

UNIVERSITY OF COLOMBO, SRI LANKA

FACULTY OF LAW

DEGREE OF MASTER OF LAWS (BY COURSEWORK) - 2024/25

2nd SEMESTER END EXAMINATION – 2025 (AUGUST)

(TLLM 1238 – Construction Law)

(Three Hours)

Total number of questions: 04

Answer any Three questions

(Candidates will be penalized for illegible handwriting)

01. Answer parts (a), (b) and (c).

- (a) Discuss and analyse four of the most salient parts or provisions of the Construction Industry Development Act No. 33 of 2014 and their effectiveness in addressing issues that arise in the construction industry in Sri Lanka. Support your answer with relevant legal authorities.

(8 marks)

- (b) Discuss and analyse the importance of standard forms contracts in the construction industry. Support your answer with relevant legal authorities, where appropriate.

(6 marks)

- (c) Compare and contrast the FIDIC (1999-Red Book) and CIDA (ICTAD)/SBD/02 [(Construction Industry Development Authority) (Institution Construction Training and Development)] -Standard Bidding Document for Procurement of Works/Major Contracts) standard forms contracts with regard to the rights of employers and contractors. Support your answer with relevant legal authorities, where appropriate.

(6 marks)

(Total: 20 Marks)

- 02. Bonny, a multi-billion-rupee condominium developer in Tingland, decided to employ “CONContractors” to build her condominium property complex worth around 20 billion rupees. Bonny’s philosophy was that constant developmental activity was important for a country to move ahead. After entering into necessary contracts with CONContractors, the construction process began. However, around a year into the construction project, the residents in the area surrounding the construction project started to complain about the adverse impacts on the environment due to the construction activities. They accused**

the project of now occupying an area that was rich with fauna and flora, without conducting initial research into how the project may impact the environment. The residents further contend that, in any event, the building is faulty as the developers had failed to obtain necessary approvals prior to starting the construction from the necessary authorities dealing with real property considerations. Feeling discouraged due to the bad publicity surrounding the project, Bonny feels that it is best to bring the construction activities to an end. She intends to employ legal counsel to look into the above matters.

Assume you are the lawyer retained by Bonny and that the laws of Tingland are similar to those of Sri Lanka. Answer parts (a), (b) and (c) below.

- (a) Discuss and analyse whether there were any approvals related to real property that should have been obtained by Bonny prior to construction of the condominium complex. Support your answer with relevant legal authorities where appropriate.

(7 marks)

- (b) Discuss and analyse how the environmental concerns of the residents of the area can be reconciled with Bonny's development goals. Support your answer with relevant legal authorities where appropriate.

(6 marks)

- (c) Discuss and analyse Bonny's decision to refrain from proceeding with the construction contract prior to its conclusion through 'discharge of contract' and discuss the consequences that she may face through premature ending of the contract.

(7 marks)

(Total: 20 Marks)

03. Mr. Bradshaw and Co. is a large-scale building employer in the country of Sanilanka. Mr. Bradshaw and Co. employed company 'Built in Excellence' (hereafter referred to as 'BIE') to build a new wing and expand their large-scale shopping mall, named 'SHOPPE'. BIE employs a large workforce in order to carry out their construction work quickly and efficiently. Due to the reputation of quick and efficient work that was given to BIE and Mr. Bradshaw and Co's determination to open the new wing soon and start making profits, Mr. Bradshaw and Co. gave BIE a deadline of 2 years to complete all construction and hand over the site. Due to the tight timeline, BIE was forced to quicken the pace at which they were carrying out their building activities. After completion of construction, the new wing of the shopping mall was opened to the public. However, local news outlets were critical of the quickened pace of construction and made various accusations that the building was not built well and was unstable, stating "Any potential shoppers should enter at their own risk". One day, Johnny and his son went shopping at SHOPPE. While Johnny's son was running around, he knocked into a wall and the wall came crashing down. In a bid

to save his son, Johnny jumped in the way and ended up injuring his leg. Johnny wishes to sue Mr. Bradshaw and Co. as the owner of the building as well as BIE for the defective construction for the injury to his leg under the law of Delict.

Assume the laws in Sanilanka are similar to those in Sri Lanka and answer parts (a), (b) and (c).

- (a) Identify and analyse whether liability can be imposed on Mr. Bradshaw and Co. in the above situation. Support your answer with relevant legal authorities where appropriate.

(8 marks)

- (b) Identify and analyse whether liability can be imposed on BIE in the above situation. Support your answer with relevant legal authorities where appropriate.

(8 marks)

- (c) Identify and analyse the defences that Mr. Bradshaw and Co. and BIE can resort to, to escape liability. Support your answer with relevant legal authorities where appropriate.

(4 marks)

(Total: 20 Marks)

04. Answer parts (a), (b) and (c).

- (a) Explain and analyse the importance of a concept of a "Defects Liability period" in order to avoid disputes in the construction industry. Support your answer with relevant legal authorities, where appropriate.

(6 marks)

- (b) Identify and analyse the conditions required to proceed with arbitration when a dispute arises in a construction project as well as advantages of resorting to arbitration as a method of dispute settlement compared to alternative means of dispute resolution. Support your answer with relevant legal authorities, where appropriate.

(8 marks)

- (c) Make recommendations to improve the alternative dispute resolution methods (ADR methods) for effective dispute resolution related to the construction industry in Sri Lanka.

(6 marks)

(Total: 20 Marks)
