

THE OPEN UNIVERSITY OF SRI LANKA

LL.B. DEGREE PROGRAMME – LEVEL 3

FINAL EXAMINATION – 2006

PRINCIPLES OF EQUITY – LWU 1202

DURATION – 03 HOURS



Date : 23rd March 2006

Time: 1.30 p.m. – 4.30 p.m.

Answer FIVE questions only, selecting ONE question from Part I and FOUR questions from Part II

Illegible handwriting will be penalized.

PART I

1. “ One of the contributions of equity has been to supplement the limited range of legal remedies by introducing a wide range of discretionary equitable remedies”

Phillip Pettit , *Equity and the law of Trusts*, 8th Ed p.38.

Explain.

2. “ Maxims of equity had great impact on the development of equity”

Explain.

PART II

3. (a) Explain the Section 2 of the Trusts Ordinance.
- (b) A committee recommends to repeal the Section 2 of the Trust Ordinance. Do you agree with the recommendation. Give reasons for your answer.
4. (I) Explain the requirements to create a valid express trust with reference to relevant provisions of the Trust Ordinance.
- (II) Discuss whether a valid trust has been created by the following bequeaths of Fernando’s last will.

- (a) Rs. 100,000 / = to Rohini to distribute among my grandchildren who enter the legal division of the Open University of Sri Lanka
- (b) Rs. 200,000 / = to Lanka to use the money for the maintenance of my tomb.
- (5) (a) Lal purchased a block of land in Sri Lanka in the name of his brother Arun when Lal was working in an International Organisation in Geneva. After his retirement Lal returned to Sri Lanka and requested Arun to retransfer the land to him . Nevertheless Arun refused to do so.
- Advise Lal.
- (b) As Yasho decided to go to London for higher studies, she transferred her tea estate to her friend Priya without any consideration. After Yasho returned, requested Priya to re-transfer the tea estate. Priya refuses to do so.
- Advise Yasho.
- (6) Discuss whether the following bequeaths of Bandula's last will create a valid charitable trust.
- (a) Rs. 900,000 / = to the Open University to provide scholarships to the students affected by Tsunami .
- (b) Rs. 300,000 / = to the Dog Lover's Association to sterilise stray dogs.
- (c) Rs. 100,000 / = to the Hatton Youth Club to organise a cricket tournament.
- (d) Rs. 500,000 / = to the Environmental Society of the Open University to promote environmental protection.

- (7) Vahish create a trust. Gamini and Saman were the trustees. A coconut estate called Polwatta was the trust property. The instrument directed the trustees to look after Vahish's children Bama and Vama out of the income of the coconut estate. It also requested the trustees to transfer the estate to the children after they attained the age of majority. Gamini and Saman used a half of the income for their own benefit. Later Gamini transferred a half of the estate to his daughter Ramya and migrated to Australia.

Advise Bama and Vama as to their rights.

- (8) Write notes on any two of the following.
- (a) Presumption of advancement.
 - (b) Section 90 of the trust Ordinance.
 - (c) Cey-pres doctrine.