

SUMMER EXAMINATIONS 1998/99

LL.B. - SECOND, THIRD & FOURTH YEAR

EQUITY (LW317)

Professor R. Pearce  
Mr T. O'Malley  
Mr C. Power

Time allowed: THREE hours

Answer FOUR questions, Two questions to be answered from Part A and Two questions from Part B

PART A

(Answer two questions)

1 Answer (a) AND (b)

- (a) Describe, with reference to the relevant case law, the nature of the Mareva injunction and the circumstances in which it may be granted.
- (b) Galway Borough Council intends to demolish the last remaining portion of the Old Wall of Galway in order to make room for an apartment block. James, a local resident and member of the Galway Archaeological and Historical Society, is outraged at this plan and wishes to seek an injunction to prevent the destruction of the wall. Advise him as to whether the courts will regard him as having the necessary standing to seek such an injunction.

2. In the early 1970s, Paddy Stringer, then an aspiring musician living in New York, was presented by John Lennon and Yoko Ono with a sketch they had jointly made of two apples in a bowl. Paddy treasured this sketch, but by Spring 1999, he had fallen on hard times and was living in rented accommodation in Galway. Because he was unable to pay the rent, he was threatened with eviction by his landlord, Charlie. However, when Charlie discovered that Paddy was the owner a Lennon sketch, he said that he would allow Paddy to remain in the accommodation rent-free for a month so long as Paddy agreed to sell him the sketch for £2,000. Paddy was in such dire straits that he agreed to do so. The sketch was stored in his parents' house so he was not in a position to hand it over to Paddy until some weeks later. In the meantime, he has discovered that the sketch is worth £20,000 and he therefore wants to get out of the agreement. Charlie has threatened legal action in order to enforce the contract. Paddy has sought your advice as to whether he is legally obliged to perform the contract in these circumstances. Advise him.

3. On 3 April, Julia visited her aunt, Monica, who was suffering from cancer and who had been told that she had only three weeks or so to live. During the visit, Monica pointed to a picture on the wall and said to Julia: "*That is the most valuable thing that I own and I want you to have it when I die. Take it with you now.*" Julia said she would be delighted to have it but asked if she could leave it where it was for the time being, until she returned the next week to collect it. Monica agreed and also gave Julia a ring which she asked Julia to give to Mary (Julia's daughter) when Mary reached the age of 21 years. The following day, however, Monica was in such intense pain that she committed suicide by taking an overdose of drugs. The executors of Monica's estate claim that Julia has no legal entitlement to the picture and that neither she nor Mary have any legal entitlement to the ring. Advise Julia and Mary..

*p.t.o.*

4. Answer (a) **AND** (b)

- (a) Describe the law governing the satisfaction of debts by legacies and the satisfaction of legacies by legacies.
- (b) On the occasion of her marriage to Leopold Bloom, Mrs. Molly Bloom entered into a settlement under which she covenanted a sum of £500, 000 to each child of the marriage. She and her husband went on to have three children, James, Nora and Stephen. By the time of her death, Mrs. Bloom had financed all her children's education. She had also paid £100,000 for a house which she gave as a gift to her son James on his marriage. She had also paid off debts in the amount of £50,000 incurred by Nora. In her will, Mrs. Bloom left £400,000 to Stephen, £150,000 to Nora and £200,000 to James. Her total estate at the time of her death was worth £2 million. Advise Nora, James and Stephen as to their entitlements.

**PART B**

(Answer **two** questions)

5. William made a will in 1995 wherein he left his house and some shares to Nicola and Aidan as joint tenants. Before he made the will he had sent Aidan a letter in which he stated should not be opened until after his death. After he made the will he told Nicola that he intended the bequeathed property to be held on trust for his son, Donncha. William died last December and when Aidan opened the letter he discovered that William also intended him to hold the property for Donncha. Both Nicola and Aidan are now claiming to be entitled to the property free of any trusts. Advise Donncha of his entitlements under William's will.
6. Answer (a) **OR** (b):
- (a) Discuss the development in equity of liability for breach of confidence.
- (b) Describe the nature and extent of the liability of trustees for breach of trust.
7. Dara and Bernie married in 1984. At the time Bernie worked in a shoeshop and had saved £1,500. Dara was unemployed. They used the money as a deposit on a house which cost £7, 500 and was put into Bernie's name for tax purposes. A mortgage was organised to pay the balance. Just after the house was purchased Bernie gave birth to their first child and gave up her job. Dara then began his own business and used the profits to repay the mortgage. When the child was older Bernie worked in the business as she wished to contribute something. She also won £1,000 in the lottery which was used to buy a new set of furniture for the house.
- Last summer, with the mortgage having been repaid in full, the house was valued at £60, 000. Bernie claims that since the house is in her name it belongs to her, but Dara maintains that since he paid the mortgage it belongs to him. Advise them as to beneficial ownership of the house.
8. Discuss the validity of the following charitable gifts made by Mr. Dan Bun in his will:
- (a) £10,000 in trust to the Bishop of Galway for the saying of masses;
- (b) £5,000 in trust to the Fianna Fáil Cumann at the Ragoon Flats for the promotion of ethics within the party;
- (c) £7,000 in trust for the education of his poor relations in Ballymoe.