

Examples of examination questions from past papers

Question 1: Joseph and Martha and Colin and Alice

Joseph and his daughter, Alice arrive at your law office seeking advice as to 2 problems that have recently arisen.

Joseph, a recent immigrant who speaks and reads very little English recently completed extensions on his house in Kangaroo Valley. To finance those extensions he was persuaded by Martha to sign an agreement which Martha told him was a loan agreement for Martha to lend him \$100,000 repayable over 10 years at 5% interest. However, there was a term in the contract which provided that Martha could demand the balance of the moneys unpaid at any time, and if Joseph was unable to repay in full within one month of the demand, Joseph would transfer title to the property to Martha without Martha having to pay anything further. The loan would be discharged. Martha waited seven months after loaning Joseph the money and watching him complete the extensions, and then demanded full payment. Joseph is unable to raise the funds to pay the loan. The house is worth \$350,000.

Colin is a wholesaler of had reason to believe that Alice mistakenly thought that the balls are made of leather. This was not so. While Colin had not corrected Alice's mistake he was careful however, not to represent or promise that these are in fact leather balls. When the soccer balls were delivered Alice refused to accept them (or to pay for them) because they are made of synthetic material. Assume that no legislation applies.

Advise Joseph

- whether he must transfer title of the house to Martha
- what options are available to continue paying off the loan to Martha

Advise Alice

- whether she should defend an action by Colin for non – acceptance and payment of the soccer balls

Question 2 Black and Lni

After carrying out a market survey of pre-literacy education needs of children under 5 in 1993, Black determined that there were good prospects for selling computer software of educational games for pre schoolers pitched at families in New South Wales, Victoria, Queensland and the ACT. After successful negotiations with an American manufacturer, Learning Needs Incorporated ("LNI") he entered into an agency agreement with LNI, under which LNI appointed Black their sole exclusive distributor of pre school educational software in Australia for a period of 10 years. Black was to set up a sales and marketing outlet in the various states and royalties were agreed to. The agency agreement was signed in 1994, effective immediately.

Since 1993, Black spent \$750,000 setting up sales and marketing outlets in NSW and Queensland and hoped eventually to cover all the mainland states and territories. His 1993 market survey and accounting advice had reported that he might expect substantial profits only after 1998. However, business was very good from the start, and demand far exceeded what had been predicted in the market survey. The result was that Black showed a large profit last year and was poised to expand considerably next year.

Last month, however, Black was stunned to receive a letter from LNI, informing him that it wished to terminate their exclusive agency agreement and giving him three months' notice of termination.



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