

**SUMMER EXAMINATIONS 1998/99**  
**LL.B. - ALL YEARS**  
**BACHELOR OF CORPORATE LAW - FIRST YEAR**

**CONTRACT (LW328)**

**Professor H. Beale**  
**Ms. N. Murphy**

Time Allowed: **THREE** hours.  
Answer **FOUR** questions.

1. Conor and Charlie are Galway art collectors. They had been discussing the sale of a sketch by the well known artist, James Cee. On Tuesday they meet and Conor says *"I've decided to sell you the sketch for £10,000"*. Charlie asks if he can have until Friday to think about the offer. Conor agrees.  
  
On Thursday night, Charlie hears from Dolores, another art collector, that Conor has sold the sketch to a Dublin collector. Charlie immediately sends a fax to Conor's office, accepting his offer, even though he knows that Conor spends every Thursday and Friday working in a gallery in Westport. Conor returns to Galway on Friday evening and bumps in Charlie in a pub. He tells Charlie that the deal is off because he has already sold the sketch. Charlie is furious and threatens to sue Conor for breach of contract. Advise Conor.
2. Jim leases a unit in a shopping centre to Gus, who opens a shop specialising in leprechauns and shillelaghs. The rent is £1,000 per month. Unfortunately, in April the dollar crashes, no American tourists visit Galway and Gus has less than five customers each week. Jim takes pity on him and agrees to accept rent of £600 per month. A few months later the dollar recovers, and Galway is flooded with American tourists. Gus' business is now booming. Jim calls to see him and demands that he pay full rent again, and repay the arrears. Gus laughs and says that they had an agreement, and that Jim cannot go back on his word. Jim then sends a letter demanding that Gus commence paying full rent in one month's time, and requesting payment of the unpaid rent from April. Gus asks for your advice.
3. Explain the operation of the doctrine of the undisclosed principal.
4. Explain the ways in which an exemption clause may be incorporated into a contract.
5. Give a critical account of the doctrine of duress.
6. Cindy and Cyril have been living together for five years in a house Cindy inherited from her grandmother. Cyril needs to borrow £100,000 to finance a new business venture, and asks Cindy if she will mortgage her house to secure the loan. Cindy believes that it is not a woman's place to question her boyfriend when it comes to business matters, but is not happy about the mortgage. Eventually he convinces her that if she loves him, she will grant the mortgage. They visit the bank together. Cyril stands over her and tells her to sign on the dotted line. Not a single bank official speaks to her while she is in the bank. Six months later Cyril's business fails and the bank seeks to take possession of the house. Advise Cindy.
7. Explain how money paid may be recovered, or work done be remunerated, where a contract has been frustrated.

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8. Barbara offers to sell her cake shop to Anna. She tells Anna that the shop made a £30,000 profit the previous year, and hands Anna a set of accounts. Anna does not bother to check the accounts because she thinks that Barbara has such a trustworthy face. Anna asks about her customers and Barbara tells her that her main customer, accounting for almost 50% of her business, is NUI, Galway. Anna remarks that several tables could be fitted outside in sunny weather, in a corner adjoining another shop. Barbara says that she will have to ask permission from the owners of the other shop, but that they are such pleasant people that they would be sure to consent.

Before Anna signs the contract, NUI, Galway tells Barbara that they have found another supplier and will no longer require her cakes. She does not bother to pass this on to Anna. Anna buys the shop and on the first sunny day asks the owners of the adjoining shop if she may set up some tables and chairs in the area between their shops. The shop owners angrily turn down her request saying that Barbara annoyed them with the same request on numerous occasions and that they had always turned her down. Shaken, Anna looks at the accounts for the first time and sees that the cake shop made a loss of £3,000 the previous year. She then discovers that NUI, Galway is no longer a customer.

Advise Anna.