



جامعة السلطان الشريف علي الإسلامية  
UNIVERSITI ISLAM SULTAN SHARIF ALI  
SULTAN SHARIF ALI ISLAMIC UNIVERSITY

**Faculty of Shariah and Law**  
**Semester I, 2016/2017 Academic Session**

**Examination Question Paper**

**Course Code : LB 1303**  
**Course Name : Law of Contract I**  
**Course Level : Bachelor of Laws (LL.B) & Bachelor of  
Shariah Law (BSL)**  
**Time : 3 hours**

**Reference allowed:**

**Contracts Act (Cap. 106)**

**Notes:**

1. Answer any **four** of following questions.
2. All answers, wherever relevant, must be supported by statutory provisions and case law authorities.

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

**QUESTION 1 (15 Marks)**

“As the classification of any particular act or statement as being either offer or an invitation to treat depends on intention to be bound ... it is not easy to reconcile all the cases or their reasoning. Where the intention is unclear, the Court will take into account of the surrounding circumstances and consequences of holding an act or statement to be an offer as well as what is in fact said.”

(J. Beatson, *Anson's Law of Contract*, 28<sup>th</sup> Edition, p. 32.)

(a) In the light of the above statement, explain the meaning of “offer” or “proposal” with reference to statutory provision(s) and case law authorities.  
(6 marks)

(b) With case law illustrations, distinguish “offer” from “invitation to treat”.  
(9 marks)

**QUESTION 2 (15 Marks)**

Metusin and Dino are working in the same company in Gadong. On 1<sup>st</sup> July 2016, Metusin offered to sell his car, a Mitsubishi Lancer, to Dino for B\$15,000.

Dino then inspected the car and said to Metusin:

“The car is still excellent. I’d pay you B\$15,000 to have it. But, I wonder whether you would allow me to settle it in three monthly instalments.”

Metusin replied:

“I’ll think about it”.

Dino waited for 2 days, but Metusin did not respond. Nothing further was said concerning the car.

On July 4th at 3.30 pm, Dino, while working outstation in Kuala Belait for a week, went to the Post Office and sent a letter to Metusin by *Poslaju*, in which he agreed to accept and pay cash according to Metusin’s original offer.

Metusin received Dino's letter of acceptance on July 5<sup>th</sup> at 11.00 am, but Metusin had sold the car to Jaya for B\$17,000 on the same morning at 10.30 am.

Advise Dino whether he could succeed in an action against Metusin for breach of contract.

**QUESTION 3 (15 Marks)**

(a) Section 5(1) of the Contracts Act (Cap. 106) states:

“A proposal may be revoked at any time before the communication of its acceptance is complete as against the proposer, but not afterwards.”

Briefly explain the application of the above provision.

(5 marks)

(b) Section 6 of the Contracts Act (Cap. 106) provides the manner as to how revocation of an offer can be made.

Discuss and illustrate each and every sub-provisions under section 6 of the Act and any applicable rule under the common law which is not provided therein.

(10 marks)

**QUESTION 4 (15 Marks)**

(a) “[I]ntention to create legal relations is an element necessary for the formation of a contract. ... If the parties indicate expressly or impliedly that they do not wish their agreement to be binding on them, the law would accept and respect their intention. In the absence of an express statement that the parties do not intend to be legally bound, there is a clear difference of approach to domestic agreements and commercial agreements. ...”

(Dobson P, *Charlesworth's Business Law*, 16<sup>th</sup> ed., London: Sweet & Maxwell, p. 4.)

Discuss the above proposition in the context of “commercial agreements”.

(6 marks)

- (b) Harith's 21-year old son, Ramli, was studying for his LL.B degree at the University of Common Law (UCL). It was a contractual requirement of the UCL that students admitted to the university were non-smokers, and Ramli, therefore, had to give up smoking. Harith, however, was worried that under the pressure of preparing for the final examinations, Ramli would start smoking again, and so he promised to pay him B\$2,000 if he quits smoking until he has graduated and starts his own legal practice. He also promised to buy him a *BMW 320* car if he passed all the examinations.

Harith is a general manager of *King Hotel* in Jerudong. He asked Ramli to prepare a draft Memorandum of Understanding (MOU) to be entered into between *King Hotel* and *Paradise Holiday Resort* in the Republic of Maldives. Harith was very pleased with Ramli's work that the parties, *King Hotel* and *Paradise Holiday Resort*, have adopted Ramli's draft MOU. Harith e-mailed Ramli and told him the good news. Harith further promised to give him B\$2,500 for his excellent work in preparing the MOU.

Ramli passed all his examinations, and has not started smoking again since the promise made by his father.

Harith has neither given Ramli the promised payments of B\$2,000, nor bought the car. He has also failed to pay B\$2,500 for the MOU. Ramli is seeking your advice as to whether his father is legally obliged to perform his promises.

Advise Ramli.

### **QUESTION 5 (15 Marks)**

- (a) Section 26 of the Contracts Act (Cap. 106) provides: "An agreement made without consideration is void ..."

Discuss and illustrate the exceptions to the above rule.

(9 marks)

- (b) Abdullah owns a number of furnished apartment buildings in Bandar. On 30<sup>th</sup> September 2016, he decided to give his best friend's son, Halim, a good start in his married life by granting him a 3½ year lease of one of the 4-room apartments which had recently been vacated by a previous tenant. Under the lease agreement between Halim and Abdullah, Halim has to pay B\$1,000 rental per month. Halim and his wife took possession of the premises on 1<sup>st</sup> October 2016.

On 3<sup>rd</sup> November 2016, Abdullah met Halim and told him that he had to leave and vacate the apartment as the monthly rental was too low. Abdullah expects to receive B\$2,500 a month, instead of B\$1000, which is manifestly not adequate as consideration for the lease. He discovers that the current rental for similar apartments in Bandar Seri Begawan is between B\$2,500 and B\$3,000 a month. Abdullah brings an action in court to set aside the lease agreement on the ground that the agreement was void for want of consideration.

Decide.

(6 marks)

**QUESTION 6 (15 Marks)**

Maugham LJ in *George Trollope v Martyn Bros* [1934] 2 KB 436 said:

“[e]versince the case of *Winn v Bull* ... it has been well settled that the result of an offer ‘subject to contract’, means that the matter remains in negotiation until a formal contract is executed, ...”.

(a) Explain and illustrate the test applied by the courts in interpreting “subject to contract” clause or other expressions of similar import.

(7 marks)

(b) By an agreement dated 20<sup>th</sup> June 2016, Malim agreed to sell his house and land to Ali for B\$350,000, payable as follows: a deposit of B\$35,000 upon signing the agreement, and the balance within six months from the date of agreement. In the event of default by Ali in the conditions of payment, the house and land would go back to Malim, and Ali was to have no claim in the B\$35,000 deposit already paid.

The agreement concluded with a clause:

“This agreement is provisional until a formal agreement is prepared by a lawyer embodying all the conditions herewith stated is signed”.

Ali, who has failed to pay the balance within the agreed six months period, comes to you for advice whether he could claim the deposit of B\$35,000 from Malim.

Advice Ali.

(8 marks)

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