

GX 1827

Ollscoil na hÉireann, Gallimh
National University of Ireland, Galway

Semester II Examinations, 2002/2003

Exam Code(s)	2BL1, 2BL2, 3BL1, 3BL2, 3CW1, 1EM1.
Exams(s)	2 nd & 3 rd LL.B. 3 rd Bachelor of Civil Law Erasmus & Occasional
Module Codes(s)	LW363
Module(s)	Equity II
Paper No.	1
Repeat Paper Special Paper	
External Examiner(s)	Professor Robert A. Pearce
Internal Examiner(s)	Ms. Lucy-Ann Buckley Dr. Padraic Kenna
<u>Instructions</u>	Answer THREE questions. All questions carry equal marks. Where a question contains more than one part, all parts carry equal marks.
<u>Duration</u>	TWO Hours ERASMUS Students have 2½ Hours
No. of AnswerBooks	
<u>Requirements:</u>	
<u>Handout</u>	
MCQ	
Statistical Tables	
Graph Paper	
Log Graph Paper	
Other Material	
No. of Pages	3
Department(s)	Law

1. *'It is difficult to accept the argument that secret and half-secret trusts do not conflict with the testamentary formalities required by the Succession Act 1965. A better approach is to acknowledge that in validating such trusts, courts have rightly elected to prefer the testators' intentions to the arid claims of formality'.*

Discuss with reference to appropriate legal authority.

2. Anna and Terry met in 1980, and bought a cottage in Barna for £10,000, each paying a deposit of £1,000. The cottage was in Anna's sole name as she had told Terry that she believed that since he was unemployed, he could not apply for a mortgage. This was not actually correct.

The mortgage was paid off over a period of twenty years, and cost £20,000 in all (including the deposit). Anna paid most of the mortgage instalments, although Terry occasionally paid them, when he could get work as a street artist. Terry took care of the couple's children, Fifi and Jojo, and did most of the housework. In 1990, Terry won £15,000 in the National Lottery, which he used to convert the outhouse at the back of the cottage into a recording studio, and to redecorate the house. The studio was a good investment, and Terry was able to charge bands £500 per day for recording traditional music for local radio stations. He used this money to pay off some of the mortgage.

Last summer, Anna went on holiday to California. While there, she met and began an affair with Steve. On her return home, she told Terry that she and Steve intended to live together, and that she would be selling the cottage, as the children had now left home. When Terry protested, Anna replied that she could do as she pleased with her own property. However, she would generously give him £2,000 (£2540) from the sale price, 'to set him up in music'. The cottage is now worth £200,000 (£254,000).

Critically analyse Terry's position with regard to ownership of the house. Would it make any difference to your answer if Anna and Terry were married?

3. *'There is no overriding reason for allowing the beneficiaries' claim arising from the bribery to have priority over the claims of subsequent and unsecured creditors'.*
- Allen, "Bribes and Constructive Trusts: *A-G of Hong Kong v. Reid* (1995) 56 MLR 92.

Do you agree? Discuss critically, supporting your answer by reference to appropriate authority.

4. Consider the effect of the following dispositions contained in the will of Alex, who died last month:
 - a. '£10,000 to Jack, relying on him to ensure that Claire is well looked after'.
 - b. '£50,000 to my trustees to distribute equally amongst the beautiful girls of Galway'.
 - c. 'My house to my sister Kate for life and thereafter to whichever of my other siblings as Kate shall appoint'.
 - d. 'The remainder of my estate to my trustees, to distribute in such manner and in such amount as they may in their absolute discretion think fit among the relatives and dependants of those who were at university with me'.

PTO

5. Tony is a wealthy philanthropist living in Galway, and has long believed that divorce is the cause of all the problems in Ireland. He claims that the level of family breakdown is beginning to ruin the moral standards of the country and is leading to unprecedented levels of crime, murder and child abuse. He is not alone in his views and his advertisement setting up a new group in a Sunday newspaper attracted some 55 enquiries. He is now formalising the group, to be known as 'Divorce Begets Breakdown' ('DBB'). The aims of the DBB are to campaign against divorce in Ireland and the world, and to promote the values of marriage. However, Tony feels that men are not getting enough help in this area and confines membership to men only. The group will also provide legal assistance to men trying to fight divorces and claims by wives to family property.

Tony has been advised that in order to get large corporate donations he needs to establish a charitable trust, so that the donors can get tax relief. He wishes to set up a trust that has as its objects the prevention of divorce in Ireland, the promotion of family values, the provision of financial support to men going through divorce and the provision of religious education to young men and women in respect of the evils of divorce.

Advise Tony as to whether his trust will gain charitable status.

6. Discuss, with a view to reform, any **one** area of trusts law you have studied, which does not substantially overlap with any other topic you have answered on.

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