/

SECTION III: SHORT ANSWER (15%)

PREPARE SHORT NOTE ON THE FOLLOWING ISSUES

3.1. What is the difference between legal obligation and contractual obligation? (4%)

3.2. What is the fate of a customary marriage not registered in accordance with the relevant provisions of the Revised Family Code? (5%)

3.3. Describe a circumstance (s) where a person is convicted for criminal act but exempted from extra-contractual liability under Ethiopian law. (6%)

SECTION IV: (20%)

WRITE SHORT ESSAYS FOR THE FOLLOWING QUESTIONS.

4.1 Explain the distinction between possessory action and 'petitory action. (10%)

4.2 What are the similarities and differences between invalidation and cancellation of contract under the Civil Code of Ethiopia? (10%)

Diference is that Invalidation of a contract happens when there is defect in the formation of the contract (Defect in consent & Incapacity).Cancellation on the other hand is making a contract ineffective when there is non-performance, (One remedy of non-performance of the contract).

Where as the similarity is both invalidation or cancellation will create obligation of effecting restitution."

Where a contract is invalidated or cancelled, the parties shall as far as possible be reinstated in the position which would have been existed, had the contract not been made. Acts done in performance of the contract shall be of no effect" (Art.1815).

SECTION V: HYPOTHETICAL CASES (30%)

5.1. HYPOTHETICAL CASE I (16%) L

WJ Limited is an Irish company interested in investing in Ethiopia with local investors. With that objective, it has been in a yearlong negotiation with four Ethiopian business men to set up a state of the art dairy farm in SNNP Region. The negotiation process has been very tiring; but they have made tremendous progress so far, though there are still matters both sides are extremely careful about before committing themselves.

The matters they have agreed so far are the following:

The Company's capital will be 400 million ETB, out of which WJ Limited will contribute 90 % in cash, and the remaining four shareholders will contribute 10 %. It is also agreed that should the four local business men succeed in acquiring 200 hectares or more land in the SNNP region for a lease duration of 50 or more years, it shall be accepted as their contribution in place of cash contribution.

They have also agreed to re-adjust share allocation in the memorandum of association by plus or minus 10% from their monetary percentage of contribution, once WJ Limited makes the 50% upfront payment of its subscription and the local partners make theirs. Their agreement entitles the former to make the remaining 50% contribution within five years in four equal installments, its future dividends, if any, making part of any such payments. Subsequent to this agreement the four local partners secured 250 hectares of land in South Omo Zone, Derashe Woreda for lease duration of 70 years.

The matters which they faced difficulty reaching agreement are, among others:

1) what form the company should take between a private limited company and Share Company;

2)

3)

and 2). ratio of share allocations between the WJ Limited on the one hand and the local business men on the other.

With such huge cash investment, WJ Limited is keen on retaining control of the company. Therefore, it wants to have in the company's statutes the freedom of transferring shares to whoever it wants. The local shareholders on their part are keen on the ratio of share allocations in the memorandum of association which in summation will give them enough voice in the company to be established.

5.1.1. Which form of company between PLC and share company will serve the interest of:

i) WJ Limited and,

ii) the local business men? (8%)

5.1.2. Assuming that they chose a share company form, explain the alternative thresholds of shareholding which will give the local business men the minimum degree of control necessary to protect them from possible oppression by WJ Limited? (8%)

5.2. HYPOTHETICAL CASE II (14%)

Ato Muktar spends most of the year in Kamplala, where he operates a business. He came to Ethiopia to visit his relatives and old friends. Before his flight back to Kampala, however, Ato Muktar had to undergo a prostate operation. For this purpose, he concluded an agreement with a specialist called Dr. Urgessa for whose service Ato Muktar paid 40,000 Birr. But Dr. Urgessa was too busy to perform the operation on the day it was scheduled to take place. Even worse, Ato Muktar had to fly to Kampala even without arranging another appointment.

Sadly, Dr. Urgessa died a short time afterwards. At the time Ato Muktar came back to Ethiopia, he was told that Dr. Urgessa had died six months ago. He also heard that the liquidation of the succession of Dr. Urgessa was over and all the property of the deceased has been transferred to Mulisa, his only son. Mulisa is a debtor of Nigussie and he has no any other property other than what he received from the succession. Mulisa owes Nigussie 70,000 Birr.

Assuming that Dr.Urgessa died intestate leaving property worth 80,000 Birr,

5.2.1. Can Ato Muktar succeed in recovering his money? Why/why not? (7%)

5.2.2, Discuss the legal and factual problems Mulisa may encounter. (7%)