

COMMERCIAL LAW

MLP705 — Cases, Principles & Exam Notes

Deakin University | Juris Doctor

Agency | Partnership | Sale of Goods | Consumer Law | Insurance

Goods Act 1958 (Vic) | ACL | Insurance Contracts Act 1984 (Cth) | Partnership Act 1958 (Vic)

50+
Cases

8
IRAC Answers

8
Topics

Case Lists
Every Topic

— SAMPLE PREVIEW —

- Definition & Core Concept — International Harvester; Petersen v Moloney
- Elements of Agency — empowered, fiduciary, control
- Actual Authority (express & implied) — Equiticorp Finance v BNZ
- Apparent (Ostensible) Authority — Rama Corp; Freeman & Lockyer; Hely-Hutchinson
- Ratification — Bolton Partners v Lambert; Watson v Davies
- Authority cases list by topic
- Duties of Agent (common law & fiduciary)
- Duties of Principal to Agent

- Partnership Act 1958 (Vic) ss 5, 9, 10, 12, 14, 18, 19
- Partnership definition, features, and liability
- IRAC — Partnership liability (Ben & Chloe)

- Contract for sale of goods — s 4 definition
- Nemo dat quod non habet — s 27 and all exceptions (ss 28, 29)
- IRAC — Nemo dat: Alina, Chris & third party purchaser
- Implied terms — ss 14–20 (title, description, quality, fitness, sample)
- Rowland v Divall — title & total failure of consideration
- Grant v Australian Knitting Mills — merchantable quality & fitness
- Sale of goods cases list by topic

- ACL s 18 — Misleading or deceptive conduct (full statutory framework)
- IRAC — Misleading conduct: SmartFit Gyms
- ACL ss 20–22 — Unconscionability (equitable + statutory)
- Commercial Bank v Amadio (1983) — equitable unconscionability
- ACL ss 23–27 — Unfair contract terms (3-limb test, s 25 examples, s 27 standard form)
- ACL ss 51–64 — Consumer guarantees (all 12 guarantees + s 64 void exclusions)
- IRAC — Simple Life Ltd: unconscionability, unfair terms, consumer guarantees
- ACL cases list by topic

- Bailment definition, types, duties of bailee
- IRAC — Ella's dry-cleaning: bailment and exclusion clause

- ICA ss 13, 21, 21A, 22, 26, 28, 29 — disclosure and good faith
- IRAC — Non-disclosure: Linda's travel insurance
- ICA s 54 — post-contractual acts (causality & proportionality)
- Ferrcom v Commercial Union — s 54(1) prejudice assessment
- Contract construction — Legal & General v Eather (Kirby P's 3 principles)
- Insurance cases list by topic (proximate cause, claims made & notified, discovery policies)

Part 7 — IRAC Exam Answers

- Agency — apparent authority: Alex & Luxe Lighting
- Consumer guarantees — refrigerator failure
- Combined ACL & Goods Act — Mia's sofa: Elegant Interiors

Part 8 — Quick Reference Tables

- Types of agency authority comparison
- Nemo dat exceptions (ss 27–29) comparison
- ACL consumer guarantees vs Goods Act implied terms
- ICA s 54 summary
- Exam strategy by topic

HOW TO USE THESE NOTES

These notes combine the MLP705 lecture materials and exam/seminar worked answers. Every topic includes the applicable principle, key cases, statute provisions, and an exam tip showing exactly when and how to use each authority.

Burgundy border card	Case card — title, principle, held
Green row	Held / outcome
Ochre row	Exam Tip
Slate header	Statutory provision table
Rose italics list	Authority table by topic
Burgundy IRAC block	Complete exam-style answer

PART 1 — AGENCY

Definition of Agency | Core Concept

Principle: Agency is 'an authority or capacity in one person to create legal relations between a person occupying the position of principal and third parties' — *International Harvester v Carrigan's Hazeldene* (1958) 100 CLR 644. Three parties: P, A, TP. The label 'agent' is not determinative — substance over form. Always ask: 'Was A the agent of P for THIS act?' (*Petersen v Moloney* (1951) 84 CLR 91).

EXAM TIP *Define agency using International Harvester. Emphasise the transaction-specific nature — A may be P's agent for some acts but not others.*

Apparent (Ostensible) Authority | Agency Authority

Principle: Arises where P represents to TP that A has authority — P is estopped from denying it. Elements (*Rama Corporation v Proved Tin* [1952] 1 All ER 554): (1) Representation of fact to TP by P (NOT by A alone); (2) TP's reliance; (3) Detriment. *Freeman & Lockyer v Buckhurst Park Properties* [1964]; *Hely-Hutchinson v Brayhead* [1968].

EXAM TIP *The representation must come from P or someone authorised by P — never from A alone. If TP knew of the limitation, no apparent authority.*

PART 3 — SALE OF GOODS (PREVIEW)

Goods Act 1958 (Vic) — Nemo Dat & Key Exceptions

s 27 — Nemo dat: No one can transfer a better title than they possess.

s 28 — Voidable title: If seller has voidable title not yet avoided, bona fide buyer for value obtains good title.

s 29(2) — Buyer in possession: Buyer who agreed to buy and obtained possession with seller's consent can pass good title to bona fide TP.

s 14 — Title: Implied condition seller has right to sell. Breach = full purchase price recoverable (Rowland v Divall).

s 17 — Merchantable quality: Implied condition goods are of merchantable quality — now 'acceptable quality' under ACL s 54.

— END OF SAMPLE PREVIEW —

This sample includes the cover page, full table of contents, the How to Use guide, and previews of Parts 1 and 3.

The full notes cover all 8 parts — 50+ cases, 8 IRAC answers, full statutory frameworks, topic-grouped case lists and exam tips across every MLP705 topic.

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