BUSINESS LAW

DR. NUR FARAHIN AFIQAH BINTI DATUK HJ. DAUD

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PREFACE

Alhamdulillah, the completion and publication of the e-book on business law is a significant achievement. This e-book is designed to serve as both a reference and a module for lectures, providing valuable resources for students during their teaching and learning sessions. Its primary goal is to impart knowledge on business law, particularly in areas relevant to business practices. Each chapter of the e-book is thoughtfully structured with various features aimed at enhancing student learning. The teaching and learning as facilitated by lecturers, will focus process, on strengthening the knowledge and skills that students need to apply in practical scenarios. Furthermore, the e-book promotes student-centered learning (SCL), which encourages active participation and engagement from students, making the learning experience more effective and meaningful. The author expresses her hope that this e-book will be a valuable resource for all lecturers at the Polytechnic, enhancing the educational experience and fostering a deeper understanding of business law among students.

The author: Dr. Nur Farahin Afigah Binti Datuk Hj. Daud

ACKNOWLEDGMENT

In the name of Allāh, the Most Compassionate, the Most Merciful Praise is only to Allāh (s.w.t) for His Benevolence will for allowing me to complete this book. May the blessing and peace of Allāh be upon Prophet Muhammad (s.a.w) and upon his family, all his companions and followers.

This e-book serves as a reference and module for lectures and students in teaching and learning sessions, focusing on business law in various business areas. Each chapter includes features like objectives, discussions, and facts to enhance student learning. The teaching approach emphasizes strengthening students' knowledge and skills for practical application, with a focus on student-centered learning (SCL). It is hoped that all lecturers at Polytechnic will effectively utilize this e-book for teaching purposes.

I express a heartfelt acknowledgment to my parents, Datin Hjh. Che' Mariam Binti Mohd Shah and Datuk Hj. Daud Bin Arbah, for their continuous prayers for my success. My deepest gratitude is extended to my supportive husband, Ts. Muhammad Sanusi Bin Nor Azman, who has been my pillar of strength through both happy and challenging times, providing unwavering moral support. This e-book is also dedicated to my children, Lily Fareesya and Muhammad Sayf Syauqi, who have accompanied me on this journey.

I also extend my gratitude to Nilai Polytechnic and my colleagues for their belief in me to undertake this opportunity in the completion of this e-book. I acknowledge that there are numerous individuals to thank, and I am concerned that I may have unintentionally omitted some who deserved recognition. If his is the case, I humbly ask for their forgiveness.

ABSTRACT

"Business Law" aims to bridge the gap between legal concepts and the practical world of business for students. The e-book is structured into two parts, offering a comprehensive understanding of key legal areas relevant to students. It starts by laying a foundation in fundamental legal concepts of the malaysian legal system and contract law. This e-book addresses these concerns by demonstrating the practical applications of law in the business world, making it more relatable for students. The topics covered in the book include how the law impacts daily business operations. Additionally, it delves into various aspects of the malaysian legal system and contract law. By providing a practical and relevant perspective on business law, this e- book aims to equip students with the necessary knowledge and understanding to navigate legal issues in the business environment effectively.

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AT THE END OF THE CHAPTER, STUDENT SHOULD $\uparrow \downarrow^+$ BE ABLE TO;

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- 1.1.2 Recognize the function of law
- 1.1.3 Interpret classification of law
- 1.1.4 Categorize sources of law in Malaysia
- 1.2. Outline Malaysian judicial system
- 1.2.1 Identify doctrine of separation of powers
- 1.2.2 Compare the hierarchy of courts
- 1.2.4 Explain the jurisdiction of each court
- 1.2.3 Identify the role of judges in interpretation of statutes



1.1.1 DEFINE THE LAW

KARL MARX

(GERMAN SOCIALIST) -LAW IS AN INSTRUMENT USED BY CAPITALISTS TO CONTROL THE WORKING CLASS.

LEE, M.P. (2009) -

LAW CAN GENERALLY BE DESCRIBED AS A SET OF RULES, DEVELOPED OVER A LONG PERIOD OF TIME THAT REGULATES INTERACTIONS THAT PEOPLE HAVE WITH EACH OTHER, AND WHICH SETS STANDARDS OF CONDUCT BETWEEN INDIVIDUALS AND BETWEEN INDIVIDUALS AND THE GOVERNMENT AND WHICH ARE ENFORCEABLE THROUGH SANCTION.





