UNIVERSITI UTARA MALAYSIA

PEPERIKSAAN AKHIR/FINAL EXAMINATION
SEMESTER PERTAMA SESI 2009/2010
FIRST SEMESTER 2009/2010 SESSION

KOD/NAMA KURSUS : GLUP 3053 UNDANG-UNDANG KEADILAN DAN AMANAH 1
COURSE CODE/NAME : EQUITY AND TRUST 1

TARIKH/DATE : 11 NOVEMBER 2009 (SELASA/TUESDAY)

MASAI TIME : 9.00 PAGI/AM - 12.00 TENGAHARI/P.M (3 JAM/HOURS)

TEMPAT /VENUE : BK3 DAN BK4 (FWB)

ARAHAN:
1. Kertas soalan ini mengandungi EMPAT (4) soalan di dalam TIGA (3) halaman bercetak
tidak termasuk kulit hadapan.
2. Anda dikehendaki menjawab SEMUA soalan.

INSTRUCTION:
1. This book script contains FOUR (4) questions in THREE (3) printed pages excluding the
cover page.
2. You are required to answer ALL the questions.

NO. MATRIK: __________________________
MATRIC NO. (dengan perkataan/ with word)
(dengan angka/with number)

NO. KAD PENGENALAN: __________________________
IDENTIFICATION CARD NO.

NAMA PENSYARAH: DR. RUZITA AZMI
LECTURER'S NAME

KUMPULAN/GROUP : __________________________
NO. MEJA/TABLE NO.: __________________________

JANGAN BUKA KERTAS SOALAN INI
SEHINGGA DIBERI ARAHAN
PLEASE DO NOT OPEN THIS QUESTION BOOKLET
UNTIL INSTRUCTED
SOALAN SATU/QUESTION ONE

i. "...the granting of Mareva order is bound to have a significant effect on the property of the person against whom it is made. It requires a high degree of caution on the part of a court invited to make an order of that kind..."

(Per Kirby J in Cardile v LED Buiders Pty Ltd (1999)198 CLR 380).

Bincangkan prinsip undang-undang yang terpakai dalam pemberian injunksi Mareva dan sokong perbincangan anda dengan kes-kes yang telah diputuskan.

Discuss the principles of law governing the granting of Mareva injunction and support your discussion with decided cases.

(15 markah/marks)

ii. Huraikan kriteria bagi pemberian Perintah-Perintah Anton Piller dan sokong jawapan anda dengan kes-kes yang telah diputuskan.

Elaborate on the criteria for the grant of Anton Piller Orders and support your answer with decided cases.

(10 markah/marks)

SOALAN DUA/QUESTION TWO

"...the claimant need establish only a real possibility of success, and not a probability. That meant that the balance of convenience, which had always been an important factor, became decisive in many more cases, since the initial hurdle in the claimant's path had been lowered."

(Snell's Equity, 13th edn., paragraph 43)

Terangkan bagaimana peraturan ini diaplikasikan berkaitan pemberian injuksi interim dalam kes-kes di Malaysia.
GLUP3053 Undang-undang Keadilan dan Amanah I/Equity & Trust I

Explain how this rule has been applied pertaining to the grant of interim injunction in the cases in Malaysia.

(25 markah/marks)

SOALAN TIGA/QUESTION THREE


Elaborate about contracts which may be specifically enforced under the Specific Relief Act 1950. Your answer must be supported with relevant provisions of the Specific Relief Act 1950 and decided cases.

(15 markah/marks)

ii. "If by mistake, a written instrument does not accord with the true agreement between the parties, equity has power to reform, or rectify, that instrument so as to make it accord with the true agreement"
(Snell's Equity, 13th edn, paragraph 43-01).

Terangkan pemakaian kenyataan di atas dalam konteks Akta Relief Spesifik 1950 dan sokong penjelasan anda dengan kes-kes yang telah diputuskan.

Explain the application of the above statement in the context of the Specific Relief Act 1950 and support your answer with decided cases.

(10 markah/marks)

SOALAN EMPAT

i. Andrew baru-baru ini telah meninggal dunia. Melalui wasiatnya, beliau memberikan rumahnya kepada ‘Samantha dan Anne sepenuhnya’. Sebelum Andrew meninggal dunia, beliau memberitahu Samantha bahawa dia mahu kedua-dua Samantha dan Anne
memegang rumah tersebut atas amanah bagi anak luar nikahnya, Anthony. Samantha telah bersetuju. Walau bagaimanapun, Anne mendakwa beliau hanya mengetahui tentang hasrat Andrew berkenaan rumah tersebut selepas kematian Andrew.

Nasihatkan semua pihak-pihak berkaitan.

Andrew has recently died. By his will, he bequeathed his house 'to Samantha and Anne absolutely'. Before Andrew died, he told Samantha that he wanted both Samantha and Anne to hold the house on trust for his illegitimate child, Anthony. Samantha had already agreed. However Anne claimed that she only became aware of Andrew’s wishes regarding the house after Andrew’s death.

Advise all the parties concerned.

(12.5 markah/marks)

"No express trust can be validly created unless the three certainties, that is, the certainty of intention, certainty of subject matter and certainty of object are satisfied.


Bincangkan.

Discuss.

(12.5 markah/marks)