



THE HONORABLE SOCIETY OF KING'S INNS

ENTRANCE EXAMINATION

AUGUST 2019

Examination: Contract Law

Date: Wednesday 14 August 2019

Time: 10am to 1pm

Internal Examiner: Professor Raymond J Friel (UL)

External Examiner: Mr James O'Callaghan SC

Instructions:

Candidates must answer Question 1 and any TWO of the remaining questions.

Question 1 carries 50 marks, all other questions carry 25 marks each.

This paper is 5 pages long including the cover sheet. You should check that you have all the pages and inform the invigilator immediately if any are missing.

Question 1.

During a lunch meeting on April 5, Mary told Alan that she was selling her vintage Caprica Colony V12 roadster, a two seater sports car. Alan had always wanted this car and so immediately offered Mary €90,000. Mary said, "That sounds tempting, but to be honest I haven't thought about the price, just that I need to get rid of it as I am moving overseas to the United States shortly. At a guess however, I don't think I would let it go for less than €110,000."

Alan said that he would pay Mary her asking price provided he could get a loan for that amount from his bank. Mary laughed and said that if he had to borrow for it, then he could not really afford it. Alan begged Mary to give him a week and he would pay her the money in cash. Mary said that she was sure she would not be selling before the week was out, to which Alan replied "As a sign of my commitment, I will pay for lunch if you give me until the end of the week to buy the car." Mary laughed but agreed. However, when Alan went to pay for lunch his card was declined and Mary had to pay for both of them. Alan nonetheless insisted that he would send Mary the money for lunch once he sorted the issue with his card.

That evening, following discussions with his bank, he wrote to Mary stating that "I have secured finance for €110,000 to complete our deal, but it will take 4 weeks for the funds to be available. Also, please find enclosed the money for the lunch as promised." Alan posted this in the mail box at around 9pm that evening.

On April 7, Alan noticed on Handbook, a social media site, that Mary had updated her timeline with a picture of Mary, lying on top of the Caprica Colony V12 Roadster with the caption: "Sorry to see the love of my life go, but Jonathon is giving me 140,000 reasons to get over it!" Alan was shocked, he could not believe that Mary had sold the car before the week had passed. Alan sent Mary an angry text that read: "We had a deal, but forget that - I will match Jonathon's offer in any event but I simply must have the car," After about 20 minutes, Mary texted back: "If you are offering €140,000, then I accept! Let me know when you have the money."

Alan subsequently learned that Jonathon never sought to buy the car but he was in fact Mary's new employer in the US and that 140,000 was her starting salary in dollars. He has also discovered that there are other examples of the car available for around €60,000.

Advise Alan as to his legal position under the law of contract in these circumstances.

[50 marks]

Question 2.

Helen owns an online business which has a unique selling point: simply put it promises that it will only ever package its goods in fully recyclable packaging. Helen entered into a contract with David, whose business specialised in recyclable packaging. The following terms are in the written contract for David to supply Helen with recyclable packaging:

Clause 5.1 *All packaging materials supplied will be regulatory compliant with the legal definition of 'recyclable'.*

Clause 8.1 *The contract will be interpreted only under existing laws, regulations and practices in existence at the time of the making of the contract.*

Under the contract, Helen would submit orders for her packaging requirements from time to time. The contract was in operation for around 6 months when the government altered the definition of 'recyclable' which resulted in David's product being now classified as 'non-recyclable'.

David discovered that in order to make his product 'recyclable' he would have to invest €100,000 in a new machine, money he quite simply did not have. He continued to supply Helen with the 'non-recyclable' packaging and when Helen discovered this he claimed that this was in accordance with clauses 5.1 and 8.1 as the material supplied was regulatory compliant with the legal definition of 'recyclable' in force at the time of their original agreement.

Advise Helen as to the correct interpretation of these terms in contract law.

[25 marks]

Question 3.

Dean has just entered into a contract to star in a television docu-drama series about the life of a defence lawyer in the Irish criminal process. Dean was really excited, particularly as he was being paid a fee of €5,000 per episode, more money than he normally sees in several months from his legal practice.

The contract envisages a full run series of 22 episodes but when episode 4 goes to broadcast, the audience ratings have dropped significantly. Shane, the show's producer, contacts Dean saying that they will have to exercise their right to unilaterally terminate their agreement without compensation as the show is no longer economically viable, unless Dean agrees to reduce his fee to €500 per episode. However to soften the blow, Shane says that if ratings picked up, then they could discuss raising the fee closer to its original agreed level. Dean reluctantly agreed: after all, it was still more than he was making at his legal practice.

In fact, in episode 6, Dean was appointed as the defence lawyer to Tony the Enforcer, a vile criminal charged with several gangland assassinations. As a result of this, the audience ratings have gone through the roof and the show is now the most watched TV show in Ireland and has gone viral on the internet. Dean now wants to revert to his original contract term of €5000 per month for all 22 episodes as originally agreed.

Advise Shane as to the legal position with respect to the altered payments under the law of contract.

[25 marks]

Question 4.

John was shopping in the local shopping centre when he spotted an art display from local artists. He was particularly taken with a life size sculpture of four birds hanging upside down on a tree branch and entitled 'Birds in Thought'. The sculpture was made by Laura, an artist who loved working in copper but also worked in less valuable materials such as tin.

There was no price on the sculpture, simply Laura's telephone number and email address with the phrase: "Make me an offer for this piece".

John emailed Laura in the following terms. "I have followed your for years and I just love your work. I have just seen 'Birds in Thought' on display at the shopping centre and I must have it. Will you take €1,000 for it? If you are happy with this, send me your bank details and when the transfer is made you could deliver it directly to my house. Regards, John." Laura was thrilled. The display in the shopping centre was a tin replica of her original 'Birds in Thought' sculpture. The original version was made of copper and cost €15,000. She had hoped she would sell the tin replica for €500 but had not received any offers for it at all so far.

Laura emailed John by return, 'Sold to the generous gentleman! I have had so many orders from that display in the shopping centre.'

John was furious when he discovered it was a replica of the sculpture in the studio and made of tin not copper and is insisting that Laura had agreed to sell him original for €1,000.

Advise Laura as to her position under the law of contract with regard to this transaction.

[25 marks]

Question 5.

In relation to any **TWO** of the following issues, comment on whether the law is in need of reform, illustrating your answer with relevant case law where appropriate.

- (a) The distinction between a penalty clause and a liquidated damages clause.
- (b) The impact of intoxication on the capacity of an individual to enter a contract.
- (c) The rights of a third party who is the intended beneficiary under a contract between two other individuals.

[25 marks]