

Law of Obligations II

17 October 2012

- The duration of the examination is 75 minutes (from 9:30 am to 10:45 am).
- During the course of the examination, candidates may freely consult materials of their own, including online resources.
- On each Answer sheet, candidates must write their **student number only**. Please do **not** write your name or major subject of study.
- ALL candidates must attempt the following **two (2)** Questions.

[1] Question 1

Alice concluded a contract with Bob on 1 June 2012 to buy the apartment of Bob at the price of 300 million KRW.

Since Alice only had 20 million KRW immediately available on 1 June, Alice asked Bob whether it would be acceptable to fix the amount of contract deposit at 20 million KRW. Bob was reluctant. Bob suggested instead that Alice can pay 20 million KRW on the day of contract and 10 million KRW can be paid on the following day. Alice accepted this.

They thus agreed that the contract deposit must be 30 million KRW, of which 20 million KRW was to be paid on the day of the contract and 10 million KRW was to be paid on the following day (2 June 2012), 200 million KRW will be paid on 1 August and the remaining balance of 70 million KRW must be paid on 1 October 2012 when the possession as well as the title to the apartment will be transferred to Alice at the same time as the payment of the balance is made to Bob.

On 2 June, Alice had difficulty borrowing 10 million KRW. Alice told Bob that she would rather pay 210 million KRW on 1 August because her investment in an equity fund matures in mid July and she would have enough cash to pay the full purchase price by then. Bob was unhappy and insisted that Alice must pay 10 million KRW on 2 June.

While Alice was still having difficulty finding 10 million KRW, Bob terminated the sale contract on 5 June alleging Alice's breach of contract. Alice protested and claimed that Bob's termination is invalid. On 15 June Bob offered to pay Alice 40 million KRW. By coincidence Alice sent Bob 210 million KRW on the same date saying that she wants to pay early. On 1 October, Alice offered to pay 70 million KRW but Bob refused to accept the payment and made clear that he would not transfer the possession or the title of the apartment to Alice. Bob offered to return 230 million KRW to Alice.

The apartment is now worth 320 million KRW.

How should this dispute be resolved?

[2] Question 2

A Co. sold the land and the shoe manufacturing factory (building) on the land to B Co. in October 2004 at the price of 3 billion KRW. Soon after acquiring the factory and its land, B

Co. demolished the building and built a new, replacement factory building on the same spot. B Co. has been producing shoes from the new factory.

In March 2012, the local government of Gyung Ki Province sued B Co. demanding that B Co. must demolish the building, clear the ground and hand over the possession and the title of the land to Gyung Ki Province because the land as well as the previous building belonged to Gyung Ki province, which had exercised eminent domain to acquire them in 2000.

B Co. vigorously defended its case but lost the lawsuit to Gyung Ki Province in the District court. B Co. accepted the defeat and decided not to appeal. B Co. demolished the factory building and moved out of the land in September 2012.

The land in question is now worth 2.5 billion KRW. The replacement factory building cost 1 billion KRW to B Co. to build it in 2004 and 100 million KRW to demolish it in 2012. The old, original building was worth 200 million KRW at the time it was demolished by B. Co.

Having recovered the title and clean possession of the land, Gyung Ki Province began proceedings against A Co. seeking compensation for the rent of the land and the building for the past 12 years. Gyung Ki Province's argument is that A Co. was in bad faith.

B Co. also sued A Co. seeking damages in the amount of 3.6 billion KRW. In response, A Co. terminates the contract of sale with B Co. and argues that A Co. will not pay damages to B Co. until B Co. pays the rent of the land and building during the period B Co. was in possession of the land (2004-2012).

Discuss how this dispute must be resolved.

[End of questions. You must answer **both questions**.]