

THE OPEN UNIVERSITY OF SRI LANKA  
 FACULTY OF HUMANITIES AND SOCIAL SCIENCES  
 DEPARTMENT OF LEGAL STUDIES  
 LL.B. DEGREE PROGRAMME- LEVEL 3  
 FINAL EXAMINATION- 2017/2018  
 PRINCIPLES OF EQUITY- LWU 1202/ LLU 3502  
 DURATION- 03 HOURS




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DATE- 24<sup>th</sup> February 2020

TIME- 09.30 a.m. - 12.30 p.m.

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Total No. of Questions: 08

Answer five (05) questions selecting one question from Part 01 and four questions from Part 02.

Candidates will be penalized for illegible handwriting.

**PART 01- Principles of Equity**

Answer only one (01) question from this Part

01. Certain rules of equity contradicted rather than complemented the rules of law. When this occurred, section 25 of the Judicature Act 1873 provided that equity shall prevail.

Explain the above statement with reference to decided cases in the English Law.

(20 Marks)

02. The Chancellors exercised their powers to remedy injustice, by ordering the individuals to act in accordance with good conscience.

Explain the above statement with reference to three (03) maxims of equity.

(20 Marks)

**PART 02 – Law of Trusts**

Answer four (04) questions from this part

03. Discuss whether valid trusts are created by the following bequests in Ranil's last will;

a. My tea estate in Nuwaraeliya to my sister Iroma for the benefit of my descendants.

- b. The diamonds I smuggled into Sri Lanka from Italy to my brother Kasun to be sold in a private sale, and the proceeds to be used for the welfare of employees working in my tea estate.
- c. One Million rupees to my 10 year old son to be used for the benefit of my parents.
- d. The income from my investments in any three profit-making ventures in the stock market to my wife Sapumali to be used for the benefit of my grandchildren.

(04x 05 =20 Marks)

04. In 2016, Siripala transferred two properties called 'Araliya Uyana' in Hikkaduwa and 'Salmal Uyana' in Colombo to Namal in trust for the benefit of Siripala's son, Thilina. Siripala asked Namal to divide 'Araliya Uyana' into five plots and sell them within two years and to deposit the proceeds from the sale in a bank account. In 2019, the land value in the area dropped and Namal sold the entire land without dividing it into plots. Namal deposited the proceeds in a bank account as instructed by Siripala. Furthermore, Siripala requested Namal to use the income from 'Salmal Uyana' for the education of Thilina. However, Namal sold 'Salmal Uyana' to Akalanka who bought the land without any knowledge of the trust. Akalanka sold the land to Gayan. Namal purchased a tea estate from the proceeds of the sale of 'Salmal Uyana'.

Advise Thilina based on the provisions of the Trust Ordinance No. 09 of 1917 and relevant case law.

(20 Marks)

05. The Trust Ordinance No. 09 of 1917 has adequate provisions with regards to the duties and rights of trustees and co- trustees. Comment on the above statement with reference to statutory provisions.

(20 Marks)

06. a) As Ruwan decided to go to Japan for post graduate studies, he transferred his rubber estate to his brother Chamika without any consideration. After Ruwan returned, he requested Chamika to re-transfer the rubber estate. Chamika refused to do so.

Advise Ruwan.

(10 Marks)

b) Kamal, an Attorney -at- law in Badulla advised his client Sarath who lived in Matara that the deed relating to Sarath's land in Badulla was defective and that it cannot be registered. Kamal bought the land from Sarath for a value very much below the market value. Later, Sarath came to know that his deed was not defective and that Kamal had cheated him.

Advise Sarath.

(10 Marks)

07. a) Judicial interpretations of the provisions relating to charitable trusts in the Trust Ordinance No. 09 of 1917 has clearly defined the scope of charitable trusts in Sri Lanka.

Do you agree with the above statement? Give reasons for your answer citing relevant cases.

(15 Marks)

b) Briefly explain the Doctrine of Cy-pres.

(05 Marks)

08. Write notes on any **Two (02)** of the following:

a) Equitable Remedies

b) Section 02 of the Trusts Ordinance No. 09 of 1917

c) Presumption of Advancement

d) Section 86 of the Trusts Ordinance No. 09 of 1917

(02x 10 =20 Marks)

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