Law of obligations I End Term Exam (2011)

Law of Obligations I
18/19 June 2011

- This is 24 hour ‘take home’ examination beginning from 5:00 pm on Saturday 18 June 2011.
- During the course of the examination, candidates may not discuss the examination questions with anyone.
- 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 ALL Questions.
- Answers must be hand-written and must be submitted by 5:00pm on Sunday 19 June 2011 at Room 334 of the Law Faculty Building (New Wing).

[1] Question 1

Joy Trading, Co. (“Joy”), a fruit wholesaler, bought 1 ton of water melons from Lucky Agricultural Cooperative (“Lucky”) at a price of 15 million KRW. Joy sold the water melons to various supermarket chains and fruit shops and received the total of 20 million KRW from its purchasers.

A small proportion (less than 5%) of the water melons supplied by Lucky were found to be infected with lethal virus which had so far been unknown. A number of consumers who ate the infected water melons fell seriously ill and hospitalised. There was a generalised panic about the spread of plague and all supermarkets and fruit shops who bought the water melons from Lucky returned the entire remaining stock to Joy, demanding full refund plus compensation. Joy entered into a settlement with those supermarket chains and fruit shops and paid 30 million KRW as compensation (= refund of 20 million KRW + additional compensation of 10 million KRW).

Joy sued Lucky and sought damages. Lucky responded that only a tiny portion of water melons are infected and that Lucky is willing to offer 5% discount of the contract price. Since Lucky did not know or expect that any of the water melons were infected, Lucky argued that it had no obligation to compensate the extended damage resulting from the infection. In response, Joy argued that it is not at all difficult to see that when a person falls ill having consumed the water melon, the seller must compensate.
How should the dispute between Joy and Lucky be resolved?

[2] Question 2

Mr X bought a building from Mr Y at a price of 1 billion KRW. Mr X paid the contract deposit of 10 million KRW upon execution of the sale contract on 1 March 2009. It was further agreed that Mr X shall make 9 monthly payments of 100 million KRW each from 1 May 2009. The final payment of 90 million KRW shall be made on 1 February 2010. The ownership of the building will be transferred to Mr X at the same time as the final payment is fully made. Mr X intends to open a cafe using the building.

Mr Y stated that the building will have all regulatory permits necessary for it to be used as a cafe or as a restaurant as from 1 May 2009. The parties also agreed that Mr Y shall lease the building to Mr X beginning from 1 May 2009 until 1 February 2010. Regarding the payment of rent, it was agreed that the monthly payments Mr X shall make pursuant to the sale contract would also cover the rent. If, however, Mr X fails to make the monthly payment on time, it was agreed that Mr X shall pay late payment interest at the rate of 20 % p.a.

Mr X took possession of the building on 1 May 2009 and opened the cafe soon thereafter. But the business was slow and the building also had a problem of bad plumbing which filled the space with unpleasant smell. From 1 September 2009, Mr X was unable to pay the monthly payment. At about the same time, the local government sewage service began inquiries as to the structural soundness and plumbing issues of the building.

When Mr Y demanded Mr X to make monthly payment in late 2009, Mr X responded that while the plumbing issues of the building are not resolved, no monthly payment can be made. Mr X also informed Mr Y that there may be a problem of noncompliance with building regulations. Mr Y’s position, however, was that the lease agreement and sale contract are distinct and that there is no ground for Mr X to withhold the agreed monthly payments for the building purchase price. According to Mr Y, since Mr X is in arrears, Mr X must pay late payment interests as well.

Things have stayed in this manner until May 2011, when the local government revoked the building regulation compliance certificate on the ground that the building is discharging sewage in an unsafe manner. Mr Y terminated the sale contract alleging Mr X’s failure to make payments on time. Mr Y also seeks damages including the late payment interest at the agreed rate of 20% p.a.

Mr X denies all liabilities and rescinds the sale contract alleging that the sale contract was entered into with a mistaken belief that he would have all necessary regulatory permits for opening a cafe. Now that the building regulation compliance certificate is revoked, it would mean that there was a material mistake as to the elements of the contract.
Discuss how this dispute must be resolved.

[3] Question 3

Mr Kim, who lives in Seoul, has his ancestors buried in a small hill at his home town in Andong. The land is registered under Mr Kim’s name but it in fact belongs to Mr Kim’s clan. Various relatives of Mr Kim also have their ancestors buried there too.

Mr Lee, who is a remote relative of Mr Kim through marriage, lives in Andong near the land. When Mr Kim visits his ancestral mountain, Mr Lee sometimes prepared food for Mr Kim’s family, while Mr Kim’s family members tended their ancestors’ tombs and made ceremonial offerings.

A plan to build a marina and resort town near Andong was recently announced by the government and Mr Kim’s land became the prime location for hotels. C Co. wanted to acquire the land and an employee of C Co., Mr Park approached Mr Lee to inquire about the land. Mr Lee forged his photo ID and pretended that he was Mr Kim. The forgery of the photo ID was done with a great deal of skill (Mr Lee had a number of previous criminal convictions) and it was practically impossible to discover that the photo ID was not genuine. Mr Lee acquired all other necessary documents through normal course using the forged photo ID.

C Co. thus bought the land from Mr Lee believing that he was Mr Kim. Mr Lee also agreed with C Co. that all tombs in the mountain would be removed and the remains would be burned and the ashes would be held in a private memorial. Mr Lee left the country soon after the purchase price was fully paid to him. When the land was being prepared for hotel construction, Mr Kim discovered the truth.

Mr Kim immediately applied for an injunction to stop the construction and demanded C Co. to move out of the land. C Co. responded that it has validly purchased the land from Mr Kim or from a person who represented Mr Kim. C Co also argued that there is ample ground for its employee (Mr Park) to believe that the party who acted as the seller had the power to sell the land and that C Co purchased the land in good faith.
How should this dispute be resolved?

[End of questions. You must answer all three questions.]