ABCDEF GHIJKLM OPQRST UVWXYZ

Concerned with any matter which involves the relations of citizens with the state or government Lay down the rights of individual in the State.

It deals with questions such as supremacy of Parliament and rights of citizens.

Constitutional Law Example in Malaysia; Article 6(1) of the Federal Constitution; says no person shall be held for slavery.

Criminal Law Deals with acts or omissions which are offences committed by individuals against the State.

PUBLIC LAW

Private Law

Concerned with the rights and liabilities of individual parties or citizens among themselves



Law of Tort It is a remedial by civil action for damages.

Law of Contract where a promise or a set of promises is legally enforceable.

Law of Trust

It is an equitable obligation, binding a person (who is called a trustee) to deal with property over which he has control (which is called trust property) either for the benefit of persons who are called beneficiaries.

International Law

A body of law which is composed to lay down principles and rules of conduct which the Sates feel themselves need to observe in regulating the relating with each other.

1 Public International Law

- Deals with relationship between states.
- Example: border territorial waters and etc.

2 Private International Law

. Concerned with the application of various national laws of the facts of a particular case involving two or more countries.

. Example: system of law applicable to a marriage between two different nationals in a third country.



WRITTEN LAWS 1) FEDERAL CONSTITUTION

A Constitution can be described as the backbone of a country's legal system.

It is the framework from which laws are made. Federal Constitution consists of 15 Parts, 183 Articles and 13 Schedules. It sets out the legal framework of law, spells out the right and duties of the citizens, sets the duties and powers of the federal and state governments.

WRITTEN LAWS 2) STATE CONSTITUTION

The 13 States of Malaysia have individual Constitutions which provide for a single chamber Legislative Assembly in each state.

In the Malay States the MB is assisted by a cabinet known as the Executive Council. In Sabah & Sarawak, members of the Executive Council are known as State Ministers.

WRITTWN LAWS 3)LEGISLATIONS



Ordinances

Laws that are enacted by the Parliament after 1946 but before Malaysia's Independence in 1957.

Statutes or Acts Made or enacted by Parliament as the law-making body after 1957.

Enactments Laws made by the State legislative Assemblies (except in Sarawak)

Ordinances Laws made by the State legislative Assemblies in Sarawak)

WRITTWN LAWS 4) SUBSIDIARY LEGISLATION



Subsidiary legislation or delegated legislation (sometimes is referred to as by-laws) refers to a law made or passed by a body or agency other than the Parliament or State Legislative Assembly.

Subsidiary legislation is defined in Interpretation Act 1967 to include any proclamation, rule, regulation order, notification or other instrument made under any Act, Enactment or Ordinance and having legislative effect.

Subsidiary legislation is very important as legislation by the Parliament and the State legislature is insufficient to prove the laws required to govern everyday matters.

UNWRITTEN LAWS JUDICIAL PRECEDENT

When a judge makes a decision, his decision will be followed by other judges in similar cases later (this is known as binding judicial precedent or doctrine of stare decisis).

However, judges may have to apply the law to a new situation in a case.

They will then have to create new legal reasoning or principles to apply in this case (this is known as ratio decidendi) and this will then become the precedent for future cases

UNWRITTEN LAWS STATUTORY INTERPRETATION

When judges interpret statutes, they may have to give meaning to the words in a statute because it is not clearly stated in the statute/Act itself.

Sometimes, it may not be clear if the Act applies to a particular case. The judge will then interpret the Act in question.

The meaning given to the words in the statute adds to the law. In this way, the judge is said to be creating law.





UNWRITTEN LAWS 4) ISLAMIC \SYARIAH LAWS

Based on; (1)Primary Sources

(1)Primary Sources: Al-Quran and Hadith(2)Secondary Sources: Ijma' Ulama, Qiyas and Ijtihad

Islamic law applied only to all person who are Muslim and of particular importance are the laws relating to family matters, such as marriage, divorce and inheritance.

State legislature also has the jurisdiction over the constitution, organization and procedures of Syariah Courts.



1.2.1 DOCTRINE OF SEPARATION OF POWERS

EXECUTIVE

The executive branch of government in Malaysia is called the Cabinet or Ministers' Council. It consists of members from political parties which won the majority of seats in the elections and is headed by the Prime Minister.

JUDICIARY

The judiciary therefore has freedom from political, legislative and executive control. The highest court in the judicial system is the Federal Court, followed by the Court of Appeal, and two High Courts, one for Peninsular Malaysia, and one for East Malaysia.

