

UNIVERSITY OF COLOMBO
FACULTY OF LAW

BACHELOR OF LAWS EXAMINATION, YEAR I – 2017

ROMAN LAW

(THREE HOURS)

Total No. of Questions: 07

Answer **FIVE** questions only and no more.

(Candidates will be penalized for illegible handwriting.)

1. 'The Principate witnessed the commencement of the Golden Age of Roman law, a period which was to last two and a half centuries.'
 - i) Explain what you understand by the phrase 'the Principate'.
 - ii) Explain, what exactly reflects/transpires from the statement.
 - iii) Identify the force/forces which greatly contributed to the development of Roman law during this particular period of Roman political and legal history.
 - iv) Explain the activities and functions of such contributors who made this period memorable in the context of the gradual development of Roman legal science and techniques.
2. Advise the following, giving reasoned and supported arguments for your answer:
 - i) Tullius, a recent *civis libertinus* (freedman) believed he was eligible for public service and that he had minimal disabilities under private law.
 - ii) Cassius, a brilliant orator, must decide between two offers of adoption, one from Decimus, his mother's father and the other from Felix, a wealthy merchant.
 - iii) Livius, who was terminally ill, wished on his death to prevent his sons Maximus and Nerva, who were sixteen and nine years old respectively, from squandering their wealth, as they spent all their money on buying new clothes and parading near the Colosseum.
3. Analyse, giving reasons, the type of ownership, if any, acquired in the following situations:

To get to his apple orchard, Priscus, a Roman citizen, acquired by *mancipatio* a right of way of *iter* from Quintus over a meadow on the outskirts of Rome. Priscus also purchased by *traditio* six white horses for his chariot from Rufus, and pruning shears

and ladders from Sabinus. He captured five wild geese that came to his orchard. Six weeks after the sale of the horses, Rufus died and his only child and heir Tacitus attempted to recover the horses from Priscus by an action. Priscus bought a five acre vineyard in the provinces from Valarius who needed money for his gambling. Priscus did not know that Valarius's father Otho was the owner of the vineyard. Otho who did not know of Valerius's actions sold the property three years after this event to Nero.

4. i) Throughout his lesson on law of obligations, Jurist Justinian arranges his classification of obligations in fours. Being unable to understand the main divisions and subdivisions, the pupils in the class request him to explain the classification of obligations by way of a table/diagram for better comprehension.

Assume that you are the jurist Justinian and show how you would respond to their request.

- ii) Consider the legal rights and liabilities in the following situations:
- a) Marcus lends a sum of 200 *aurei* to Jupiter who promises to pay back the capital with interest. Jupiter invests the money to convert part of his house into a warehouse. Jupiter entrusts some of his most valuable antiques to Marcus until the repairs are completed. Marcus leaves them in an unlocked room and the antiques are stolen. The warehouse built by Jupiter with the money borrowed from Marcus is destroyed by a fire.
 - b) On a Sunday Brutus informed Seius that he will buy the wagon load of fruits and vegetables which are scheduled to arrive in Rome in Seius's wagon. Seius agrees to this transaction and the price is to be determined by Marius on Wednesday. The journey got delayed due to bad weather and as the fruits and vegetables are perishing, the wagon driver sells the fruits and vegetables to retail traders on his way to Rome. The price is determined on Wednesday and the empty wagon arrives in Rome on Thursday.

Would your answer be different if the wagon driver had sold the fruits and vegetables after the price was determined by Marius? Explain.

5. Petronius, a Roman citizen in the era of Emperor Justinian, joined the Roman army. Fearing death or captivity in enemy territory, he wondered what type of will he should use to dispose of his property. He wanted to institute his elder sons aged 14 and 16 years as heirs subject to a condition that before entry to the estate they must build a monument in memory of their father. He also wanted to institute his youngest son who is 10 years of age after the institution of his older brothers, but is very concerned about his tender age. He decided to disinherit his daughter Portia as he gave a substantial dowry on her wedding day. Petronius also wanted to institute his emancipated son together with his other sons, and to free his most faithful slave by his last will.

Advise Petronius.

6. i) a) Aristo leaves his chariot unattended in his garden. His son who is eleven years old drives the chariot and runs over Plutus's slave. Plutus had to cancel a lucrative contract by which he has hired out his slave as a gladiator and also has to spend large sums of money in treating the slave. The slave's injuries were aggravated as a result of the medical practitioner injecting a wrong drug.
- b) Labeo's slave maliciously damages a horse belonging to Cleetus. By the time the identity of the slave has been determined Labeo had sold the slave to Titus.
- ii) Differentiate the following legal concepts with suitable illustrations:
- a) *furtum* with *rapina*
- b) *injuria* with *atrox injuria*

7. Comment, giving reasons, on ownership of the *res* (thing) in the following situations:

Acilius, Balbus and Claudius, three senators, agreed to buy a painting each from Didius, a popular artist, for 400 *aurei* a painting. Didius was to deliver the paintings on the 1st of August. When Didius delivered the painting on 1st August to Acilius, Acilius was away on an eight month tour of the provinces. Balbus paid 400 *aurei* to Didius in June but in July Didius sold and delivered the painting chosen by Balbus to Gratius who immediately paid 400 *aurei* to Didius. Didius delivered the painting to Claudius on 1st August and was paid the 400 *aurei*.

Didius also agreed to provide twenty paintings to Fabius by 15th August to adorn Fabius's twenty room mansion. Didius completed eleven of the paintings by 15th June and carefully and securely stored them in his warehouse. The warehouse was struck by lightning on 1st August and it burnt to the ground destroying the paintings. Didius delivered nine paintings to Fabius on 15th August and demanded payment for all twenty paintings.