



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 : LB1304
Course Name : Law of Contract 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.

QUESTION 1 (15 Marks)

- a. Discuss fully the effect of the following.
- i. An agreement to which a minor is a party. (3 Marks)
 - ii. An agreement entered by a minor and ratified by him after attaining majority. (3 Marks)

b. Abdul Jelil, a minor, borrowed \$15, 000 from Habeeb by executing a promissory note. He stated that he was 21 years of age and was fully competent to enter into an agreement. Later, Abdul Jalil promised Shekina, 15 years of age, that he would marry her as soon as he returned from London after watching FA Cup finals. Abdul Jalil went to London and returned to Brunei having spent all the money he had borrowed from Habeeb. Both Habeeb and Shekina sued Abdul Jalil to enforce their rights- Habeeb on the promissory note and Shekina for the breach of promise to marry.

Discuss and decide the legal position of the parties. (9 Marks)

QUESTION 2 (15 Marks)

a. "It is easier to prove presumed undue influence than actual undue influence to set aside a contract."

Explain the above statement with reference to the Contracts Act, Cap.106 and support your answer with relevant decided cases. (7 Marks)

b. Robert loves Cynthia very much. They have been going out steady as friends for the past three years. Robert adores Cynthia and to him, whenever she smiles, the

stars rose in the sky. One day Robert returns from work and told Cynthia that Jerry was suing him for the loan of RM 200,000 which he has yet to repay and that Jerry wants to get a court order to sell his house. Cynthia advised Robert to sell his house to her for RM 200,000. Cynthia's wish was Robert's command. Robert had always followed Cynthia's instructions.

The transfer of the house was executed in the presence of Robert's lawyers. Six months later, Cynthia left Robert to marry her new boyfriend, George. Robert's heart was broken. He could not believe that Cynthia would ever leave him. After one year of crying over a broken heart, Robert came to accept the fact of their separation. He now wants to set aside the transfer of his property (bungalow) to Cynthia. The market value of the bungalow at the time of the transfer was RM1,000,000.

Advise Robert.

(8 Marks)

QUESTION 3 (15 Marks)

- a. "Mere silence as to facts likely to affect the willingness of a person to enter to a contract does not constitute fraud". Explain. (7 Marks)

- b. Abu purchased a plot of land from Bashir for the purpose of opening a car park. During the negotiations, Bashir had told Abu that the space was good enough for one hundred cars if properly placed. It turned out that the plot could only hold seventy cars. Abu has also received a notice that the Government now wants to compulsorily acquire half of the parcel of the land for purposes of road widening. Abu seeks to rescind the contract and claim damages alleging fraudulent misrepresentation on the part of Bashir. Advise Abu. (8 Marks)

QUESTION 4 (15 Marks)

Examine whether the following agreements between the parties are affected by mistake under the Brunei Darussalam Contracts Act, Cap. 106.

- a. Salma buys a picture of a renowned artiste and pay a heavy amount to Zarina, the seller. Both the buyer and the seller do not know that the famous artiste did not make the picture. It turns out that the picture was merely a copy and not an original one. (6 Marks)
- b. Salma and Hamdan agree to sell and buy 200 tons of Basmati rice on board a ship in Thailand arriving in Port Kelang on 20 January 2022. The ship in Thailand was loaded with several tons of rice to different parties, but the 200 tons of rice, which were the subject of bargain, were not in the ship. Both Salman and Hamdan were unaware of this fact at the time of contract. Support your answer with case law. (9 Marks)

QUESTION 5 (15 Marks)

- a. "Every agreement by which anyone is restrained from exercising a lawful profession, trade, or business of any kind, is to that extent void."

Are there any exceptions to this rule? Explain. (6 Marks)

- b. In November 2015, the Malaysian Proton Saga Motor Bhd sold their business and goodwill to one Mr Wong King Kong for RM800 Million. The Proton Saga

Motor Bhd agreed that for 10 years they would not engage either directly or indirectly:

- i. In the trade or business of manufacturing or sale of Proton motor cars and their spare parts in Malaysia; and
- ii. In any business in Malaysia competing or liable to compete in any way with that of Mr Wong King Kong.

In October 2020, Proton Saga Motor Bhd opened a business in Sabah for the manufacturing and sale of Proton Saga vans and pickup trucks and their spare parts. Mr Wong King Kong files a suit to restrain Proton Saga Motor Bhd from carrying on such business. Discuss and decide the issues in the above narrations. (9 Marks)

QUESTION 6 (15 Marks)

Where a party to the contract refuses to perform his promise or disables himself from performing it, the innocent party is discharged from the further performance of the contract.

Explain fully the discharge of contract by breach by virtue of Section 40 of the Contracts Act, Cap. 106.

(15 Marks)

بالتوفيق والنجاح