

CA



THE INSTITUTE OF
CHARTERED ACCOUNTANTS
OF SRI LANKA

SUGGESTED SOLUTIONS

KE3(B)-Fundamentals of Law

March 2018

SECTION 01

Answer 01

1.1

Learning Outcome/s: 1.1.1 Identify the main branches of the Sri Lankan Legal system and their roles.
Study text reference – Page 6
Correct Answer: C

1.2

Learning Outcome/s: 2.1.1 Explain the requisites of a valid contract i.e. offer and acceptance, intention to create legal relations, considering (including the concept of "Laesio Enormis"), capacity and form'. Definition of contract agreement, offer and acceptance capacity to contract, form of contracts, "reality of consent".
Study text reference – Page 34
Correct Answer : C

1.3

Learning Outcome/s: 3.4.1 Explain the remedies available to a buyer and seller, including rights of an "unpaid seller".
Study text reference – Page 92/93
Correct Answer: A

1.4

Learning Outcome/s: 3.6.1 Identify the differences between a CIF contract and a FOB contract. 9.1.1 Explain the process of international sale of goods, with reference to finance and letter of credit, transportation, insurance and bill of lading.
Study text reference – Page 249
Correct Answer: C

1.5

Learning Outcome/s: 4.1.1 Cheques, bills of exchange and promissory notes.
Study text reference – Page 102
Correct Answer: C

1.6

Learning Outcome/s: 5.6.1 Explain the liability of the sale for acts done by its agents.
Study text reference – Page 135
Correct Answer: D

1.7

Learning Outcome/s: 5.7.5 State the relationship between partners.
Study text reference – Page 146
Correct Answer: C

1.8

Learning Outcome/s: 7.3.2 State hours of employment, weekly, annual holiday and leave.
Study text reference – Page 203
Correct Answer: A

1.9

Learning Outcome/s: 7.4.2 Identify "schedule employment".
Study text reference – Page 213/214
Correct Answer: C

1.10

Learning Outcome/s: 8.2.1 State briefly on each of these Acts: Prevention of Money Laundering Act. No. 05 of 2006. Electronic Transaction Act No. 19 of 2006. Computer Crimes Act. Consumer Protection Act, Intellectual Property, Act No. 36 of 2003.
Study text reference – Page 226
Correct Answer: B

(2 x 10 = Total 20 marks)

SECTION 2

Answer 02

2.1

Learning Outcome/s: 1.3.1 Identify the courts in Sri Lanka and their functions.
Study text reference – Page 16
The following matters are within the jurisdiction of the Supreme Court of Sri Lanka; <ul style="list-style-type: none">• Constitutional matters• Protection of Fundamental Rights• Final appellate jurisdiction (both civil and criminal)• Consultative jurisdiction• Election petitions• Breach of parliamentary privileges• Any matter which the Parliament may vest on the Supreme Court

2.2

Learning Outcome/s 2.3.1 Explain the effect of illegality and its consequences.
Study text reference – Page 62
A “void contract” is one which has no legal effect and hence is not binding on the parties. Such contracts are null and void. A “voidable contract” is one which contains a defect, and the parties are given the option of either terminating the contract or going ahead with it in spite of the defect.

2.3

Learning Outcome/s: 4.1.1 Define and identify differences between cheques, bills of exchange and promissory notes.
Study text reference – Page 103
The following are some of the negotiable instruments recognized by law. <ul style="list-style-type: none">• Bills of exchange• Cheques• Promissory notes• Dividend warrants• Share warrants• Debentures payable to the bearer

2.4

Learning Outcome/s: 7.2.1 Explain the entitlement of gratuity.
Study text reference – Page 212
Gratuity = \times (salary/wage drawn for the last month of employment) \times no. of completed years of service. Therefore in the given scenario, the Gratuity entitlement of Sunil is, $= \times 75,000 \times 18 = \text{Rs. } 675,000.$

2.5

Learning Outcome/s: 8.2.1 State briefly on each of these Acts: Prevention of Money Laundering Act. No. 05 of 2006. Electronic Transaction Act No. 19 of 2006. Computer Crimes Act. Consumer Protection Act, Intellectual Property, Act No. 36 of 2003.
Study text reference – Page 223
Any person found guilty of the offence of money laundering by the High Court is liable to either of the following punishments : <ul style="list-style-type: none">• A fine (not less than the value of the property and not more than 3 times such value),• Imprisonment (for 5-25 years),• A fine and imprisonment, both.

