



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

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

Final Examination Question Paper

Course Code : LB3307
Course Name : Family Law
Course Level : Bachelor's Degree
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.

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QUESTION 1 (15 Marks)

- (a) *“Family law is a body of rules which regulates the rights and obligations of the members of the family in relation to each other”.*

In the light of the above statement, explain **THREE (3)** functions which are served by family law. (7.5 Marks)

- (b) Discuss **THREE (3)** effects of marriage on status and property in the context of a non-Muslim married woman. Support your answer with relevant provisions of the Brunei Darussalam Married Women Act 1999 (Cap.190) and case law. (7.5 Marks)

QUESTION 2 (15 Marks)

In 2021, Martin Chong deserted his wife Alice Kong to live with his mistress. Alice Kong continued living in the matrimonial home of which Martin Chong is the sole/legal owner. Martin Chong and Alice Kong have three children. Alice Kong heard rumours that Martin Chong was proposing to put the house for sale so that he could purchase a bigger house for his mistress and that he intended to divorce her.

Advise Alice Kong of her rights in respect of the matrimonial home on the alternative assumption:

- (a) That she contributed half of the purchase price. (7.5 Marks)
- (b) That she had not contributed to the purchase price of the house but had been a faithful wife to Martin Chong for the last 12 years. (7.5 Marks)

QUESTION 3 (15 Marks)

Kumar and Kamala are aged 38 and 33 respectively. They were married five years ago. Kamala recently discovered text messages on Kumar's phone from a woman named Sarala. It was obvious to Kamala that there was some sort of relationship between Kumar and Sarala. Kumar admitted to Kamala that he and Sarala had a short affair, but insisted that it was over. He tried to justify the affair, by saying that Kamala had been depressed and distant, and not appreciative of his needs. He asked Kamala to forgive him and to consider giving their marriage a chance. Kamala agreed, and consulted her doctor about how to address her mental health issues. She also sought support through counselling available at work. She tried to be positive at home, and made sure that the house was clean and meals were ready for Kumar when he returned from work. However, in spite of her efforts, Kumar continued communicating with Sarala, and spent increasingly longer time away from home, allegedly for work. The more Kamala tried to please Kumar, the more he seemed to resent her efforts. He criticised her cooking, told her that she was 'letting herself go' in her appearance, and he blamed her for the problems in their marriage. Kamala and Kumar rent a house. Their combined incomes cover their living costs and they are able to save a little every month from Kumar's income. Kumar is currently working at Jaya Supermarket and will soon become a qualified accountant. They have one car, which Kumar insists on using to drive to work, while Kamala takes a bus. Kumar has Post Office shares, which he received from his grandparents many years ago, and Kamala believes that they are now worth a fair amount of money. Neither of them has a pension, nor do they own a property. Kamala works in a nursing home as a care assistant. She would like to go back to college in the future to gain qualifications, so that she can obtain a better-paid job. She has told her counsellor that her marriage is over, and that she and Kumar are living separate lives.

- (a) Advise Kamala whether she can divorce Kumar quickly and, if so, on what basis. (10 Marks)
- (b) Identify two financial orders that Kamala can apply for, and explain their relevance to her situation. (5 Marks)

QUESTION 4 (15 Marks)

Richard Koh George and Florence Lim have been married for four years when Richard Koh hears that Florence Lim recently had sex with a male acquaintance, Paul. Richard Koh is devastated, says the marriage is over and that he wants a divorce as quickly as possible. Florence Lim firmly denies that she had sex with Paul and insists she would deny it in court if it ever got that far. Florence Lim does admit however that their marriage is going nowhere and that she no longer finds Richard Koh attractive – either physically or emotionally. Richard Koh wants a divorce as quickly as possible. Florence Lim suggests they simply move into separate rooms while they take time to plan for their separate futures. Florence Lim in particular is concerned at the potential cost of a messy divorce.

Advise Richard Koh on the different legal routes they might take to divorce.

QUESTION 5 (15 Marks)

- (a) You are approached by Katherine Tan who is entitled to spousal maintenance in terms of a maintenance order granted at the time of her divorce. She is unhappy with the amount of maintenance that she is receiving as she considers it insufficient to fulfil her shopping and travel desires.

Advise Katherine Tan on the principles that the courts (i.e., High Court) in Brunei Darussalam apply in deciding whether to vary an existing maintenance order. Your answer should include an explanation of the concept of 'change in circumstance'.

(6 Marks)

- (b) Helena Wong and Jonathan Ching got married in 2010. The couple were blessed with two children born in 2012 and 2015. Jonathan Ching is a dentist. Helena Wong, a successful bank executive, is laid off in 2011 during a financial crisis. Thereafter, she becomes a stay-at-home mother, raising the couple's children. Helena Wong regularly assists with the accounting in Jonathan Ching's office.

The relationship between the couple deteriorated and, after a bitter argument between the two, Helena Wong moved in with the children to her parents' house. Jonathan Ching agrees to pay reasonable child support, but refuses to provide financial support for Helena Wong because, in his view, she should look for a job to support herself. Helena Wong wants to remain a stay-at-home mother until the children are both in the university.

Advise Helena Wong on whether she can obtain spousal support from Jonathan Ching.

(9 Marks)

QUESTION 6 (15 Marks)

Angela Kong met her husband when she was volunteering for a children's home in Gadong and found him to be a loving and gentle person. After the first year of their

marriage, Angela Kong became pregnant with their first child. This was when the nightmare began.

Her husband refused to talk or communicate with her, and when she questioned him about anything, he would yell at her and scream, "It's my wish!" He would then repeatedly hit her shoulders, her arms, her body, pulled her hair and kicked her. On several occasions, he even kicked her on the stomach.

Angela Kong thought that all marriages were like this behind closed doors. Her husband would be the perfect man in front of others, considerate and gentle. But when they were alone at home, he would abuse her, even in front of the children.

He would provoke her, hit her, and then be especially loving to her. When he was loving, Angela Kong would see the man she fell for before her marriage. She was convinced that the abuse would stop. But it never did. For a few days only there was peace, but subsequently he continued to abuse her. Angela Kong believed that she had to take anything that comes in a marriage, and that the abuse was part of the ups and downs of the reality of married life. She kept her silence.

The abuse continued for 12 years. There were so many times where Angela Kong felt like she needed to cry, but no tears would come to relieve her pain. It was the mental abuse that tortured her most. Finally, in mid- 2020, Angela Kong could not stand the violence. She left the matrimonial home together with her children. She comes to you for advice.

Advise Angela Kong.