

GX 1675

Ollscoil na hÉireann, Gallimh
National University of Ireland, Galway

SEMESTER 1 Examinations, 2003/2004

Exam Code(s)	2BL1, 2BL2, 3BL1, 3BL2, 4BL2, 3CW1, 1EM1, 1OA1.
Exams(s)	2 nd , 3 rd & 4 th LL.B. 3 rd Bachelor of Civil Law Erasmus & Occasional
Module Codes(s)	LW360
Module(s)	Equity I
Paper No.	1
External Examiner(s)	Mr. Graham Moffat.
Internal Examiner(s)	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
No. of AnswerBooks	
<u>Requirements:</u>	
<u>Handout</u>	
MCQ	
Statistical Tables	
Graph Paper	
Log Graph Paper	
Other Material	
Department(s)	Law

PTO

1. *"The two streams of jurisdiction, though they run in the same channel, run side by side and do not mingle their waters".* (Ashburner - Principles of Equity) Evaluate the relevance of this statement to the law of Equity, supporting your answer by reference to appropriate legal authority.
2. Write a critical note on any two of the following equitable maxims:
 - a. *Equity follows the law.*
 - b. *He who comes to Equity must come with clean hands.*
 - c. *He who seeks Equity must do Equity.*
 - d. *Delay defeats Equity.*
3. Dennis was the sole trustee of a trust fund. In July 2002, he withdrew €20,000 from the fund and lodged it to his own bank account, which previously had a balance of €2,000. In August, Dennis won €5,000 in the national lottery, which he also lodged to his bank account. Two weeks later he withdrew €3,000 from the account to buy his wife, Lucy, a diamond necklace for her birthday. This necklace is still in Lucy's possession, and is now valued at €3,500. In November, Dennis withdrew €7,000 to pay for a holiday for his children in Tenerife. In early December, fearing detection, Dennis paid €10,000 into the account, planning to lodge a cheque to the trust fund at a later date. However, in late December, Dennis also suddenly 'found religion', and gave the rest of the money in the account to a local charity for homeless women. The charity used this money and another €50,000 of its funds to buy a house. The house is now worth €75,000. Following his 'grand gesture', Dennis died insolvent. Advise the beneficiaries of the trust.
4. In 1990 Superstore Ltd leased a unit in the Claddagh Shopping Centre Galway for thirty years. The lease specified that the unit was to be operated as a supermarket by Superstore or its successors in title. The aim of this provision was to ensure the presence of an attractive "anchor tenant" in the shopping centre. The lease also specified that Superstore was to carry out specified repairs to the property within two years of taking the lease. These repairs were never carried out. The supermarket was never very profitable, and last month Superstore announced that it was closing it down, and would be using the premises as a music store instead. The lessor wishes to compel Superstore to comply with its obligations under the lease. Advise Superstore Ltd.
5. *'[T]he cases establish that there must be an intention on the part of the defendant to dispose of his assets with a view to evading his obligation to the plaintiff and to frustrate the anticipated order of the court. It is not sufficient to establish that the assets are likely to be dissipated in the ordinary course of business or in the payment of lawful debts'.*
- Hamilton CJ, *O'Mahony v Horgan* [1996] 1 ILRM 161, 167.

Critically discuss the law relating to Mareva injunctions in light of the above statement.

6. *'The courts do not exist to protect people from the consequences of their own folly... [However] if it could be shown that a particular transaction was the result of dominion exercised by one party over the other... the court would intervene'.*
- Keane, *Equity and the Law of Trusts in the Republic of Ireland* (1988), p. 334.

Critically analyse the law on undue influence in light of the above statement.

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