

Mid Semester Test: August-2016

Law of Contracts-II

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Law of Contracts-II (Specific Contracts, Partnership and Sale of Goods)
Semester-III (Batch: 2015-20)

Mid Semester Test: August-2016

Date: 10th August, 2016

Duration: 2 hours

Max. Marks: 30

Instructions:

- Read the questions properly and write the answers in the given answer book.
- The respective marks for each question are indicated in-line.
- Do not write any thing on the question paper.
- Indicate correct question numbers in front of the answers.
- No questions or clarifications can be sought during the exam period, answer as it is, giving reason, if any.
- **Bare Act is not allowed.**

Part-A**Marks****Answer all questions**

- Q.1 Himanshu is a lecturer in Law at Siddhi National Law University, and a keen gardener with a large orchard. Green India Ltd is a manufacturer of gardening requisites, and has a number of retail outlets from which they sell their own products and those of other manufacturers. Last March Himanshu visited one of these outlets to buy fertiliser. In the past, he had always used a top brand, but was hoping to find something cheaper. He looked at several types of fertiliser on display, noted the widely differing prices, and read the promotional leaflets. He studied the chemical composition of each fertiliser, given in the leaflets. Some fertilisers required application to the roots, others to leaves. He then sought the advice of the only available sales assistant, a youth who did not seem to know much about the products on sale. (07)

The sales assistant recommended that Himanshu should buy Green India Ltd's 'Apple Gro', which, at Rs 600, was considerably cheaper than all other brands in stock. Himanshu decided to buy a sack of 'Apple Gro', and was given a sales invoice to sign, which stated:

- Green India Ltd agree to refund the purchase price paid for any goods which fail to conform with commercially recognised standards of quality or with any description applied to them.
- Any damages or compensation payable shall not exceed the purchase price of the goods sold. All claims against Green India Ltd must be made within 21 days of purchase.
- Green India Ltd does not give any undertaking as to the suitability or fitness of goods purchased for any particular purpose.

Himanshu paid for the fertiliser and signed the invoice without reading it.

The instructions on the fertiliser stated: "Spray once on leaves and fruit during June or July in dry weather" and gave details of dosage rates. Himanshu duly sprayed his apple

Himanshu paid for the fertiliser and signed the invoice without reading it. The instructions on the fertiliser stated: "Spray once on leaves and fruit during June or July in dry weather", and gave details of dosage rates. Himanshu duly sprayed his apple trees on a sunny day in July, but that night there was a heavy rainstorm, which washed away some of the fertiliser before it took effect. Himanshu did not realise that rain could

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wash away the fertiliser and no specific statement to this effect was contained in the instructions. The fertilisers Himanshu had previously used were applied to the tree roots and were not affected by rain.

When the trees produced fruit, the apples were small and sour. Though Himanshu had previously sold most of his apple crop to a local greengrocer and had won prizes for his apples at local horticultural shows, this crop could not be sold or entered for shows. As a result, Himanshu became depressed, his lecturing work suffered, and he was not even shortlisted for a promotion which most of his colleagues thought he would get.

Himanshu now wishes to sue Green India Ltd for all compensation possible, including the purchase price of the fertiliser, loss of profit on sale of the apple crop, loss of prize money from shows, stress, and loss of the increase in salary he would have got on promotion. Green India Ltd deny liability, and argue that, in any event, they are protected by the invoice terms from any liability beyond the purchase price paid by Himanshu.

Discuss the remedies available to Himanshu so that he can make a claim against Green India Ltd. Support your answers with the help of relevant case laws and provisions of the Indian Contracts Act 1872 and Sale of Goods Act 1930.

- Q.2 Sunil delivered his car to Mahesh for repairs. Mahesh completed the work, but did not return the car to Sunil within reasonable time, though Sunil repeatedly reminded Mahesh for the return of car. In the meantime a big fire occurred in the neighborhood and the car was destroyed. Decide whether Mahesh can be held liable under the provisions of the Indian Contract Act, 1872. Cite relevant case laws. (02)
- Q.3 X enters into a druggist's shop and asked for a hot water bottle. He is shown a bottle which the proprietor of the shop said will not stand boiling water, but it is meant for hot water. X buys the bottle, and one day while using it, it bursts and injures X. It is proved that the bottle was not fit for use as a hot water bottle. Is the seller liable to damages for breach of warranty? Explain with the help of relevant case laws and provisions of the Sale of Goods Act 1930. (02)
- Q.4 Examine whether the following constitute a contract of 'Bailment' under the provisions of the Indian Contract Act, 1872. (02)
- (i) V parks his car at a parking lot, locks it, and keeps the keys with himself.
 - (ii) Seizure of goods by customs authorities.
- Q.5 X sold to Y certain quantities of 'foreign refined rape oil warranted only equal to (02)

(ii) Seizure of goods by customs authorities.

- Q.5 X sold to Y certain quantities of 'foreign refined rape oil warranted only equal to samples'. The samples consisted of rape oil mixed with hemp oil. The oil tendered corresponded with the samples, but it was not such as is known in the market as "foreign refined rape oil". Could Y reject the goods? Explain with the relevant provisions of the Sale of Goods Act 1930. (02)
- Q.6 In the pursuance of a contract to fill 20 bags of sugar out of a large quantity, the seller filled four bags which the buyer takes away. Subsequently, the seller filled 16 more bags, informed the buyer of this and requested him to take them away. The buyer promised to do so. Did the property in the 16 bags of sugar pass to the buyer? Explain with the relevant provisions of the Sale of Goods Act 1930. (02)

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- Q.7 B handed her jewellery to M to value it and tell her what advance he could make on them, it being agreed that M was to keep the jewellery as security if he made the advance. On the same day M pledged the jewellery with A, a pawnbroker, who advanced £1,000 in good faith. Four days later M advanced £500 to B on the security of her jewellery. Subsequently on coming to know of the transaction between M and A, B paid the amount she had borrowed and sued A for the recovery of her jewellery contending that when M advanced the money, no valid pledge could arise as there was no delivery of goods in pursuance of the contract of pledge and M had already parted with the possession of the goods by pledging them with A. Will B succeed? Explain with the help of case laws and relevant provisions of the Indian Contract Act 1872. . (03)

Part-B

Answer all questions

- Q.8 Differentiate between the following (2x3=06)
- (a) Bailment and Pledge
 - (b) Sale and Hire Purchase Agreement
- Q.9 Explain the rights of a Bailor in detail? (04)
