



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 3303**

**Course Name : Equity and Trust I**

**Course Level : Bachelor of Laws (LL.B) & Bachelor of  
Shariah Law (BSL)**

**Time : 3 hours**

**Notes:**

1. Answer any **four** 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)**

a) Explain the word 'Equity'. Why equity developed as one of the disciplines of law?

[6 marks]

b) Discuss the judicial reception of equity in Brunei and Malaysia.

[9 marks]

**QUESTION 2 (15 Marks)**

a) Explain the legal maxim 'He who comes to equity must come with clean hands'

[6 marks]

b) Amir, under a written sale and purchase agreement, purchased a piece of land from Aziz. Amir was required on the execution of the said agreement to pay 10% of the purchase price by way of forfeitable deposit and the balance was to be paid by him within six months from the date of execution with provisions for extension of time for completion. Aziz granted several extensions to Amir. However, after three and half years, Aziz wrote to Amir about the termination of the agreement for Amir's failure to complete the purchase of the said land. Amir entered a caveat against the said land and filed an application for specific performance of the contract on the basis that time was no longer the essence of the contract.

Advise Aziz.

[9 marks]

**QUESTION 3 (15 Marks)**

a) Explain the legal maxim “Equity follows the law”.

[6 marks]

b) Burhan secured funds from Imran to supply palm oil to a dealer in Pakistan. An agreement was entered into whereby Burhan decided to pay all sale proceeds received from Pakistan to Imran. XYZ Bank was the collecting agent for Burhan. XYZ Bank was directed to pay money received from Pakistan to Imran. Burhan wrote to the bank to this effect and sent a carbon copy of the letter to Imran who wrote to the Bank to confirm the arrangement. Bank, however, paid the proceeds of the sale to Burhan.

Imran has filed case against XYZ Bank arguing that the bank was supposed to pay money to him and not to Burhan.

Advise XYZ Bank.

[9 marks]

**QUESTION 4 (15 Marks)**

a) Explain ‘Proprietary Estoppel’. Do you favour the recognition of this type of estoppel?

[8 marks]

b) ‘An equitable assignment needs a clear and unambiguous intention to assign’. Discuss.

[7 marks]

**QUESTION 5 (15 Marks)**

a) 'Specific performance is unaffected by waiver'. Explain

[6 marks]

b) William died recently leaving a total of 12 landed properties. His son Daniel, the only legal heir, sold two landed properties within three months after the death of William. Recently Sharon decided to buy all the estate of William. In the draft agreement, two landed properties sold earlier were included by mistake but subsequently Daniel got them deleted. The agreement was duly signed by Sharon and Daniel. Sharon has now realized that agreement shows only ten landed properties whereas according to her it should be 12 landed properties.

Sharon is now seeking your legal advice for rectification of the document on the ground of common mistake.

Advise Sharon.

[9 marks]

**QUESTION 6 (15 Marks)**

a) Explain the element of 'Balance of Convenience' for the issuance of interlocutory injunction by the court.

[6 marks]

b) ABC Hotel is a seven floor building. In May 2011, the hotel owner let the third floor of the hotel building to XYZ Co. to run a recreation centre for a term of 3 years. XYZ Co. carried out renovations for an amount exceeding RM100, 000. Recently the hotel owner has informed XYZ Co. that he has decided to close down the hotel business and there would be no clients requiring recreational facilities.

XYZ Co. engages you as a lawyer for claiming B\$5 Million as damages for wrongful repudiation of contract and also for applying for Mareva Injunction.

What advise you will tender to XYZ Co. Support your answer with decided cases.

[9 marks]

بالتوفيق والنجاح