

**THE OPEN UNIVERSITY OF SRI LANKA  
LL.B. DEGREE PROGRAMME - LEVEL III  
FINAL EXAMINATION – 2007 / 2008  
PRINCIPLES OF EQUITY - LWU 1202  
DURATION - THREE HOURS**



Date: 26<sup>th</sup> March 2008

Time: 9.30 a.m. – 12.30 p.m.

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

Candidates will be penalised for illegible handwriting.

**PART I**

1. "Equity became very popular because of its flexibility, its superior procedure and its more appropriate remedies. Also it had no fixed rules of its own and each Chancellor gave judgment according to his own conscience. However, this led to criticism about the outcome of cases"

Critically discuss the above statement.

2. One of the important distinctions between common law and equity is the source of the rules governing the decisions. In common law, decisions are made by reference to legal doctrines or statutes. In contrast, equity, with its emphasis on fairness and flexibility, has only general guides known as the maxims of equity.

Do you agree with this statement? Give reasons for your answer.

**PART II**

3. Discuss whether a valid trust has been created by the following bequests of Mr.Kamal's last will.
  - (a) Rs. 200 000/= to my brother Susil to maintain my library.
  - (b) My land in Kahawatte to grow ganja and to educate my children out of the profit thereof.

- (c) The bulk of my bank balance to my cousin Seetha.
- (d) The residue of my estate to my younger sister Harirni in the hope that she will divide it among the most preferable members of my family.

4. "Section 2 of the Trust Ordinance provides for the application of principles of English equity where no specific provision is made in the trust law of Ceylon"

L.J.M.Cooray, *The Reception in Ceylon of the English Trust*, p.37.

Critically discuss the above statement.

5. "Charity in its legal sense comprises four principal divisions; trusts for the relief of poverty; trusts for the advancement of education; trusts for the advancement of religion; and trusts for other purposes beneficial to the community, not falling under any of the preceding heads"

*Income Tax Commissioner v Pemsel* [1891] AC 531, 583

Discuss the above statement. You are expected to compare and contrast the requirements to formulate a charitable trust under the English law and Sri Lankan law.

6. (a) Section 3 (j) of the Trust Ordinance envisages that a trustee can be sued or a breach of any duty imposed on him by any law for the time being in force. Explain the liabilities of a trustee considering the special circumstances relating to liability of trustee.

- (b) Briefly explain the rights of a beneficiary to have the intention of the author of trust carried out.

7. (a) Ranmal and Sunil were partners of a small scale tea export business. In 2006, Ranmal died in a car accident. Sunil, instead of winding up the affairs of the partnership, retained all the assets of the business. Ranmal's son Sandamal claims the profits arising from his father's share of the capital but Sunil refuses to give him any share whatsoever.

Advise Sandamal.

- (b) Mala an owner of a grocery shop, went to her family doctor for a blood test. Subsequently the doctor informed her that she had tested positive for blood cancer. Mala was worried by the results and feared she would die, therefore, she transferred her grocery shop to her brother Sampath. After three months the family doctor called Mala and apologized and told that her blood test had been mixed -up with that of another patient and that her own blood test was negative. Thereafter Mala asked Sampath to retransfer the grocery shop to her. Sampath refused to do so.

Advise Mala.

8. Write notes on any two of the following.

- (a) The nature of a trust.
- (b) The Cy-pres doctrine.
- (c) Breach of Trust.

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