



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

**Faculty of Shariah and Law**  
**Semester II, 2022/2023 Academic Session**

**Final Examination Question Paper**

**Course Code : LB1304**

**Course Name : Law of Contract II**

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

**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)**

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 BND15,000 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 Brunei Darussalam Contracts Act, Cap.106 and support your answer with relevant decided cases.

(6 Marks)

b. Mariam is a lecture at Kiulap College, Brunei. She is Noraini's favourite lecturer. On many occasions, Noraini has confided in her when Noraini faces emotional and financial problems. Two years ago, Noraini's father died leaving her a substantial sum of money. Noraini was completely devastated because of her father's death. She was the only child and her mother had died when she was two years old. She felt very depressed and sought help from Mariam. Mariam invited Noraini to stay with her. During her stay with Mariam, Noraini became very dependent upon her on all matters. She became less able in handling and

managing her own affairs. Whatever she does is with Mariam's supervision and permission.

Most of Noraini's money had been drawn out and given to Mariam. Her family home inherited from her father had been transferred to Mariam's name. Noraini died due to excessive grief and the administrators of her estate sue Mariam for the return of the money and the house on the ground that Noraini did not give them with free consent.

Advise Mariam.

(9 Marks)

**QUESTION 3 (15 Marks)**

a. Discuss the two circumstances where, although there was misrepresentation or fraud, the contract is not voidable and therefore the misled party is prevented from avoiding the contract due to the misrepresentation and fraud.

(7 Marks)

b. Mr Tan, a dealer in used cars, offered to sell a Toyota Innova model 2017 for BND20,000. On several occasions during the negotiations, he made statements to Ahmad that the car was as good as new and had never given any trouble to its previous owner. Mr Tan, however, did not tell Ahmad that the car had met an accident.

Ahmad, believing that the statements were exaggerated, engaged a mechanic to have the car examined. The mechanic's opinion was that the condition of the car was not very sound but that the price quoted by Mr Tan was not too much for a car of that condition. Ahmad bought the car. Later, while driving the car on a highway, Ahmed discovered that the car was in a very poor condition. Ahmed sues Mr. Tan for misrepresentation or fraud and wants to rescind the contract. Discuss whether Ahmad will succeed.

(8 Marks)

**QUESTION 4 (15 Marks)**

a. Explain how an operative mistake will negative or nullify the consent of the parties to a contract.

(6 Marks)

b. Lata introducing herself as a famous singer selected a gold ring and a pearl necklace worth BD20,000 from Poh Kong Jewellers. The Jewellers identified Lata as they have seen her on TV3 singing at the Juara Lagu Song Contest. Lata drew her chequebook and wrote the amount, signed and gave it to the Jewellers.

The cheque was dishonoured, as Lata was a fake person and not the famous singer. Meanwhile Lata has sold the ring and the necklace to Asha for BD25,000. The Jewellers proceed in law against Asha to recover the Jewellery. Discuss the legal position of the parties and decide.

(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. Yusuf, the owner of a prosperous Empire Hotel, Jerudong, Brunei, sold the hotel business for BD 250 million to Hanif Group Sdn Bhd. At the time of the sale Yusuf agreed to the following conditions:

- i. That he would not open a hotel in Jerudong for five years.
- ii. That he would not be starting a similar hotel business in Kiulap, Brunei for one year.

After a few months Yusuf took a lease of a big building to start a hotel business in Jerudong, Brunei. He also rented a building complex in Kiulap to start a catering business. Hanif Group Sdn Bhd files a suit in court praying for an injunction to restrain Yusuf from doing so. Do you think Hanif Group Sdn Bhd will succeed? Advise him.

(9 Marks)

**QUESTION 6 (15 Marks)**

Generally, the time of performance is not of the essence of the contract unless the parties have expressly made it so. Whether time had been intended to be of the essence would depend on the conduct and the dealings of the parties. Explain the above statement.

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