(2 x 5= Total 10 marks)

SECTION 3

Answer 03

(a)

Learning Outcome/s: 2.1.1

Explain the requisites of a valid contract i.e. offer and acceptance, intention to create legal relations, considering (including the concept of "Laesio Enormis"), capacity and form'. Definition of contract agreement, offer and acceptance capacity to contract, form of contracts, "reality of consent"

Study text reference – Page 47

- *In this question what we have to determine whether the breach of a term of the contract by Sarigama, is a condition or a warranty.*
- Condition is a term which goes to the root or foundation of a contract, a breach of which will repudiate the contract.
- A warranty is a term which does not go to the root of a contract, and though a warranty must be performed, a failure to perform it does not affect the substance of the contract.
- *Similar facts were discussed in Bettini v Gye [1876] 1 Q.B.D. 183, where it was held that the breach by Bettini (not arriving six days prior to the concerts for rehearsals), was not a breach of a condition. It only amounted to a breach of a warranty. Therefore, the contract could not be rescinded, and Gye was bound by the contract.*
- *Applying the above case decision to the given scenario, it can be said that Sarigama's breach is that of a warranty and not of a condition.*
- *As a result Ravi will not be able to rescind this contract with Sarigama.*

(b)

Learning Outcome/s: 2.4.1

Explain the manner in which a contract could be discharged by performance, agreement, frustration and breach (including anticipatory breach)

Study text reference – Page 66

Case Name:

Similar facts were discussed in *Taylor v Caldwell (1983- 122 ER 309)*

Case facts:

T took a music hall on hire from C, but before the first performance the hall caught fire and got burnt down. T had by this time incurred some expenses in arranging some performances. He claimed damages on these expenses from C.

Held : The hall was destroyed due to the fault of neither party. Therefore the parties were discharged from their obligations under the contract, as the contract was frustrated. As a result T is not entitled for damages from C.

In the given scenario, the concert hall was destroyed due to the fault of neither party.

In such a situation the parties can be discharged from their obligations under the contract, as the contract is treated as frustrated.

Therefore Thompsons (T) is not entitled to claim damages from TPL, on the costs incurred by T to recover the cost of their advertising campaign.

[Total: 10 marks]

Answer 04

(a)

Learning Outcome/s: 3.3.1

Discuss the time at which there is a passing of risk and a transfer of title (unascertained goods, reservation of title, instalment deliveries, sales by auction, sale by person not the owner).

Study text reference – Page 88

- When the seller is bound to do something to put the goods into a deliverable state, the property passes to the buyer only after this act has been performed by the seller, and the buyer being notified of it.
- Similar facts were discussed at *Philip Head & Sons Ltd v Showfronts Ltd*. [1970] Lloyd's Rep. 140

In this case, S bought a carpet from P. When the carpet was delivered to the place where it was to be laid, it was sent back to P for stitching. P returned it the next day in heavy bales and it was stolen immediately after.

Held: The carpet, being still in bales at the time it was stolen, implies that the carpet was not in a deliverable state. Therefore, the above rule (in point 1 above) does not apply and S is not liable to pay P.

- Now, let's relate the above case decision to the given scenario.
- The pantry units were not in a deliverable state when placed in J's garage because they needed to be constructed and fitted.
- The property in these goods will pass to the buyer at the time the parties intend it to be so transferred. In this scenario, the property was intended to be transferred to J, after M assembles and fits the units on Saturday.
- Therefore, the property in the pantry units had not passed to J, at the time the goods were stolen.

(b)

Learning Outcome/s: 5.1.1

Explain the circumstances under which a relationship of Principles-Agent would be recognised by mutual agreement, by ratification, by necessity and by stoppers.

Study text reference – Page 122

An agency of necessity is created when a person is entrusted with another person's property and it becomes necessary to do something to preserve that property.

For an agency to be created by necessity, the following conditions must be satisfied:

1. It must be impossible to get the principal's instructions.
2. There must be an actual and definite commercial necessity for the creation of the agency.
3. The agent must act in good faith in the interests of all parties.

In the given scenario, as B had A's telephone no., B could have contacted A for instructions. But B did not do so. Therefore, the 1st condition above has not been fulfilled. Therefore, an agency by necessity has not been created between A and B

As a result, the hostel bill will have to be incurred by B.

Decided Cases

(i) *Somewhat similar facts were discussed in the case of G.N. Ry v Swaffield [1874] L.R.9Ex.132.*
In this case, a horse was sent by train and on its arrival there was no one to receive it. As the railway company could not contact the owner, they put up the horse in a livery for the night.

Held: As the railway company was bound to do something to preserve the horse, and as it was impossible to contact the principal, an agency of necessity had been created. Therefore, the principal was liable to pay the livery.

OR

(ii) Springer vs G.W.Ry (1921)

Facts of the case: Tomatoes were consigned by S from Jersey to London. The ship delivered to Weymouth three days late, owing to a railway strike the tomatoes could not be unloaded until 2 days later. When unloaded the tomatoes were found bad and the railway company decided to sell them locally. No communication was made to S.

Held : The railway company was liable for damages to S as they would have communicated with him and got instructions.

(Total: 10 marks)



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