

KASNEB

CCP PART II SECTION 4

LAW GOVERNING CREDIT PRACTICE

THURSDAY: 26 November 2015.

Time Allowed: 3 hours.

Answer any FIVE questions.

ALL questions carry equal marks.

QUESTION ONE

- (a) Martin Sumo delivered his television set to Jessica Milo for safe custody. Jessica Milo agreed to redeliver the television set to Martin Sumo upon his return, but unfortunately she stored the television in an unsecure room where it was stolen before she could redeliver it.

Martin Sumo has now returned and learnt about what transpired with regard to his television. He has approached you for legal advice, as he intends to sue Jessica Milo who had volunteered to store the television set for him.

Analyse the legal principles applicable in the above case and advise Martin Sumo. (12 marks)

- (b) Immanuel Kioi has approached Racheal Soffie to be his guarantor in a loan transaction. He has further requested Racheal Soffie to execute some guarantee forms.

Explain to Racheal Soffie the essential elements of a valid contract of guarantee. (8 marks)

(Total: 20 marks)

QUESTION TWO

- (a) Explain four meanings of the term "chattel" as used in a chattel transfer. (4 marks)

- (b) Describe four covenants, provisions and powers on the part of a grantor in a chattel transfer. (8 marks)

- (c) Where the registration of a co-operative society is cancelled, the commissioner may appoint a liquidator of that society and all properties of the society rest in the liquidator from the date of the order of cancellation.

Highlight the powers of the liquidator appointed by the commissioner. (8 marks)

(Total: 20 marks)

QUESTION THREE

- (a) Outline four types of company securities which might be traded at a securities exchange. (4 marks)

- (b) Explain the practical importance of corporate governance within an organisation. (8 marks)

- (c) Thomas Obwoye intends to purchase a piece of land from Chris Mbolea.

Advise Thomas Obwoye on the information he needs to know about the land before committing himself to buy it. (8 marks)

(Total: 20 marks)

QUESTION FOUR

- (a) A lending institution shall classify its loan portfolio based on performance vis-à-vis the terms provided in the loan contract.

Describe five categories into which all loans are classified. (5 marks)

- (b) Discuss eight practical benefits of buying corporate bonds. (8 marks)

- (c) Pawnbrokers are persons licenced to carry on a money lending business by accepting valuable articles as security for the repayment of a loan.

Explain seven general restrictions imposed on pawnbrokers by the law. (7marks)

(Total: 20 marks)

QUESTION FIVE

- (a) In the context of consumer protection in credit agreements, explain five disadvantages of using life insurance policies as security in a mortgage. (10 marks)
- (b) Describe five precautionary measures taken by a mortgagee to ensure that the title of the land intended to be used as security is perfect. (10 marks)

(Total: 20 marks)

QUESTION SIX

- (a) Explain five particulars that the Registrar of Companies shall record in the register in case of a charge that is not part of a series of debentures. (5 marks)
- (b) Identify seven types of charges that could be created by a company. (7 marks)
- (c) With specific reference to consumer protection in credit agreements, summarise the provisions governing the following:
- (i) Default charges that a lender is entitled to impose on a borrower. (3 marks)
- (ii) Supplier credit agreements that the Consumer Protection Act No.46 of 2012 does not apply to. (5 marks)

(Total: 20 marks)

QUESTION SEVEN

- (a) Highlight six forms of business activities that a Savings and Credit Co-operative (SACCO) society is prohibited by law from engaging in. (6 marks)
- (b) Harris Obi is a member of Fanikisha Sacco. He is employed with Bahada Company Ltd. and ensures that his Sacco contributions are deducted and remitted on time. Two years ago, Harris Obi saw an advertisement in a Saturday newspaper for sale of a piece of land in a prime area at a price of Sh.500,000. Harris Obi did not have any savings and so he quickly applied for a development loan from the SACCO.

Fanikisha Sacco granted Harris Obi the loan and he purchased the land. One month later, Harris Obi tried in vain to obtain his title deed and it has become apparent to him that he was duped. Harris Obi therefore only paid his loan for one year and on the second year started defaulting.

Fanikisha Sacco has decided to appoint a debt collector after exhausting the normal SACCO loan collection procedure.

Required:

- (i) Explain eight forms of conduct that the debt collector is prohibited by law from engaging in with regard to the collection of the debt. (8 marks)
- (ii) Highlight six circumstances under which Fanikisha Sacco Society shall deem Harris Obi's loan as a loan written-off. (6 marks)

(Total: 20 marks)