

**THE OPEN UNIVERSITY OF SRI LANKA**  
**FACULTY OF HUMANITIES AND SOCIAL SCIENCES**  
**DEPARTMENT OF LEGAL STUDIES**  
**LL.B. DEGREE PROGRAMME- LEVEL 3**



**FINAL EXAMINATION - 2020/2021 (ONLINE)**

**LWU 1202/ LLU 3502- PRINCIPLES OF EQUITY**

**DURATION – 03 HOURS**

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**Submission Date: 15<sup>th</sup> September 2021**

**Time: 01.00 p.m.- 04.00 p.m.**

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**Answer Four (04) questions selecting one question from Part 01 and three questions from Part 02.**

**Candidates will be penalized for illegible handwriting.**

**PART 01 – Principles of Equity**

**Answer only one (1) question from this part**

- 01.** The Judicature Acts of 1873 and 1875 were introduced to amalgamate the courts into one Supreme Court of Judicature to administer both Common Law and Equity. Since then, controversies have developed over the fusion of Common Law and Equity.

Discuss the development of equity in English Law before and after the introduction of the Judicature Acts.

(25 Marks)

- 02. (a)** The Maxims of equity have a significant influence in the development of equity.

Critically evaluate the above statement in the light of following Cases:

*(i) Jones v. Maynard* 1951 Ch. 672

*(ii) Overton v. Banister* 1844 3 Hare 503

*(iii) Penn v. Lord Baltimore* 1750 1 Ves. Sen. 444

(05×03= 15 Marks)

(b) Explain the significance of the equitable maxims today.

(10 Marks)

**PART 02- Law of Trusts**

**Answer three (03) questions from this part**

**03.** (a) A Committee has recommended to repeal Section 2 of the Trusts Ordinance as there is no justification to retain the provision.

Do you agree with this recommendation?

Give reasons for your answer. Substantiate your answer citing relevant statutory provisions and case law.

(18 Marks)

(b) Saman wants his ancestral estate to be passed from generation to generation. He creates a trust with a direction that the estate shall pass from generation to generation.

Discuss whether a valid trust has been created by Saman.

(07 Marks)

**04.** Discuss in the light of relevant statutory provisions and case law whether constructive trusts have been created in the following circumstances:

(a) 'Thurunu Tharu' Bank filed a lawsuit against Kavindu for failing to repay the debt on time. While the case was pending in a Court, Kavindu purchased a Rubber Estate in Dompe and registered it in the name of his sister Kavisha. There was an agreement between Kavindu and Kavisha that the said Rubber Estate would be re-transferred once the Court case is

concluded. However, during the case Kavindu settled his payments and the Court case was withdrawn by the Bank. Kavisha refuses to re-transfer the Rubber Estate to Kavindu.

(12.5 Marks)

(b) Neetha and Madhuka are business partners in Biyagama. Neetha has a number of businesses of her own and she is busy with her private businesses. Therefore, Neetha leaves the management of the partnership business and its finances with Madhuka. Madhuka used partnership money to buy a hotel in Madhuka's name without informing Neetha. Neetha gets to know of this purchase and demands Madhuka to transfer the hotel in the name of partnership.

(12.5 Marks)

**05.** Discuss in the light of relevant provisions of the Trusts Ordinance and decided cases whether the following bequeaths in Mihiri's last will creates a valid charitable trust:

(a) Rs. 02 million to Mannar Fisheries Cooperative Society to maintain rest rooms and storage rooms along Mannar's coastal area for the benefit of fishermen who engage in fishing activities in Mannar.

(b) Rs.02 million to the Bar Association to set up a Human Rights Study Circle to promote awareness in human rights among school children.

(c) Rs. 50,000 to 'Animal Rights Society' to build cages for street dogs.

(d) Rs.03 million to the Department of Legal Studies to conduct classes in meditation for the benefit of the undergraduates and to conduct the annual alms giving ceremony in the Department every year.

(e)Rs.04 million to my husband Ranil to distribute gifts to my villagers on their birthday.

(05×05 = 25 Marks)

**06.** Ruwan was a wealthy entrepreneur. He bequeathed a tea estate, a luxury hotel and Rs.50 million in his savings deposit account in trust for the benefit of his two sons Vihanga and Manjula by his last will. His friend Sachini was appointed as the trustee. After Ruwan's death, Sachini transferred the luxury hotel on 05 years lease to her friend Sarath and requested him to deposit the lease rental in her personal bank account for her personal use. She divided 60% of the income from the tea estate equally between Ruwan's sons and retained the remainder as remuneration for her services as trustee. Vihanga requested his share of Ruwan's savings deposit stating that he had attained the age of majority. Sachini refused to accept the request stating that Manjula is still a minor. Sachini also refused Vihanga's request that he be allowed to check the accounts of Ruwan's properties. Sachini sold a 25 perch block carved out from the tea estate to her friend Wimal and deposited the money in her personal bank account for her personal use. A few years later, Sachini opened a garment factory using Rs.10 million from Ruwan's savings deposit account.

Discuss the rights, duties, and liabilities of the parties in the light of the issues in the above scenario. Substantiate your answer by citing the relevant provisions of the Trusts Ordinance.

(25 Marks)

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