

UNIVERSITY OF FORT HARE
NELSON MANDELA SCHOOL OF LAW
(East London)

Law of Insolvency
LOI 411E

SUPPLEMENTARY EXAMINATIONS
July 2023

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Time: 3 hours
Subject: Law of Insolvency
Marks: 100

**This paper consists of (2) pages including the cover
page**

Internal Examiner: S Muthugulu-Ugoda

External Examiner: Dr T Kondo (UWC)

INSTRUCTIONS

- 1. Answer all questions.**
- 2. You may start with any question. But number the questions correctly.**
- 3. Refer to case law and other authorities where applicable.**
- 4. Write legibly.**

Question 1**[50 marks]**

You have been appointed trustee in the insolvent estate of Jessica James, whose estate was sequestrated on 15 March 2022. The following contracts were in existence at the time of the sequestration of Jessica's estate:

(a) Jessica leased a house from Anglo-Vaal Properties (Pty) Ltd. The rent was payable monthly in advance, and at the time of sequestration the rent was four months in arrears. The trustee did not continue or terminate the lease agreement by notice to Anglo-Vaal (Pty) Ltd, and consequently the lease agreement terminated automatically three months after the trustee's appointment in terms of section 37 of the Insolvency Act. Discuss the various claims that Anglo-Vaal (Pty) Ltd will have against the insolvent estate, and refer to authority where possible. **[25]**

(b) On 13 March 2022, Jessica purchased a number of garden ornaments, tiles and large pots for her garden from House and Home Ltd. The terms of the purchase were strictly cash on delivery (COD), but when the goods were delivered at Jessica's home she was not in. The domestic worker signed for the goods after Jessica had assured House and Home Ltd that she would settle the bill with them that same day. Jessica failed to pay House and Home Ltd for the goods and her estate was sequestrated two days later. With reference to authority, explain to House and Home Ltd what the legal position is regarding the goods that were sold to Jessica. **[25]**

Question 2**[50 marks]**

Your client is XYZ Bank which finances the purchase of motor vehicles by means of instalments sale agreements in terms of NCA. The manager of your client tells you that one of its customer who purchased a motor vehicle on an instalment sale for R90 000 00 has recently been declared insolvent. The balance owing in terms of the instalment sale is R80 000. Advise your client of its rights in terms of the Insolvency Act with regard of taking possession of the vehicle and recovering the outstanding balance owing under the instalment sale. What are the steps which your client has to take in the circumstances? **[25]**

Question 3

You are approached by Mrs Styles who tells you that she married her husband out of community of property 3 years ago. In terms of their ante nuptial contract, he donated to her a big house in Rondenbosch, Cape Town. Mr Styles has recently been sequestrated. A nosy neighbour told Mrs Styles that she could lose her house as it was a disposition without value. Is there any accuracy in this matter? Would your position be different if the Styles' had been married only 18 month ago? **[25]**

TOTAL: 100