



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

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

Final Examination Question Paper

Course Code : LB 3307
Course Name : Family Law
**Course Level : Bachelor of Laws (LL.B) & Bachelor of
Shariah Law (BSL)**
Time : 3 hours

Reference allowed:

Dissolution of Marriage Act 1992 (Cap.165)
Married Women Act 1999 (Cap. 190)

Notes:

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

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

QUESTION 1 (15 Marks)

“The exercise of the right to marry gives rise to social, personal and legal consequences”.

In the light of the above statement, explain **FOUR (4)** functions of family law.

(15 marks)

QUESTION 2 (15 Marks)

Jacob and Vicky have been married for the last 15 years. Throughout the 15 years of marriage, the matrimonial home that they lived in at Kampung Jerudong was purchased by the husband and registered under his sole name. However, before they moved in they decided to renovate the house. Being an obedient wife and in the absence of her husband who was attending a six month course in Malaysia, Vicky supervised the entire renovation process. However, she had made no financial contribution to its purchase or renovation. Jacob charged the house to Bank Islam Brunei Darussalam (BIBD) as security for a loan, which Vicky knew nothing about. When Jacob went into debt, BIBD claimed possession of the house and an order for sale. Vicky, by way of defence to the bank's claim, argued that she had a beneficial interest in the house under a constructive trust and that this interest is coupled with actual occupation gave her an overriding interest which would defeat the bank's claim.

Advise Vicky on the possibility of invoking constructive trust and proprietary estoppel as grounds for claiming 'beneficial interest' in the matrimonial home.

(15 marks)

QUESTION 3 (15 Marks)

“Adultery is a serious matrimonial lapse and even in the most liberal of societies view this as extremely damaging to a harmonious marital relationship. The petitioner has to proof beyond reasonable doubt that the respondent has committed adultery in petitioning for a divorce”.

Explain the above statement in relation to the concept of adultery as a ground for divorce. Support your answer with relevant case law.

(15 marks)

QUESTION 4 (15 Marks)

Jeremy and Grace have been married for the last 12 years. Jeremy knew at the time of marriage that Grace was suffering from epileptic fits but believed that her condition might improve. They lived with Jeremy's mother. Throughout the 12 years of marriage, Grace could not find a job and as a result of that she lazed at home the whole day. She slept a great deal and made no effort to help with the housework. Grace's condition was due to her epilepsy and a severe neurological disorder. One fine day, Grace was admitted to Jerudong Park Medical Centre (JPMC) but upon release, her condition became worse. She became incontinent and Jeremy had to nurse her and prepare her meals. Meanwhile, Grace became bad-tempered and threw objects at her mother-in-law as well as causing damage by

burning household items. Her condition deteriorated until a hospital stay became necessary. Jeremy visited Grace regularly. Despite the regular visits, Jeremy found that he could not cope with the situation and wants to petition for a divorce.

Advise Jeremy.

(15 marks)

QUESTION 5 (15 Marks)

- (a) What is the difference between judicial separation and divorce? Explain **TWO (2)** advantages of judicial separation over divorce.

(6 marks)

- (b) “The grounds for a voidable marriage is mainly based on formal requirements. Thus, a marriage is voidable due to non-consummation owing to the incapacity of either party to consummate it and the marriage has not been consummated owing to wilful refusal of the respondent to consummate it”.

Discuss the above statement in relation to the concept of non-consummation of a marriage as a ground to nullify an existing marriage by the court.

(9 marks)

QUESTION 6 (15 Marks)

- (a) “When assessing the means and needs of the parties, the court must take note of the duration of the marriage, whether there were any children as a result of

the marriage, the age of the parties, whether the husband had financially supported the wife during the duration of their marriage, the parties' earning capabilities and whether divorce would have affected the husband's position financially". (As per the Court of Appeal in *Koey Cheng Eng v Linda Herawati Santoso* [2008] 4 MLJ 863)

Critically examine the above statement in the light of maintenance order for a wife under section 19 of the Married Women Act 1999.

(9 marks)

- (b) Joyce obtained a divorce from her husband Nicholas in 2013 and was ordered to pay maintenance of BND2000.00 to his wife and three children. At the time when the order was made, the husband's salary was BND5000.00 per month. However, since May 2014 Nicholas was jobless before he obtained a temporary appointment in February 2015- arrears of maintenance accumulated for 9 months which the total amount was BND18,000.00 Nicholas applied to vacate the maintenance order made against him during that period and to vary such maintenance order after February 2015.

Advise Nicholas on the issue of recession and variation of maintenance order that he was ordered by the court to pay to his wife in 2013.

(6 marks)