

THE OPEN UNIVERSITY OF SRI LANKA
 FACULTY OF HUMANITIES AND SOCIAL SCIENCES
 DEPARTMENT OF LEGAL STUDIES
 LL.B. DEGREE PROGRAMME – LEVEL III
 FINAL EXAMINATION -2023/2024
 PRINCIPLES OF EQUITY –LLU3502
 DURATION – 03 HOURS



Date: 20.05.2025

Time: 01.30 p.m.- 04.30 p.m.

Total number of questions – 08.

Answer FIVE (5) questions, selecting ONE question from Part I and FOUR questions from Part II.

Candidates will be penalized for illegible handwriting.

Part I – Principles of Equity

1. Discuss the historical development of the principles of equity, from its origins in the English legal system to its integration into modern legal frameworks.

Your answer should be supported with relevant authorities.

(20 Marks)

2. “A maxim of equity is not a specific rule or principle of law. It’s a summary statement of a broad theme which underlies equitable concepts and principles.”

Snell’s Equity, 34th Edition, Sweet & Maxwell 2020, p.104

Do you agree with the above statement?

Give reasons for your answer with special reference to the following equitable maxims. Your answer should be supported with relevant case law.

- (i) Equity acts in *personam*
- (ii) Equity will not suffer a wrong to be without a remedy.

(20 Marks)

Part II – Law of Trusts

3. (a) “Section 02 of the Trusts Ordinance allows for the application of the principles of English law in the case of a *casus omissus*.”

Critically analyse the application of Section 2 of the Trusts Ordinance in Sri Lanka in light of the above statement. Support your answer with decided cases.

(12 Marks)

- (b) Explain the difference between a trust and a *fideicommissum*.

(8 Marks)

4. Discuss whether the following bequests in Mrs. Fernando’s last will create a valid trust:
- (a) A reasonable amount from the annual income of my dance academy to my daughter Nayana, to be used for the benefit of her son, Rumith.
 - (b) My tea estate situated in Bandarawela to my sister Kalani, in the hope that she will divide it among the most preferable members of my family.
 - (c) Rs. 1 million from my saving account to my brother Kapila, to be used for maintaining a pet kennel for the benefit of my dogs.
 - (d) Rs. 2 million to my 16 years old grandson, Nuwith, to be used for his higher studies.

(5x4 =20 Marks)

5. (a) Damith is a car sales owner, and due to the car import ban imposed in Sri Lanka, his business went bankrupt. As a result, his creditors began pursuing him for repayment. However, Damith had some personal savings, which he intended to use to purchase a piece of land. Kamal, one of the close friends of Damith, agreed to purchase the property in his own name with the understanding that he would later transfer it to Damith once the debts were settled. Damith paid the entire consideration for the property. After a few months, Damith settled all his debts and requested Kamal to transfer the property into his name. However, Kamal now refuses to do so.

Advice Damith.

(10 Marks)

(b) Explain the applicability of the '*presumption of advancement*' under the Trusts Ordinance in Sri Lanka. Support your answer with relevant statutory provisions and case law.

(10 Marks)

6. "A universal rule that the law recognises no purpose as charitable unless it is of a public character. That is to say, a purpose must be directed to the benefit of the community or a section of the community."

Lord Greene M.R. in *Re Compton* [1915] Ch. D. 123 at 128.

Do you agree with the above statement?

Give reasons for your answer, comparing Sri Lankan law with English law in light of the relevant statutory provisions and case law.

(20 Marks)

7. Danapala is the trustee of a 50-acre tea estate and a estate bungalow located in Gampola. The beneficiaries of the trust are Rani and her two sons, Kalum and Dilum. With Rani's consent, Danapala undertook renovations to convert the bungalow into a tourist hotel. During the renovation period, he and his family stayed at a luxury hotel in Gampola. After the completion of the renovations, Danapala requested reimbursement for the renovation expenses from Rani and her sons. These expenses included the cost of his family's accommodation at the luxury hotel. Due to his focus on the bungalow renovation, Danapala failed to manage the tea estate properly and did not supply the fertilizer on time. As a result, the tea production on the estate significantly decreased. Now, Kalum is 18 years old, and he intends to pursue a foreign degree. Therefore, he requested Danapala to sell 10 acres of the tea estate and provide the money for his higher studies. Danapala sold 10 acres to his brother, Jinapala, at a very low price without informing Kalum.

Discuss the rights and liabilities of the parties. Your answer should be supported with the relevant provisions of the Trusts Ordinance and case law.

(20 Marks)

8. Write short notes on any **TWO (02)** of the following topics.

- (a) Section 90 of the Trusts Ordinance
- (b) Cy-pres doctrine
- (c) The rule against perpetuities
- (d) The beneficiary's right to follow the trust property

(10x2 = 20 Marks)

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