INSTRUCTIONS

1. This paper consists of THREE (3) pages. Please make sure you have them all.
2. This paper consists of TWO SECTIONS. SECTION A AND B must be answered in separate answer booklets.
3. Students are requested, in their own interests, to write legibly.
4. Students may retain the question paper.
SECTION A

Question 1
Lucracia owns Oliphant farm. The farm has been under her ownership for 15 years. She agrees to sell her farm to Sean Lombo and Zenani. During the course of the negotiations she tells Sean and Zenani that the farm has a very fertile ground and that within three years of working the farm they will recover the purchase price. Relying on this Sean and Zenani purchase the farm, however it turns out that for five years prior the farm has not been yielding a produce. Sean and Zenani also learn that there is a graveyard on the farm existence of which Lucracia has not disclosed. The graveyard was covered and concealed as a garden. Sean and Zenani seek to set aside the contract. On what grounds, if any, can they do so? In the course of your answer, discuss the relevant case law.

[15 Marks]

Question 2
Explain the concept of occupation as a method where one can originally acquire ownership of a thing. Thereafter compare and contrast the common law position and the statutory position in light of ownership of wild animals through occupation. In your answer make reference to the following cases: *R v Mafohla and Another* 1958 (2) SA 373 (SR) and *Magudu Game farm v Mkithi Japhet Mathenjwa N.O.* CASE NO. 2483/07, setting out the legal issues that were in contest, the arguments advanced by the respective parties and the findings of the courts.

[25 Marks]

[TOTAL SECTION A: 40 MARKS]
**Question 3**

Macho-man and Pretty-face are classmates and they recently started studying together for exams. Two weeks ago, Pretty-face went to Macho-man’s room to go through some tutorial questions. During the course of their study session Macho-man made some sexual advances to Pretty-face and she accepted. That night they became intimate.

Pretty-face’s boyfriend got to know about her escapade in Macho-man’s room that night and in order to save her relationship, Pretty-face lied that Macho-man had raped her. She went with her boyfriend to report the matter to the police and she applies in terms of section 30 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, No. 32 of 2007 for an order requiring Macho-man to be tested for HIV and to have the results disclosed to her.

Macho-man denies the charge and argues that the sex was consensual. You have been contacted by Macho-man for advice on the following:

(i) The requirements that would have to be met in order for a magistrate to grant a compulsory testing order in terms of the Sexual Offences Act in this instance.

   [10 Marks]

(ii) Whether, if it was found that he was HIV positive and had been aware of his HIV status for at least 2 years, Pretty-face could charge him with attempted murder? Refer to decided cases.

   [15 Marks]

(iii) If Macho-man was actually HIV positive, whether there are any defences to the charge of attempted murder available to him?

   [5 Marks]

[TOTAL SECTION B: 30 MARKS]

TOTAL FOR PAPER: 70 MARKS