

**UNIVERSITY COLLEGE LONDON**

*University of London*

**EXAMINATION FOR INTERNAL STUDENTS**

*For The Following Qualification:-*

*LL.B.*

**LL.B. Intermediate: Contract and Tort I**

**COURSE CODE : LAWSINT1**

**DATE : 06-MAY-03**

**TIME : 10.00**

**TIME ALLOWED : 3 Hours 15 Minutes**

## CONTRACT AND TORT I

Answer **FOUR** questions, at least **ONE** from each of Part A and Part B

Where a question is divided into two or more parts, **ALL** parts must be answered unless otherwise indicated.

### Part A: Contract

1. Roseway Supermarkets plc (Roseway) decides to put out to tender the supply of the eggs that it needs for its various supermarkets for the year 2002. It inserts an advertisement in the Grocer's Gazette in June 2001 calling for tenders. Potential bidders are instructed to submit their bids on a form prepared by Roseway and containing Roseway's standard terms and conditions. The advertisement states that the contract will be awarded to the lowest bidder. Discuss the rights and duties of all of the parties in the following, separate circumstances:
  - i. Fred submits a bid which turns out to be the lowest bid. Roseway's terms and conditions include a clause allowing Roseway to reduce the agreed price if the market price of eggs falls during the year. Fred strikes out this clause before submitting his bid.
  - ii. The contract is awarded to Glenn. Roseway's terms and conditions call for the price to be renegotiated at three-monthly intervals.
  - iii. Jessie submits a bid in which she states that she will supply eggs at a price that is 0.1 pence per egg lower than the lowest price submitted by any other bidder.
  - iv. Henrietta submits the lowest bid but, as a result of her unreliability when dealing with Roseway on a previous occasion, Roseway has no intention of awarding the contract to her.

**TURN OVER**

2. C & D Pipes Ltd (C & D) are a small firm of builders who seek your advice in connection with the following separate matters:
  - i. C & D are employed by Mark to install a new bathroom in a house belonging to his mother, Nancy. On account of their failure to connect the bath to the overflow pipe, water spills from the overflowing bath on to the bathroom floor and damages the ceiling of the room beneath.
  - ii. C & D owe £5,000 to Cripps Building Supplies Ltd (Cripps) and ask Cripps for time to pay off the debt. Cripps agrees to accept payment by monthly instalments over six months. C & D thereupon arrange a bank overdraft so that they can pay off Cripps. Cripps changes its mind after one month and is now seeking immediate payment of the remainder of the debt in full.
  - iii. C & D obtain a quotation from Modern Showers Ltd (Modern) for 100 shower units at a stated price. Modern promises to hold the price firm for three months. On the basis of this quotation, C & D bid successfully to become the plumbing subcontractors for a new housing development. A month after giving this quotation and before C & D order any shower units, Modern raises the price of its shower units by 50 per cent.
3. 'Equitable intervention has not made a positive contribution to the law of mistake. As a result of the decision in *Great Peace Shipping Ltd v Tsavliris Salvage (International) Ltd* (2002), the law has been made simpler by the elimination of a separate doctrine of equitable mistake. This has been accomplished without the loss of any flexibility in doing justice between the parties to failed contracts.'

Discuss.

4. Scarlett is a talented actress who likes horse racing and wishes to realise her ambition of owning a racehorse. On 1 April 2003, she visits a stud belonging to Colonel Mustard where she sees a young colt called 'Savanarola'. Colonel Mustard tells Scarlett that this colt is a 'certain' future champion. His sire (father), 'Bowdler', won the Epsom Derby in 1988 and his dam (mother), 'Mrs Grundy', won the 2,000 Guineas race at Newmarket in 1994. Scarlett buys 'Savanarola' from Colonel Mustard for £20,000 three weeks later and races him unsuccessfully for six months. She then discovers that Colonel Mustard's statement about 'Savanarola's' pedigree is incorrect.

Discuss.

**CONTINUED**

## **Part B: Tort**

5. Hasan wishes to purchase a home for his family. He is very interested in buying a particular property, 17 Greenglades, which is part of a housing estate that has recently been built by a leading building firm, Beckett Brothers. Looking for advice, he speaks to his friend, Maria, who is a property lawyer. She advises him to approach the Neverending Debt Building Society (Neverending Debt) for a mortgage, on the ground that they tend to ask their regular building surveyors, Smash, Grabb and Partners, to survey the property for structural defects as a free service for clients. She assures Hasan that Smash, Grabb and Partners are very good, even though she is only basing this opinion on having met their senior partner at a drinks party the night before.

Hasan approaches Neverending Debt and they agree to give him a mortgage of £300,000. As Hasan has been led to expect, Neverending Debt then ask Smash, Grabb and Partners to carry out a structural survey of the property. Smash, Grabb and Partners carry out the survey in a careless manner, finding no defects, and Hasan purchases the property. When he takes over the house, he rapidly discovers that several support walls contain cracks as a consequence of shifting foundations, which diminish greatly the resale value of the house. He is quoted an estimate of £70,000 for the necessary repairs. In addition, the electrical wiring installed by Beckett Brothers is deficient, and several small fires break out, causing £5,000 worth of damage.

Advise Hasan as to the remedies available to him in tort.

6. Andrew and Bob live in an area with numerous, tough youth gangs, and decide to form a vigilante group, the Dual Defenders of Justice, to restore order. While out patrolling, they see Chris and Denise, two local youths, hanging around at a street corner. The Dual Defenders order the two to go home, telling them that 'if you stay here any longer, you're going to be in trouble'. Chris and Denise have difficulties in taking the Dual Defenders seriously, and tell them in no uncertain terms to 'get lost now, or we'll put you in the hospital'. Andrew then tells Bob to 'get out the baseball bat'. As Bob reaches into his coat, Chris in a panic lashes out at him, knocking him over and breaking his nose. When Andrew attempts to grab Chris, he manages to trip Denise by accident. Denise falls badly and hurts her leg. In the chaos, Andrew manages to restrain Chris, and handcuffs him to a nearby railing to prevent him running away. Denise tries to hobble away, but Andrew blocks her path and tells her that she should think about staying put and explaining her role to the police. Denise stays until the police arrive, whereupon the Dual Defenders go to the hospital.

**TURN OVER**

Chris is eventually released without charge, and wants to bring legal proceedings with Denise against the Dual Defenders.

Advise Chris and Denise what legal redress is available in tort. Would it make a difference if Chris and Denise were hanging around the street corner waiting to commit a mugging?

7. 'The current state of tort law as it applies to the existence of a duty of care in the context of "nervous shock" cases lacks any foundation in principle, based as it is on artificial rules that are solely designed to act as control devices restraining the scope of potential liability.'

Discuss, with reference to relevant cases.

8. Topshire County Council decides to stage a free rock music festival, featuring the exciting new boy band, Boylife. As expected, when the concert commences, the audience is primarily composed of ten to fifteen year olds. Bill and Ted, two thirteen year olds, attend the festival, manage to climb on to the stage as a result of an inadequate number of security guards, and dive from the stage into the crowd. As a result of doing this, Bill is severely hurt and Ted is killed. Their parents wish to bring a claim in negligence against the local authority.

Discuss.

**END OF PAPER**