



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

**Faculty of Shariah and Law**  
**Semester I, 2012/2013 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 (4)** of the following questions.
2. All answers, wherever relevant, must be supported by statutory provisions and case law.

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**QUESTION 1 (15 Marks)**

On Sunday 5.8.2012, Dani inspected Ella's Honda Accord car at her house in Kampung Mentiri and offered to purchase it for B\$35,000. Ella wanted B\$38,000 instead. On the next day, Ella changed her mind and wrote to Dani and stated that she would take B\$36,000. The letter was received by Dani at his home in Tutong on Tuesday evening when he returned home from work.

On Wednesday morning, Dani, at his office in Seria, wrote a letter to Ella accepting her offer. Subsequently, at 10.45 am, on his way to post the letter, Dani met Harun who told him,

“I was told by my friend that Ella has finally sold her car.”

Ella had, indeed, sold the car to Rose, her sister-in-law. Dani posted his letter at 11.00 am and, upon arriving home at Tutong in the evening, discovered a message on his answer phone from Ella. The voice message was received and recorded at 10.05 am the same morning; Ella had stated,

‘Sorry Dani, I withdraw my offer. My sister-in-law wants the car urgently.’

Dani filed a claim for breach of contract against Ella.

Decide whether Dani could succeed in his claim.

**QUESTION 2 (15 Marks)**

(a) What is a “unilateral contract”? Support your answer with decided authorities. (5 marks)

(b) “A counter-offer amounts to a rejection of the offer, and so operates to bring it to an end.”

(J. Beatson. (2008). *Anson's Law of Contract*. 28<sup>th</sup> ed. Oxford: OUP, p. 37.)

Briefly explain the above proposition.

(5 marks)

(c) “If an acceptance is required to be communicated by an instantaneous means of communication ... the formation of contract depends on the place where the acceptance of the offer was actually communicated.”

(A. Mohaimin Ayus. (2009). *Law of Contract in Malaysia*. Vol. 1. Petaling Jaya: Sweet & Maxwell Asia, p. 437.)

Do you agree with the proposition? Illustrate your answer with case law.

(5 marks)

### **QUESTION 3 (15 Marks)**

Jack and Jill had been married for 7 years, but they had no children. They were staying in their jointly-owned house. Jack and Jill had been quarrelling very frequently for the last two years. Each time they quarrelled, Jack would stay away from their matrimonial home and would come back again to stay after a few days.

After their last quarrel, on September 4<sup>th</sup>, 2011, Jack and Jill had mutually agreed to live separately on trial basis. They executed an agreement in writing wherein Jack promised to give Jill a monthly maintenance allowance of B\$1,200, during their separation, and, Jill agreed in the meantime not to move out of their matrimonial home and further agreed to take care of it during his absence. It was also agreed that if they could not settle their differences and reconcile within the next six months, either of them may apply for a divorce. Should there be a divorce, Jack promised to transfer the ownership of the house solely to Jill as a manifestation of his love for her.

On 1<sup>st</sup> January 2012, Jill found out that Jack had been staying alone in an apartment not far from their home. She went over to discuss their problems. Jack agreed to take her back and live together, provided Jill agreed to move with him to his apartment and to sell their matrimonial home and divide the proceeds equally between them. Jill agreed and happily moved in to join Jack. The house was sold but Jill kept the money.

On February 3<sup>rd</sup>, 2012 Jill left the house and filed a petition for divorce in court when she felt that there was no longer love between them. Jack did not contest the divorce petition.

While the divorce proceedings were still pending, Jack brought an action against Jill to claim his share from the proceeds of sale of the matrimonial home. Jill, in her defence contended that she was entitled to keep the proceeds of the sale as agreed in their agreement, and further counterclaimed to recover arrears of the maintenance allowance which Jack had not given her since November 2011.

Decide whether there was a contract between them and whether Jill’s defence and counter claim could succeed.

**QUESTION 4 (15 Marks)**

- (a) “In commercial agreements it will be presumed that the parties intended to create legal relations and make a contract. The presumption may be rebutted.”  
(Andrew Phang. (1998). *Cheshire, Fifoot and Furmston’s Law of Contract*. Singapore: Butterworths Asia, p. 173.)

With the help of case law, briefly discuss how such presumption could be avoided.

(7 marks)

- (b) AB Communications Sdn Bhd (ABC) sent a newly launched “iPhone 5” smartphone to Dee. Dee was so surprised and delighted receiving his ‘dream-phone’ that he decided to keep it. He then sent a letter by fax to ABC manager, Mr. Ee, promising to pay \$1300 for the iPhone within two months. Mr. Ee replied with thanks and hoped to receive the payment within that period.

Four months later ABC consulted you to file a suit against Dee because Dee had defaulted payment. In reply to your notice of demand for the money, Dee contended that his promise was not supported by a valid consideration, hence no contractual duty to pay for the iPhone.

With the help of the statutory provisions and decided cases, write a short opinion for ABC whether it could succeed if an action is brought against Dee.

(8 marks)

**QUESTION 5 (15 Marks)**

Salleh is going to Singapore for a 3-week vacation. He asks Ahmad, a policeman who lives in the same road, to keep an eye on his house and car for him while he is away. Salleh promises to pay Ahmad \$200 for doing this when he returns.

Upon his return, Ahmad asks Salleh for his \$200. Salleh explains that he is short of money as he has just come back. He does, however, have \$80 left with him and offers these to Ahmad, saying,

“I’m afraid you are not going to get anymore out of me”.

Ahmad accepts the money, but on discovering that Salleh has just taken a very well paid job, now wishes to recover the additional \$120.

With the help of relevant provisions of the Contracts Act (Cap. 106) and decided cases, advise Ahmad whether there was sufficient consideration moving from him to support an enforceable agreement, and, if so, whether he could claim the additional \$120.

**QUESTION 6 (15 Marks)**

(a) In order for an exemption clause put in by one party to be binding on the other, it must be brought home to the mind of the other party either before or at the time when the contract is made.

Do you agree with the above statement? Explain and illustrate your answer with decided cases.

(7 marks)

(b) Describe the legal consequences of a breach of **two (2)** of the following:

- (a) a condition;
- (b) a warranty;
- (c) an intermediate or innominate term.

(4 marks each)

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