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# **BUS 313: COMPANY LAW**

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## **QUESTION. 1**

The concept of “Contract” is fundamental to the vitality and sanctity of human existence. State specific scenarios or examples to validate your position on this assertion.

### **Solution**

The contractual process in its truest sense, traverses many aspects of human interactions or engagement. In some cases, the contractual eventuality is quite apparent, whilst in other cases it may not be very obvious for varying reasons related to the copulation and crystallization of the contract.

Contracts are principally agreements (written oral) made by identifiable parties and comprising of specific ingredients (offer, acceptance, consideration, intention to enter into legal relations and legality). It is in this light, that one can fully appreciate the integration of contractual processes into different aspects of human endeavours, such as; sale of goods and services, hire-purchase, agency, matrimonial contexts, insurance, shipping, air-travel, natural resources transactions, banking, trusteeships amongst others.

## **QUESTION 2**

Consideration is usually regarded as an important component of a contractual arrangement between identifiable parties. In the light of this statement, critically discuss the legal issues that are associated with this fundamental contractual element.

### **Solution**

The element of consideration is an integral part of determining whether or not a contract actually exists. Thus, it is possible that where it has been concluded that the parties have not furnished due consideration, then what has transpired between them cannot be right captured as contract. It does not also necessarily have to be monetary form (Curie V Misa). The other issues central to the analysis of consideration include; value of consideration in the eyes of the law; requisite flow of consideration between the promisor and promisee; executory or executed, legality amongst others.

### **QUESTION 3**

Discuss, from the contractual standpoint, the integral issues associated with the well established law doctrine of privity.

#### **Solution**

The Doctrine of privity of contract postulates that a person who is not a party to a contract cannot enforce the benefits, or be liable to the burdens in it. There are also exceptions to this principle in order to reflect the practicalities and realities of different commercial arrangements. These include Agency, Trusteeship, and Restrictive Covenants on land amongst others.

### **QUESTION 4**

The term capacity under the law of contract is construed in a specific sense as opposed to other meanings that can be ascribed to same. Discuss this from a legal perspective.

#### **Solution**

In Nigeria, the contractual capacity of a person is usually qualified by reference to the relevant laws or precedents in terms of a specific contractual age (infancy) mental state (insanity and drunkenness), literacy and corporate status or powers of an organization.

### **QUESTION 5**

It can be difficult to ascertain whether or not there is an intention to enter into legal relations in a contractual scenario. Advice on the way and manner this legal problem has been resolved within Nigeria's legal context.

#### **Solution**

The contractual intention to enter into legal relations is usually determined with Nigeria's legal context by classification into three broad categories namely, social/domestic, commercial and intermediate scenarios. In each class the court depending on the specifics will determine whether or not there is actually an intention to create legal relations.

### **QUESTION 6**

Chief Olusola sees a pair of shoes displayed at Shoprite chopping mall with a price tag that "For Sale" ₦5,000.00 .He walked to the shelf and picked the shoe and approached the Sales Manager that he was prepared to buy the shoe for ₦5,000,00. The sale Manager refused to sell the shoe to him and he intend to sue Shoprite for breach of contract. Advise him on the success of his action in court.

#### **Solution**

This not an offer but an invitation to treat. Generally An invitation to treat is a mere declaration to enter into negotiations. e.g display of goods for sale auction, invitation to tender etc. **HYDE V. WRENCH.**

## QUESTION 7

Explain the doctrine of privity of contract and the exceptions with reference to decided cases.

### Solution

Definition of doctrine privity of contract: Privity of contract- this means that only parties to a contract can seek and enforce the contract. As a general rule, a contract cannot confer rights or impose obligations under it on third parties. (2mks)

Explain case of **Dunlop V. Selfridge** as it illustrates the operation of the doctrine.

Exceptions to the Rule: Agency, Privity of Estate (Certain covenants concerning land), Trust, Statutory exceptions

## QUESTION 8

A contract in the eyes of the law cannot be said to be valid without some essential elements. Discuss the elements.

