

Ollscoil na hÉireann, Gallimh
National University of Ireland, Galway

Semester II Examinations, 2003/2004

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)	Mr. Graham Moffat
Internal Examiner(s)	Dr. Padraic Kenna
Instructions	Answer THREE questions. All questions carry equal marks. Where a question contains more than one part, all parts carry equal marks.
Duration	TWO Hours
No. of AnswerBooks	
Requirements:	
Handout	
MCQ	
Statistical Tables	
Graph Paper	
Log Graph Paper	
Other Material	
Department(s)	Law

PTO

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. The golden rule for the establishment of trusts is to ensure that the three certainties are present, yet these are not always obvious in some types of trusts. Discuss with reference to appropriate legal authority.
3. Answer (a) OR (b)

(a) Susie and Sean met in 1980 in Galway, and bought a mansion in Galway for £10,000 each paying a deposit of £1,000. The title to the mansion was registered in Susie's sole name, as Sean (who was not Irish) wanted to claim Rent Allowance, and new rules did not allow non-nationals to claim this.

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

Susie went on holiday to California one Summer where she met and began an affair with Bill. On her return home, she told Sean that she and Bill intended to live together, and that she would be selling the mansion, as the children had now left home. When Sean protested, Susie replied that she could do as she pleased with her own property. However, she would generously give him £2,000 from the sale price, "to set him up in music". The mansion is now worth £200,000.

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

OR

(b) *"The development of the law in relation to the concept of resulting trusts is an inappropriate approach to dealing with property disputes between either married or unmarried partners."*

Discuss with reference to appropriate legal authority.

4. Dan was employed as the production manager of Megabucks Ltd., a multi-national company based in Galway. Unknown to Megabucks, Dan secretly took a €20,000 bribe from Bart, one of the company's suppliers. In return, Dan ensured that Bart was awarded a lucrative supply contract, even though his was not the most competitive offer. Dan invested the bribe money in property and shares, which are now worth €100,000. He also set up in business on his own, in competition with Megabucks, in his spare time. Because of his inside knowledge, he was able to obtain several important contracts which Megabucks had been trying to win, making a profit of over €200,000. Megabucks recently discovered Dan's duplicity and immediately dismissed him. It now wishes to sue Dan for as much money as it can possibly get. Advise Megabucks.
5. *"Irish charity law is in need of modernisation."* (Irish Government Consultation Paper 2003). Discuss this statement in the context of the law of charitable trusts in Ireland.

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