



THE CATHOLIC UNIVERSITY OF EASTERN AFRICA

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

AUGUST – DECEMBER 2018 TRIMESTER

FACULTY OF LAW

REGULAR PROGRAMME

CLS 305: BANKING LAW AND NEGOTIABLE INSTRUMENTS

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Date: DECEMBER 2018

Duration: 2 Hours

INSTRUCTIONS: Answer Question ONE and ANY OTHER TWO Questions

Q1. John, a Nairobi businessman entered into an arrangement with Peter, a manufacturer based in Kisumu whereby John would be paying for goods supplied by Peter through Bills of exchange drawn on Bidii Finance Ltd. Two such bills were drawn by John and handed over to Peter who took them to Bidii Finance Ltd for acceptance. Since then the following facts have come to light:-

- i) That the goods supplied by Peter did not correspond with sample. For this reason Peter has given notice to Bidii Finance Ltd not to honour the bills.
- ii) One of the bills for Ksh. 500,000/= was stolen from Peter's safe by one of his employees who forged Peter's signature and discounted it for Ksh. 200,000/= with Mlachake.

a) Advise the parties of the legal positions. **(20 Marks)**

b) How different, if at all, would your answer in 1(ii) above be if the bill were a bearer bill **(10 Marks)**

Q2. The manner in which a bill is negotiated depends on whether it is an order bill or a bearer bill.

Citing relevant cases critically examine this statement. (20Marks)

Q3. The history of banking Legislation in Kenya demonstrates concern by the state over the need for stability and prudence in management.

Discuss.

(20Marks)

Q4. Banks have responsibility of ensuring that their dealing with the customers' accounts is not diverged to third parties. This responsibility is not, however, absolute.

Discuss.

(20Marks)

Q5. If a bank pays to a customer an amount of money which the customer is not entitled to on the basis of a cheque presented to it, the bank would be liable to the true owner of the instrument.

Discuss.

(20Marks)

END