



UTHM

Universiti Tun Hussein Onn Malaysia

UNIVERSITI TUN HUSSEIN ONN MALAYSIA

FINAL EXAMINATION (ONLINE) SEMESTER I SESSION 2020/2021

COURSE NAME : REAL ESTATE LAW 1
COURSE CODE : BPE 12603
PROGRAMME CODE : BPD
EXAMINATION DATE : JANUARY / FEBRUARY 2021
DURATION : 3 HOURS
INSTRUCTION : ANSWER ALL QUESTIONS

THIS QUESTION PAPER CONSISTS OF THREE (3) PAGES

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- Q1** (a) Section 10(1) of the Contract Act 1950 provides that “All agreements are contracts if they made by the free consent of parties competent to contract, for a lawful consideration and with a lawful object and are not hereby expressly declared to be void”.

Discuss the validity of the contract entered into by a minor supported by relevant law and case

(8 marks)

- (b) Jack and Jill were spouses. One day, Jack told Jill that he would be leaving for Dubai and working there for a year. He also promised to give a monthly allowance to Jill amounting to RM1000. However, after six months in Dubai, Jack broke his promise.

Advise Jill on her rights under the law of contract.

(12 marks)

- (c) Mr Ong entered into an agreement with Bina Betul Sdn Bhd, a housing developer in Parit Raja. The sale and purchase agreement of the house was at RM300,000. On top of that, he was then made to pay RM4000 for other miscellaneous things with which Mr. Ong opted not to comply. The developer has warned to cancel the booking fees that he had made if he kept in his decision.

Based on the above scenario;

- (i) Advise Mr. Ong on his right before the law. (12 marks)
- (ii) Discuss the legal effect of the above type of contract as specified under Section 19 (1) of the Contract Act 1950. (4 marks)
- (iii) Explain **TWO (2)** types remedies available for Mr. Ong. (4 marks)

- Q2** (a) An agency can be created in several ways. Sometimes, a relationship between husband and wife can also create a presumption of agency.

Discuss the manner in which an agency can be presumed in the above relationship. (6 marks)

- (b) Cik Kiah received orders for Hari Raya Biscuits. She asked Cik Mun to buy 100kg of flour at RM 1.00 per kg. However, Cik Mun bought them at RM 1.10 per kg.

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Cik Kiah refused to accept and pay for the price when the seller delivered them to her house. Meanwhile, Cik Mun felt irritated with Cik Kiah's conduct because she had paid a sum amount of deposit to the seller to lock the price. Further, she was informed that due to the high demand during the festive season, the store was about to run out of its flour stock.

Based on the above scenario;

(i) Advise Cik Kiah on her rights to refuse the payment or other alternatives under the law.

(10 marks)

(ii) Advise Cik Mun if you were to be appointed as her counsel.

(14 marks)

Q3 (a) Trespass to sub soil occurs when a person makes unreasonably encroachment to the ground beneath the surface of another's land

Describe trespass to sub-soil by stating a relevant case

(8 marks)

(b) Temporary Occupation License (TOL) is an interim license issued to the applicant in order to occupy the gazetted land. Though TOL holders are not given indefeasibility right of title, they can still enjoy an exclusive possession over the land.

Discuss the rights of the TOL holder to bring an action for ejection against the trespasser.

(8 marks)

(c) Eversmoke Sdn. Bhd. (hereinafter referred to as the factory) is a listed company producing foods base product in Batu Gajah. The factory is adjacent to one of the public universities called the Universiti Teknikal Malaysia (hereinafter referred to as the complainant). Recently, there was an incident whereby the factory discharged its smelly fumes from the smokestack that spread to the complainant's compound. The complainant argued that several students have complained about breathing difficulties, and some were admitted to the hospital as a result of the emissions from the smokestack. In the meantime, the management of the factory counterclaimed that there is not much they can do as the factory had long been in the area before the complainant came in.

Analyse complainant's rights before the law.

(14 marks)

-END OF QUESTIONS-