



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

Faculty of Shariah and Law
Semester II, 2021/2022 Academic Session

Final Examination Question Paper

Course Code : LB3304
Course Name : Equity and Trust II
Course Level : Bachelor's Degree
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)

Critically examine the validity of the following gifts to James Lim's wife Agnes Wong, in his will:

(a) B\$250,000.00 to use as she thinks best and what is left over is to be given on her death to my children.

(5 Marks)

(b) My favourite pair of Nike jogging shoes to my best friend, Kenneth Chong.

(5 Marks)

(a) My collection of old textbooks on Equity & Trust to my sons Nicholas Lim and Henry Lim and they are to allow my old enthusiast friends to have any textbooks which they wish. In case of doubt as to who is an old enthusiast friend, my wife Agnes Wong can be asked. She knows who they are.

(5 Marks)

QUESTION 2 (15 Marks)

In 2020, James Wong's father was admitted to Suri Seri Begawan Hospital in Kuala Belait as a result of suffering from prostate cancer. James Wong being an obedient and caring son, paid regular visit to the hospital to check on his father's condition. He had possession of his father's car and one set of keys to the car, in which he drove his mother, Catherine Kong, to the hospital for visits to the father.

James Wong did not have the car's registration document and it was unclear whether another set of keys existed. A few days before his death, he told his son, referring to the car "You can keep the keys, I won't be driving any more". James

Wong subsequently sold the car and his mother, Catherine Kong, the widow and sole personal representative of the deceased, brought an action claiming the proceeds of sale (B\$25,000.00) as an asset of the estate.

During that same year and period, James Wong's father also asked his elder son John Wong, a banker working in Brunei Muara to come back to Kuala Belait where the family home is located due to his deteriorating poor health. The father promised his elder son to quit his job and come back home. He also told his elder son that he will take the small plot of land near the family house to build his own house. John Wong left his job as a banker in Brunei Muara and joined the rest of the family members in Kuala Belait. Upon his arrival, he immediately constructed his own house at the cost of B\$280,000.00. His father was very proud that at least his elder son has a house now, which is also very close to the family house. Immediately after the death of his father, his own mother, Catherine Kong, made it clear that as a sole personal representative of the deceased, the land is part of the deceased estate. She also informed her elder son, to make arrangement and vacate the said land.

Advise James Wong and John Wong.

QUESTION 3 (15 Marks)

Ronald Chong and Elizabeth Lim have recently split up, having lived together for 20 years. They never married. They have a daughter, Agnes Chong, who is 16 years old. Ronald Chong purchased the family home 15 years ago and it was registered in his sole name. When, at the time of the purchase, Elizabeth Lim suggested that the house should be registered in their joint names. Ronald Chong said, "We don't need a bit of paper! You trust me, don't you?"

Ronald Chong provided the deposit. The balance of the purchase price was funded by a mortgage loan in his name. Ronald Chong has paid all the mortgage

instalments. Elizabeth Lim used the sale of proceeds of her studio flat to furnish the new house.

Shortly before Agnes Chong was born, Elizabeth Lim gave up her job as a legal secretary and did not work again until 2009, when she got part-time work back at her old firm. Her wages were a welcome addition to the family finances, because Ronald Chong's business was going through a bad period. Ronald Chong continued to meet the mortgage payments, but, since 2009, Elizabeth Lim has paid all other household bills.

Advise Elizabeth Lim on whether she can claim a share in the family home and, if not, whether any other remedies may be available to her.

QUESTION 4 (15 Marks)

Secret trusts provide a method of side-stepping the requirements of the Wills Act 1999 (Cap.193).

Critically evaluate how the courts justify the enforcement of secret trusts.

QUESTION 5 (15 Marks)

Helena Fong died recently and Jacob Chong was appointed as the executor of her estate. Jacob Chong seeks your advice regarding the nature and validity of the following clauses in Helena Fong's will:

- (a) "I give B\$150,000.00 to my trustees for the purpose of providing free television sets for the poor in the District of Tutong."

(3.5 Marks)

- (b) "I give B\$50,000.00 to promote music of the under-rated composer Aaron Kwok and to fund research into what links, if any, there are between his music and the great composers of the past."

(4 Marks)

- (c) “I leave B\$1 million to establish the Henry Lau Centre for Alternative Medicine, which will provide comfort to patients and ease sufferings. Patients should be charged, each according to their means.”
(3.5 Marks)
- (d) “I leave B\$500,000.00 to promote the playing of sport (e.g. cricket, football, snooker) among the youth of Rimba, so that young people can come together, get fit and find a sense of community.” (4 Marks)

Advise Jacob Chong.

QUESTION 6 (15 Marks)

What are the effects of the following dispositions in Henry Wong’s will:

- (a) “B\$250,000.00 to my trustees for the purpose of building a play-ground to be used by the employees of Maju Sutera Ltd”;
(5 Marks)
- (b) “B\$120,000.00 to my trustees to promote horse-racing”; and
(5 Marks)
- (c) “B\$150,000.00 to my trustees for the education of my daughter Grace Yap up to the age of 18”.
(5 Marks)