incorporated Private Partnership Act, 1962 (Act 152) S. 39

(a.)

A partner shall cease to be a partner in the firm in the event of

- His death.
- His becoming an alien enemy during time of war.
- Insolvency order being made against him under the Insolvency Act, 1962 (Act 153)

- If the other partners elect in writing that a partner shall cease to be a partner if he suffers his interest in the firm for his separate debt.
 - If the partnership agreement provides that on the occurrence of specified events any partner shall cease to be a partner automatically or at the option of other partners.
- (b.) A court may order that any partner shall cease to be a partner in the firm when:
- Such partner is shown to the satisfaction of the court to have become permanently of unsound mind.
 - Such partner is shown to the satisfaction of the court to have become in any other way permanently incapable of performing his part of the partnership agreement.
 - Such partner has been guilty of such conduct which in the opinion of the court is calculated prejudicially to affect the carrying on of the business.
 - Such partner willfully or persistently commits a breach of the partnership agreement.
 - Such partner conducts himself in matters relating to the firm's business that it is not reasonably preferable for the other partners to carry on the business of the partnership with him.
 - In the opinion of the court it is just and equitable that such partner should cease to be a partner in the firm.

QUESTION 8

Incorporated Private Partnership Act, 1962 (Act 152)

- (a)
- From the date of registration, the firm shall be a body corporate under the firm name.
 - It shall be distinct from the partners of whom it is composed and capable of exercising all the powers of a natural person of full capacity in so far as such powers can be exercised by a body corporate.
 - Notwithstanding any changes in the constitution of the partnership, the firm shall continue to exist as a corporate body until dissolved in accordance with the Act.
 - Notwithstanding that the firm is a body corporate, each partner shall be liable without limitation for the debts and obligations of the firm and shall be entitled to indemnity from the firm and contribution from co-partners in accordance with the partnership agreements.

(b)

- Partners shall stand in the fiduciary relationship towards the firm and their co-partners utmost good care and trust.
- Every partner bound to render to every other partners full information of all things affecting the firm.
- Every partner shall account to the firm for any benefits derived by him without the consent of the other partner from any transaction concerning the firm or from any use by him of the firm's property, name or business connection.
- A partner without the consent of the other parties carrying on the business of the same nature or competing with it shall account for any pay over to the firm all profits made by him in that business.