



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)
Adoption of Children Act 2001 (Cap.205)
Registration of Adoptions Act 1962 (Cap. 123)

Notes:

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

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

QUESTION 1 (15 Marks)

- (a) *“Marriage is an institution, or relationship, deeply embedded in the religious and social culture of this country. It is deeply embedded as a relationship between two persons of the opposite sex”*. (As per Lord Nicholls in *Bellinger v Bellinger* [2003] UKHL 21)

In the light of the above statement, discuss **THREE (3)** aims of marriage in the context of family law.

(7.5 Marks)

- (b) *“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)

QUESTION 2 (15 Marks)

Henry Yong and Elizabeth Fong, both divorcees in their early 60s, met through an online dating site and, after a year of socialising and going on holiday together, they decided to move in together. Henry Yong had never really got used to living on his own and he was delighted at the prospect of having Elizabeth Fong in the house to cook, clean and generally look after him. Elizabeth Fong, by her own admission, was not good at managing money and was relieved at the thought of being looked after by Henry Yong, who was wealthy and generous. Despite the strong opposition of Henry Yong’s adult daughter, Elizabeth Fong moved into Henry Yong’s large seaside house facing Pantai Muara. Elizabeth Fong happily sold her small flat for B\$80,000.00 – B\$30,000.00 more than the B\$50,000.00

she told Henry Yong about - and put the money into her bank account. She later spent B\$10,000.00 of it on a new kitchen in Henry Yong's house because she could not stand the old one. She also paid for an expensive cruise for her and her sister. Otherwise she left the money where it was and happily let Henry Yong pay for them both. He insisted it was his pleasure to look after.

After a couple of years, the benefits of shared living began to wear thin. Henry Yong found Elizabeth Fong's company increasingly irritating and he also began to be concerned at how much she was spending on his credit card. Elizabeth Fong began spending more and more time at her sister's house, sometimes staying away for weeks.

Recently Henry Yong's daughter came to visit, discovered that Elizabeth Fong was not there and asked her father about the situation. He confessed it was all a terrible mistake, they had never actually shared a bed, and, for at least the last six months, Elizabeth Fong had been spending more time staying at her sister's house than at home with him. When Henry Yong's daughter suggested that he ask her to move out, he said he was worried because Elizabeth Fong had told him they were 'cohabitants' and she had rights. She had told him that it was all because of him that she had given up her own flat.

Advise Henry Yong on whether Elizabeth Fong has a beneficial interest in the large seaside house facing Pantai Muara if they did 'split up'.

QUESTION 3 (15 Marks)

Advise each of the parties as to whether or not they have legal grounds for divorce:

- (a) Peter Lim and Agnes Wong have been married for 10 years and have two children (aged 7 and 9). Agnes Wong recently discovered some explicit text messages on Peter Lim's phone and, when confronted, he confessed that he and his work colleague, Janet Kong, had got into the habit of flirting in the office and sexting but, apart from some kissing at the recent Christmas party, he swears it has gone no further. Agnes Wong says she has always told him that infidelity is absolutely unforgivable and she intends to seek a divorce, Peter Lim says he knows he has behaved badly but it is over, it meant nothing and he wants them to stick together. Advise Agnes Wong as to whether she has grounds for divorce.

(7.5 Marks)

- (b) Jane Leong and Richard Chong have been married and settled in Kuala Belait for 12 years when Richard Chong John was offered a new job in Bandar Seri Begawan London. They agreed that Richard Chong would go ahead and settle in while Jane Leong stayed in Kuala Belait and made plans to sell their house. Their original plan was to spend weekends together but with Richard Chong so busy at work and Jane Leong rediscovering her single social life, it rarely happens. By the time this arrangement has been going on for a year, Jane Leong tells Richard Chong she has decided she is happier on her own and she wants a divorce. Richard Chong is shocked but says he will not make it difficult for her. Advise Jane Leong how to proceed.

(7.5 Marks)

QUESTION 4 (15 Marks)

Gerald Teoh and Grace Boh were married at the Marriage Registry's office in Bandar Seri Begawan. They had agreed that the registry ceremony would be followed by another ceremony conducted according to Chinese customary rites. It had been understood between Gerald Teoh and Grace Boh that they could not cohabit or consummate the marriage pending the ceremony. Gerald Teoh was supposed to make arrangements but delayed in doing so. When requested to do so by Grace Boh, he did not respond. Grace Boh stated that as Gerald Teoh had willfully refused to proceed with the Chinese ceremony, he had thereby willfully refused to consummate the marriage. However, unknown to Grace Boh, Gerald Teoh also suffers from permanent and incurable incapacity as a result of an operation he had as a child. He confided this fact to his close childhood friend, James Chong. Grace Boh wants to nullify the marriage.

Advise Grace Boh.

QUESTION 5 (15 Marks)

John Gan and Judith Tan were happily married for nearly 20 years before Grace Yap came into picture. Due to the presence of a third party in their marriage, John Gan started to neglect his family. This prompted Judith Tan to go to court to force her husband to provide for the family. In 1999, the court ordered John Gan to pay maintenance to his wife and three children. However, John Gan defaulted in paying the maintenance for three months. The wife applied for an order for her husband to be imprisoned for having willfully neglected to comply with the maintenance order.

In 2012, Judith Tan obtained a divorce from her husband John Gan and was ordered to pay maintenance of B\$2000.00 to his wife and three children. At the time when the order was made, the husband's salary was B\$5000.00 per month. However, since May 2013 John Gan was jobless before he obtained a temporary appointment in February 2014- arrears of maintenance accumulated for 9 months which the total amount was B\$18,000.00. John Gan applied to vacate the maintenance order made against him during that period and to vary such maintenance order after February 2014.

Advise Judith Tan and John Gan.

QUESTION 6 (15 Marks)

- (a) After the announcement of their engagement, Timothy Wong, aged 28 and Agnes Lim, 24 agreed to stay together. Both of them somehow had agreed that the marriage ceremony should be done at a later date. While on a holiday in Kuala Belait, Timothy Wong met with an accident and died. Agnes Lim is very depressed and above all, she is expecting Timothy Wong's child. Agnes Lim is worried that her lover's child will be called a "bastard" by her friends and relatives.

Advise Agnes Lim. (7.5 Marks)

- (b) Mr. Peter Lim and his wife Celia Leong applied for the adoption of John Ching, who was nearly five years old. John Ching had been living with the Lim's family, since shortly after his birth. Mr. Gerald Goh and his wife Angelina Kong as the natural parents John Ching opposed the application for adoption.

Advise Mr. Peter Lim and Celia Leong. (7.5 Marks)