

TOPIC 7 TUTORIALS

TUTORIAL 1:

Question 1

ISSUE:

The legal issue to be evaluated is whether Lexy broke the contract by failing to provide the fitted suit to Alex by the agreed-upon date, and if Alex can seek numerous remedies for this violation.

PRINCIPAL

1) A breach of contract occurs when one party does not fulfill their contractual commitments without obtaining legal justification:

- Breach due to positive malperformance by the debtor: This occurs when a performance is given by the party, yet it is lacking or not complete.
- Breach due to a delay in performance by debtors: Also known as mora debitoris, occurs when the debtor doesn't fulfill their responsibilities under the contract on time.
- Breach due to a delay in performance by creditors: Also known as mora creditoris, occurs when the debtor cannot execute their commitments due to a delay caused by the creditor, who is the party owed performance.
- Breach due to impossibility: This is when the debtor or creditor makes performance impossible.
- Breach resulting from repudiation: This occurs when a creditor or debtor indicates they won't uphold their end of the contract.

-The legal test to determine whether communication between the contracting parties constitutes a repudiation is whether a reasonable person placed in the position of the creditor would have understood the debtor's communication to unquestionably mean that the debtor was not intending to honor the contract. This is supported by the Tuckers Land and Development Corporation (Pty) Ltd v Hovis 1980 (1) SA 645 (A) case:

FACTS:

-Tuckers Land and Development Corporation PTY LTD sold two plots of land in a planned township to Hovis, who was expected to make interim payments. However, after payment was made the developer struggled to announce the township and created a new plan excluding Hovis's plots of land.

COURTS FINDINGS:

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Marco Cascella

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