



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

Faculty of Shariah and Law
Semester II, 2015/2016 Academic Session
Final Examination Question Paper

Course Code : LB 3304

Course Name : Equity & Trust II

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

Time : 3 hours

Notes:

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

Question 1 (15 marks)

- a) “If the intended settlor fails to satisfy the relevant test for certainty of objects, the trust will fail”.

Do you agree with this statement?

(8 marks)

- a) Explain the dissimilarities between “Trust” and “Bailment”.

(7 marks)

Question 2 (15 marks)

- a) When a trust is deemed to have been completely constituted?

Explain.

(6 marks)

- b) Latif was an old lonely man. In 2013, he decided to spend his future time with Kabira, a widow. Both were living happily although Latif knew that he did not have much time to live. One day he handed over the papers of his house to Kabira while saying ‘When he dies this house and all its furniture is for her’.

In February, 2016, Latif died. Among his personal effects was a will, executed in 2015 which declared that all his property was to be given to ABC Charity.

Advise Kabira as to her rights to the house and the furniture.

(9 Marks)

Question 3 (15 marks)

a) Explain the difference between 'Automatic Resulting Trust and 'Presumed Resulting Trust'.

(6 marks)

b) Hamad transfers BND 50,000 to trustees upon trust to distribute all or such part of the income for the maintenance and training of his house keeper's daughter, Arifa, till she graduates from the university or reaches the age of 25, whichever happens earlier. Arifa, aged 24, has recently graduated from UBD. An amount of BND 30,000 is still with the trustees.

Advise Arifa whether she can claim this amount under the law relating to Resulting Trust.

(9 marks)

Question 4 (15 marks)

a) Explain the essentials of a "Fully Secret Trust".

(6 marks)

b) Lucy is a registered owner of a house in Bandar. In 2015, she met David, a young business man. Soon Lucy invited him to live with her. David willingly accepted. David told Lucy that he wants to share the expenses

of running the house but Lucy declined the offer. After few months, Lucy told David that 'since both are living together, this house equally belonged to him'. After this announcement, David started spending his savings on house decoration. After some misunderstanding, Lucy has recently told David to leave the house.

Discuss whether David can claim a share in the house under the law relating to Constructive Trust.

(9 marks)

Question 5 (15 marks)

a) Explain the concept of "Wakf" in Islam.

(6 marks)

(b) Consider the validity of following trusts:

1. BND 60,000 to my trustees for the promotion of tennis in the public schools of Muara.
2. BND 40,000 to UNISSA upon trust to establish and maintain in perpetuity a Law School.

(4 1/2 marks each)

Question 6 (15 marks)

a) Discuss the circumstances under which a trust can be varied.

(6 marks)

b) Ahsan and Mohsin are trustees under the will of Rashid who died in 2015. Under the terms of the trust, trustees are to hold cash in Rashid's deposit account for his daughter Aziza for life. And then absolutely for her living children. Last month, Ahsan approached James, a stockbroker, to seek his advice on the investment of money. James, a qualified but inexperienced broker, suggested several investments. Ahsan acted accordingly. Due to James's inexperience, all investments suffered loss.

Advise Aziza whether she has any claim against Ahsan and Mohsin for breach of trust.

(9 marks)

بالتوفيق والنجاح