

**UNIVERSITY OF COLOMBO, SRI LANKA**

**FACULTY OF LAW**

**BACHELOR OF LAWS EXAMINATION, YEAR II - 2022**

**Equity and Law of Trusts**

(Three Hours)

Total Number of Questions: 06

Answer **THREE (03)** questions and **no more.**  
(Candidates will be penalized for illegible handwriting.)

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01. 'Attainment of justice is the utmost goal of law and equity. However, in practice, the approach of equity differs from law to achieve justice where the nature of law is harsh, inflexible, and unreasonable. The uncompromising nature of law sometimes leads to failure of achieving justice for which it was created.'

Discuss the above statement in light of the development of equity in English Law.

**(100 Marks)**

02. Answer **both** (A) and (B).

(A) Club Horizon engages in motorboat racing and water skiing in Victoria Lake since 2016. As a practice, only small boats were used for the above activities by the Club. In 2021, Clifford moved with his family to a house built near Victoria Lake. After a few days of his residence, he felt that the noise from the Club's activities was at an intolerable level. The Club used large power boats to take part in international tournaments and it caused noisy practices. Clifford was disturbed by the noise and he had to cancel several online international business meetings due to the noise. He alleges that the rights to a peaceful environment and happy and healthy life are violated due to the noisy activities of the Club.

Advise Clifford in light of equitable remedies available to him.

**P.T.O**

(B) In 2021, Messey Italian Food Outlet entered into a lease agreement for 05 years with Michael who is the owner of the building. In 2022, the Italian Food Outlet decided to close the Food Outlet due to loss of income from the business mainly because of the current economic crisis in the country. The Italian Food Outlet decided to terminate the lease agreement and requested the balance of money from Michael. Michael argues that the closure is a breach of the terms of the lease agreement and the contract must be specifically performed for the remaining period of the lease. The lease agreement does not have any clause relating to the termination of the agreement. The Italian Food Outlet seeks your advice.

Advise the Italian Food Outlet in light of the principles relating to equitable remedies.

**(50 x 2 = 100 Marks)**

03. Answer **both** (A) and (B).

(A) 'An express trust requires the creator to be certain of the legal requirements to create a valid trust. Failure to fulfill such requirements would result in invalid trust.'

Discuss the above statement in light of the provisions of the Trust Ordinance.

**(60 Marks)**

(B) Gamini wished to bequeath his house and a car to his daughter Randi. Gamini transferred these properties to his friend Ranil based on an oral agreement to transfer the properties to Randi after Gamini's death. Ranil refuses to transfer the properties to Randi after Gamini's death.

Discuss, citing the relevant legal provisions of the Trust Ordinance whether a valid trust has been created in the given scenario.

**(40 Marks)**

**P.T.O**

04. Answer both (A) and (B).

(A) The Paradise Travel Agency (PTA) acts as an agent for Euro Airlines. PTA sells the airlines' tickets and keeps the money from the sale of tickets. PTA fell into financial difficulties and used the airlines' ticket money to pay salaries to its staff. Later PTA refused to transfer the airlines' ticket money to Euro Airlines. Euro Airlines intends to sue PTA's directors who had authorized to use of the ticket money to pay the salaries.

Advise Euro Airlines in light of the provisions of the Trusts Ordinance.

(B) Equipore is an island state in the Indian Ocean. In Equipore, Erik owns 99 acres of a tea estate and wanted to purchase another thirty acres of a tea estate. However, upon reaching a threshold of 100 acres, government regulations apply to control the purchase of tea estates. To circumvent these regulations, Erik purchased thirty acres of a tea estate in the name of his daughter, Lily. However, Erik had possession of the thirty acres of the tea estate. Erik wishes to sell the thirty acres of tea estate to seek money for another investment. But, Lily claims that she is the owner of the thirty acres of the tea estate, and Erik has no right to sell her property.

Assume that the Trusts Ordinance of Equipore is similar to the Trusts Ordinance of Sri Lanka. Advise Erik in light of the provisions of the Trusts Ordinance.

(50 x 2 = 100 Marks)

05. Dr. Chandra, a retired Director of Chandra Hospital (Pvt) Ltd. endeavored to set up the following in his last will:

- (a) Rs. 2 million to the registrar of the Medical Faculty of TAMSAI to distribute the money among the needy students in the Faculty;
- (b) Rs. 10 million to provide educational facilities to the children of the staff of Chandra Hospital (Pvt) Ltd;
- (c) Rs. 15 million to carry out research to invent a vaccine against the disease called monkeypox;

P.T.O

(d) Rs. 1 million to the 'Gregory' Stables in Nuwara Eliya for maintenance of horses in the stables;

(e) Rs. 500,000 to erect a memorial for Dr.Chandra in Chandra Hospital's park.

Discuss whether the above bequeath in the last will of Dr.Chandra creates a valid charitable trust.

(20 x 5 = 100 Marks)

06. Bala owned a house in Kandy, a tea estate in Badulla, three acres of land in Jaffna, and two apartments in Colombo. Bala had two daughters Kavitha, Vimala, and a son Kumar. He appointed Nivilan and Raja as trustees to the properties for the following:

- Bala's house in Kandy is to be transferred to Kavitha at her marriage as a gift if she marries his sister's son. If she fails to marry him, to sell the house and equally divides the money among the three children.
- To sell the tea estate and deposit the money in a fixed deposit in Vimala's name for her benefit.
- To sell Bala's three acres of land when Kumar reaches the age of eighteen years and to divide the money among the three children equally.
- Bala's apartments are to be given on rent and to use the rent for investments that are beneficial to the children.

Kavitha had a relationship with her college friend and got married to him. Kavitha got the house in Kandy to be transferred in her name by paying a commission to the trustees. The tea estate was sold by Nivilan and Raja, and the money was deposited in a joint account in the names of Nivilan and Raja. Kavitha, Kumar, and Vimala have reached the age of eighteen years, and they wish to get the three-acre land transferred equally in their names without selling it. The rental money received from Bala's apartments has been used by Nivilan to buy a house in his name without the knowledge of Kavitha, Kumar, Vimala, and Raja.

Discuss the legal issues in the above situations, and advise the parties as to their legal duties and rights in the light of the provisions of the Trusts Ordinance.

(100 Marks)

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