



UNIVERSITY OF NAIROBI

MODULE EXAMINATIONS - 2011/2012
(EVENING)

SECOND YEAR EXAMINATIONS FOR THE
DEGREE OF BACHELOR OF LAWS

GPR 205: SALE OF GOODS AND AGENCY

DATE: FEBRUARY 1, 2012

TIME: 5.30 P.M. - 7.30 P.M.

INSTRUCTIONS:

Answer Question NO. 2 (TWO) and any other THREE Questions

- Using relevant authorities, write on the types (categories) of goods, under the Sale of Goods Act - [Cap. 31, Laws of Kenya] clearly indicating the role and place of each category in a sale of goods contract. [15 marks]
- Joe, a cattle farmer and Andrew, a butcher at Athi River Market agree that Andrew will send his lorry to Joe's ranch to pick twenty good-grade steers for slaughter, and the price to be as per the obtaining rates per kg. of animals of that grade.

The parties had not dealt with each other before.

Upon arrival at the farm, Joe loads twenty steers, which despite their huge sizes, weigh, an average of 40 kg. dead weight and are not well finished even by their look before slaughter. Despite that, Peter, a Form Four son of Andrew who drove the lorry to the farm, raises no objection and delivers the animals to his fathers slaughter house.

Upon seeing the animals, Andrew declined to accept delivery of the animals ordering Peter to return the goods to Joe and demand return of transport cost from the seller - Joe.

On his way back to Joe's farm, Peter has an accident in which the lorry rolls twice, two kilometers from the Farm-House, but within Joe's ranch. Eight of

the animals die on the sport while the rest break their limbs and the Veterinary Officer, who happened to be around at the time, orders the animals be put to sleep immediately.

Joe sues Andrew for the price of the goods arguing that delivery had been effected through Andrew's agent, Peter. Andrew files a counter claim for breach of contract in that the goods were not of the right quality.

The case is heard before you. As the presiding Judge, how would you dispose of the dispute? [25 marks]

- How does a sale of goods contract differ from:

- Sale by auction
- Bailment
- Barter

[15 marks]

- Mama Sarah goes to Mama Mboga's stall at Wakulima Market, selects 1 kg. of tomatoes; 1 kg. of potatoes and 1 kg. of carrots, put them in a paper bag and leaves the packet with Mama Mboga saying: "I am coming back in a few minutes after I buy bananas and oranges from Sue, just next door".

Five minutes later, Sarah returns, ready to pay and collect her goods, only to find Mama Mboga giving the packet to Njeri who has already paid and is quickly boarding a matatu.

The row and noise between the three ladies attracts the police officers patrolling the area.

Mama Mboga's stand is that "there is no problem. Sarah can pick other vegetables as there is still more than Sarah needs", while Njeri's stand is "that she has already paid for the vegetables and the goods are hers". Sarah's point is as follows: "There is no doubt in my mind that Mama Mboga and Njeri have stolen my goods and I will not touch any other vegetables".

You are one of the police officers who turned up to deal with the row. Advise the three ladies on their respective rights and obligations under the circumstances. [15 marks]

- If you were appointed a one-person commission to Review the Sale of Goods Act, (Cap. 31, Laws of Kenya), what aspects of that Statute would you address and what changes would you introduce in the new sale of Goods Act for this country?