

THE UNIVERSITY OF BRITISH COLUMBIA
PETER A. ALLARD SCHOOL OF LAW

FINAL EXAMINATION – APRIL 2020

LAW 211.001
Contracts

Professor Bruce MacDougall

EXAMSOFT PASSWORD:
EXAMSOFT RESUME CODE:

TOTAL MARKS: 100

WRITING TIME ALLOWED: 2 HOURS 30 MINUTES
PREPARATION TIME ALLOWED: 10 MINUTES

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LAW 211.001**QUESTION 1****MARKS**

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1. Angus has been a stockbroker in Vancouver. He wants to give up the rat race and enjoy bucolic sights, smells and delights. He wants to be a farmer, but does not know anything about the country, let alone farming, except what he has absorbed from a study of the poetry of the late Swiss romantics in a literature course he took some time ago at New York University. So, he decides to support himself by moving to the rural Interior of BC to sell farm implements. He does not know anything about these either, so he decides to buy an existing business which is owned personally and operated personally by Bessy.

In the lead up to the deal, Bessy says that she has made a “good life” from the business. What Bessy means by this (though it is not explained to Angus) is that she has not had to do much work, though her income is a pittance. Bessy also says, out of the blue, that she has no accounts books. So Angus does not ask for any. Bessy says books are not kept in the country. In fact, Bessy has thrown her books out.

Bessy says, “Everybody in a 100 kilometre radius comes here when they need farm implements.” Angus knows there are thousands of farmers in that area. What Bessy says is, strictly, true, but the farmers only come to Bessy’s to look. Then they go to another dealer, 50 kilometres away, where they can usually get things more cheaply. They often go to Bessy’s first for a chat, to pick her brain and to have one of her splendid free espresso coffees.

Bessy and Angus agree that Bessy will not be allowed “to be engaged in any way in the farm implements business for five years anywhere in the country”. [Assume that this is not an illegal term - because for this exam you are not responsible for Illegality.] They also agree that if she breaks this promise, she will have to pay \$25 for each infringement. They agree on a price of \$60,000 which will include “everything” which Angus is told is in “top notch condition”. They also agree that Bessy will make a detailed list of all that is being sold for the “final contract”. They say the “contract will take effect on 1 March”.

In fact she never makes this list. They do not in fact put anything in writing. When 1st March arrives, Angus, having paid the money, simply goes to the premises, as agreed, and he takes the key from under the brick by the front door. He, thus, takes possession of the business.

Business is slow, to say the least. Angus does not make coffee and so people do not “just drop in”. He sells very little. After a couple weeks, he asks an old man, who does drop by a bit too regularly, what the problem could be. The old man tells him the situation. He also says, “You’re not wise in the ways of the country. You’re a city boy. There’s a different commercial morality here.”

Angus is also upset because he has spend \$60,000 for a business he thinks is, at best, only worth half that. Many of the implements are in bad shape and quite old. Bessy has taken some items from the office, such as the desk and chair and the

superb “Cow Spectacular” calendar that hung on the wall. Angus says his efficiency has been reduced because he does not have a desk and chair.

To make things worse, Angus finds out that Bessy is working at the competing farm implements business 50 kilometres away. Bessy justifies this on the basis that that business is in a town and therefore is not “in the country”.

Angus comes to see your law firm about all this. Your partner in charge has asked you to prepare a memo on the contractual aspects of the case. Write that memo now dealing with the topics we have covered this year.

You should ignore any issue relating to Angus’s possession of, title to or right to use the building in which the business is located. Also, you should assume that the business was owned personally by Bessy and is now owned personally by Angus - that is, there are no corporate law aspects to this problem.

QUESTION 2

MARKS

- 20 2. If the facts of *Beswick v. Beswick* were to arise today (and assume that the uncle’s brother – not the aunt - is the executor of his estate), how might you argue the case for the aunt? Include arguments you would use to counter those likely to be raised by the nephew.

QUESTION 3

MARKS

- 15 3. To what extent ought contract law to concern itself more with reliance than with expectation?

END OF EXAMINATION