### Solution

Contract is an agreement between two or more persons which is legally binding and enforceable. It may be in writing, by word of mouth (orally) or by conduct. The basic ingredient of contract is: Offer, acceptance, capacity, intension to create legal relations, consideration, legality, forms, object of the contract must not be illegal.

## QUESTION 9

Generally, Contract can be terminated in the following ways:

### Solution

By mutual agreement, by operation of law i.e death, insanity, bankruptcy.Lapse of time, Frustration, performance, Fundamental breach.

## QUESTION 10

Mr. Gbenga entered into a contract with Amaka for the supply of 20 Tons of Cements for his building project. Amaka has breached the terms of the contract and MrGbenga is contemplating suing Amaka for breach of contract. Amaka is planning to use self-help to settle the matter. Advise the parties on the various legal remedies available to an innocent party for breach contract under the Nigerian law of Contract.

### Solution

The following legal remedies are available to Mr. Gbenga (an innocent party) who suffered breached of contract under the Nigerian law of Contract against Amaka (the defaulting party):

- **Action for damages:** He may sue for damages. The aim of awarding damages is to put the injured party, so far as money can do it in the same position as if the contract had been performed.Damages mean compensation monetary or otherwise. **(2mk).**

- **Order of Specific Performance:** He may ask for an order of specific performance. Specific performance is an equitable remedy. It is an order issued by the Court of competent jurisdiction ordering a Defendant to perform the promise he had made or to honour his obligations under a contract. **(2mk)**.
- **Rescission of Contract:** Hemayask for the rescission of the contract. Rescission is an equitable remedy available to an injured party for breach of condition or where there is a mistake or misrepresentation. Rescission terminates the contract. **(1½mk)**.
- **Injunction:** It is an equitable remedy. It restrains or prohibits a person from doing a particular act, omission or to undo an act or omission. **(2mk)**.

### **QUESTION 11**

Contracts are classified according to the characteristics they possess. Do you agree with this assertion discuss?

#### **Solution**

Contract under seal (formal Contract, simple contract (Contract not under seal, Express Contract, Oral (Parol), Implied Contract, Severable Contract.

### **QUESTION 12**

Explain how a Contract can be terminated under the Nigeria law of contract.

#### **Solution**

By revocation, by rejection, by counter offer, Lapse of time, death, by performance, frustration etc

### **QUESTION 13**

Why is the sale of goods in Nigeria captured under a separate legal framework bearing in mind that the principles of contract still serve as the bedrock to understanding transactions that fall within this category.

### **QUESTION 14**

The practice of hire purchase as a business model has numerous advantages as evidenced by its adoption in several countries. In light of this assertion what are the challenges with applying the legal framework that regulates such transactions in Nigeria.

### **QUESTION 15**

As regards sale of goods contract in Nigeria, certain conditions are implied by law. Briefly discuss the essence at least three conditions that fall under this category, whilst emphasizing in each case, the importance to delivering real and actual value as regards contractual process?

### **QUESTION 16**

Describe the term agency in the broadest sense particularly as it pertains to the private business context and also to the government public sector bearing in mind that both sectors are integral to stimulation and sustainability of business activities in an emerging economy such as Nigeria?

### **QUESTION 17**

Sources of law serve as a veritable basis to decide cases amongst disputing parties to a contract. In light of this statement and citing specific examples in each case, discuss at least three sources of law that can be ascribed to Nigeria's legal system.

### **QUESTIONS 18**

Explain the following legal concepts: (a) Counter Offer (b) Invitation to treat (c) Acceptance by Postage.

### **QUESTION 19**

With the aid of judicial authorities, write exhaustively on the elements of a valid contract in Nigeria.

### **QUESTION 20**

- a. Discuss the various ways by which a contract can be discharged or terminated by the parties.
- b. Write briefly on the vitiating elements of a contract under the Contract Law.
- c. Explain the meaning of the maxim "non est factum"