



# THE CATHOLIC UNIVERSITY OF EASTERN AFRICA

## A. M. E. C. E. A MAIN EXAMINATION

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MAY – JULY 2018 TRIMESTER

FACULTY OF LAW

SPECIAL / SUPPLEMENTARY EXAMINATION

CLS 209: SALE OF GOODS, HIRE PURCHASE AND AGENCY

Date: JULY 2018

Duration: 2 Hours

**INSTRUCTIONS: Answer Question ONE and ANY OTHER TWO Questions**

- Q1. a) Kitetu and Zilla agreed to meet for a business lunch at a restaurant in town. During the lunch, Tosh one of Zilla's friends joined the two and began to participate in the business discussions. Tosh told Kitetu that he was Zilla's agent which Zilla, despite being present, did not object. A week later, Tosh obtained goods on credit from Kitetu, allegedly on behalf of Zilla. Tosh has since disappeared and Kitetu is demanding payment from Zilla. Advise Zilla. **(20 Marks)**
- b) In a contract of sale of goods and in the absence of any special agreement, when does the property pass to the buyer? **(10 marks)**
- Q2. Njeru attended an auction conducted by Bidhaa Auctioneers Ltd. The auction goods were displayed in four different lots. However, Njeru bid for the goods under a mistaken belief that he was bidding for all the goods. Eventually, when he went to collect the goods, he found only one lot reserved for him. Njeru is aggrieved and seeks your legal advise. With the aid of relevant case law, advise him on the legal principles applicable & the legal remedies available in his circumstances. **(20 Marks)**
- Q3. With the aid of relevant case law, discuss each of the following doctrines and its exceptions;
- a) *Nemo dat quod non habet* **(10 Marks)**
- b) *Delegatus non potest delegare* **(10 Marks)**
- Q4. a) Ratification is the legal term denoting the agency that arises when a person adopts a transaction which someone had concluded for him as his agent but

without his express authority. Agency by ratification may however only arise under certain circumstances.

With the aid of relevant case law, discuss the conditions which must be fulfilled for ratification to be effective. **(12 Marks)**

- b) With the aid of relevant case law, discuss the implied warranties in a Hire purchase agreement. **(8 Marks)**

Q5. Write short notes on EACH of the following:

- a) Rules of delivery. **(5 Marks)**
- b) Rights of the owner in hire purchase **(5 Marks)**
- c) Rebuttal for claim of agency by cohabitation **(5 Marks)**
- d) Sale and agreement to sell **(5 Marks)**

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