



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

Faculty of Shariah and Law
Semester II, 2014/2015 Academic Session

Examination Question Paper

Course Code : LB 1304

Course Name: Law of Contract II

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

Time : 3 hours

References allowed
The Contracts Act (Cap. 106)

Notes:

- (1) Answer any **four** of the following questions.
- (2) Illustrate your answer with statutory provisions, if any, and relevant case law authorities.

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Question 1 (15 marks)

Sara had always wanted to own a 'Mini Cooper S' after her O-levels. But her father, Mansor, told her that his budget could only afford him to get her a second-hand 'Mini Cooper S'. Mansor negotiated over the sale of a second-hand 'Mini Cooper S' with Ali which he found at Ali & Sons Carmart Sdn. Bhd. in Kuala Belait. The second-hand imported car was registered in July 2008, in grey colour with automatic transmission with a selling price at B\$22,000. Ali assuredly told Mansor that "to the best of my knowledge and belief, the car is accident-free and the mileage is at 133,000 km". Mansor signed the contract and paid an advanced payment of B\$10,000.

Three weeks later, Mansor sent the car to a mechanic friend for an inspection as he suspected something was amiss after he noticed a slight dent at the front bonnet. The car had in fact been involved in an accident previously and that the mileage was wrongly represented. The mechanic repaired the dent and charged Mansor for B\$1,500. Mansor was disappointed and dissatisfied. He gave a notice to Ali on his intention to rescind the contract due to misrepresentation and demand for the return of the purchase price and also claimed B\$1,500 he had spent for the repair.

Ali argued that Mansor could have discovered the truth had he exercised ordinary diligence and refused to return the purchase price money as the company was in financial difficulties.

Advise Mansor.

Question 2 (15 marks)

- (a) In Brunei, all contracts entered into by a minor, other than for necessities, are generally, void, by virtue of the provision under the Contracts Act (Cap. 106).
Elaborate.

(6 marks)

- (b) Awang was living apart from his wife, Minah for more than two years. During this period, Awang became very close to his neighbour, John, who frequently helped him in times of hardship. Out of his gratitude, Awang made a significant gift to John by transferring 90% of his shares in his SoClean Laundrette Sdn. Bhd. business to John.

A year later, his laundry business faced financial difficulties. Awang met Minah and used his influence to threaten her to agree to secure a loan with a mortgage over their jointly-owned house or “you will face the consequences”. Minah reluctantly agreed and met Mr. Chen, the Head of the Loan Department at ABC Bank Bhd. Though distressed, Minah signed the necessary papers as surety for the loan of B\$300,000. The bank granted the loan.

After a few month of slow business, SoClean Laundrette Sdn. Bhd. was not able to recover and was on the verge of bankruptcy. Awang failed to pay back the loan and consequently the bank served a notice to Minah to take possession of the house. Meanwhile, John, Awang’s neighbor, was unhappy with the turnout of the events and wished to claim for his shares in SoClean Laundrette Sdn. Bhd. as promised by Awang.

Advise Minah and Awang.

(9 marks)

Question 3 (15 marks)

- (a) Dollah and Mamat are two good friends who are wristwatch enthusiasts. They both particularly adore the Breitling watches as they are 100% Swiss-made and their timepieces are all chronometer certified, which is unique to the brand. Dollah offered to sell his Breitling ‘Navitimer 01’ wristwatch at the price of B\$40,000 to Mamat to which Mamat agreed to buy. Mamat then transmitted B\$40,000 into Dollah’s bank account. On delivery of the wristwatch, it turned out to be a Breitling ‘Navitimer 01 (46MM)’ which costs much less than the price paid. Mamat brought an action against Dollah that due to mistake of fact, the contract was void and wished to claim for the monies paid. Dollah, however, argued that it was just a mere mistake as to quality which would not render the contract void.

Advise Mamat.

(7 marks)

- (b) Mere silence is not fraud, unless it is the duty of the person keeping silence to speak.

Explain the proposition.

(8 marks)

Question 4 (15 marks)

- (a) The first limb of section 15 of the Contracts Act (Cap.106) defines 'coercion' to point out just what sort of threats that is sufficient to amount to the kind of pressure needed to make a contract voidable.

Explain the application of the above limb of section 15 of the Contracts Act.

(8 marks)

- (b) Section 24 of the Contracts Act provides:

“The consideration or object of an agreement is lawful unless – (a) it is forbidden by law; ...”

Discuss and illustrate the above provision.

(7 marks)

Question 5 (15 marks)

- (a) RealPool Specialists Sdn. Bhd. (RPS) had entered into a contract with Mr. Soo for the construction of an indoor swimming pool at his house for the price of B\$40,000. The use of specialized materials and techniques required for a proper installation was agreed in the contract. Works were completed but Mr. Soo soon found that the installation was not properly done as plastic vapour barriers were not used to prevent moisture from reaching the structural frames. This had encouraged the growth of mold and caused freeze/thaw damage.

RPS claimed that they had performed the works and was entitled to the balance sum of B\$15,000. Mr.Soo argued that they had to carryout necessary repairs and had thus suffered a loss of B\$9,000.

Advise RPS.

(8 marks)

(b) The current test for frustration is the “radical change in the obligation test”.

Explain the application of the above test.

(7 marks)

Question 6 (15 marks)

When a plaintiff claims damages against a defendant, he has to show that the loss in respect of which he is claiming was caused by the defendant’s wrong. The plaintiff must also show that the damages are not too remote to be recoverable. The principle of remoteness of damage is a limiting principle of policy.

Evaluate and demonstrate the above proposition.

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