LEGISLATIVE

Parliament under the Federal Constitution contains three major elements; 1)Yang di-PertuanAgong 2)Dewan Negara 3)Dewan Rakyat However, it is the Dewan Rakyat which plays a more prominent role.







HIGH COURT

The High Court has jurisdiction to try all civil matters but generally confines itself to matters on which the Magistrates and Sessions Courts have no jurisdiction.

These include matters relating to divorce and matrimonial cases, appointment of guardians of infants, the granting of probate of wills and testaments and letters of administration of the estate of deceased persons, bankruptcy and other civil claims where the amount in dispute exceeds RM1,000,000.

APPELLATE JURISDICTION

Under s.35(1) of the Courts of Judicature Act 1964, the High Court has been conferred general supervisory and revisionary jurisdiction over all subordinate courts. In the interest of justice and when it appears desirable, the High Court may call for the records of any proceedings of the subordinate courts. It may also remove the case to the High Court or give such directives to the subordinate courts as it thinks necessary

• UNLIMITED CIVIL AND CRIMINAL POWER

The High Court can hear appeals in civil and criminal matters from the Subordinate Courts. Amount in dispute in any civil matters must exceed RM10,000 except where it involves a question of law.



SESSIONS COURTS

CIVIL JURISDICTION

Its includes all offences other than those involving death sentences under section 63-64 of Subordinate Courts Act, 1948.

CRIMINAL JURISDICTION

It is also empowered to hear civil cases where the amount or the subject matter in dispute does not exceed RM1,000,000 under Section 65 of the Subordinate Courts Act, 1948.








PLAIN MEANING RULE

The rule is often referred as the literal rule, the grammatical rule or ordinary rule.

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The rule is that if the statutory words are unambiguous and clear on their face, the words should be construed and applied in accordance with their ordinary meaning.



The judges do not look to materials extrinsic to the statute to guide them in their interpretation, instead they determine the statute's meaning on the basic of their statutory words themselves (Henschen, 1985).

MISCHIEF RULE

The court has to ascertain the state of the law before the statute in question was passed, the mischief or defect which existed before the statute in question was passed, the nature and the scope of the remedy provided by the statute to cure the mischief or defect, and the true purpose of the remedy (Anwarul Yakin, 2007, 114).

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The rule applies in the circumstances where the meaning of a particular provision is ambiguous or has some defect or the statute itself set out the mischief or defect that is supposedly sought to remedy.

In such a case the function of the court is to interpret the provision in order to cure the mischief and to avoid of injustice and unfairness.

GOLDEN RULE

The rule may be used in two ways: the narrow and broader ways.

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In narrow applications, the golden rule lays down that if the words are used are ambiguous, the court should adopt an interpretation which avoids an absurd result (Ahmad Ibrahim & Joned) 1995, 106).

In its broader application, the golden rule is sometimes used in preference to the literal rule where the words used can have only one literal meaning. This is especially so where considerations of public policy intervene to discourage the obnoxious interpretation (Ahmad Ibrahim & Joned).

PURPOSIVE APPROACH

Firstly; legislation is always to be understood first in accordance with its plain meaning;

secondly; where the plain meaning is in doubt, the courts will start the process of construction by attempting to discover, from the provisions enacted, the broad purpose of the legislation; thirdly where a particular reading would advance the purpose identified, and would do no violence to the plain meaning of the provisions enacted, the courts will be prepared to adopt that reading;

fourthly where a particular reading would advance the purpose identified but would strain the plain meaning of the provisions enacted, the result will depend on the context and, in particular, on a balance of the clarity of the purpose identified and the degree of strain on the language; and

lastly where the courts conclude that the underlying purpose of the legislation is insufficiently plain, or cannot be advanced without any unacceptable degree of violence to the language used, they will be obliged, however regretfully in the circumstances of a particular case, to leave to the legislature the task of extending or modifying the legislation.









OFFER

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Section 2(a) of the Contract Act 1950 provides that 'when one person signifies to another willingness to do or to abstain from doing anything, with a view to obtaining the assent of the other to the act or abstinence, he is said to make a proposal.

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ELEMENTS OF OFFER

1.CERTAINTY OF OFFER

A proposal must be a definite promise to be bound provided certain specified terms are accepted – offer must be firm.

2. COMMUNICATION OF OFFER

Section 4(1) of the Contract Act 1950 – communication of an offer is complete when it comes to the knowledge of the person to whom it is made.

CASE EXAMPLE (COMMUNICATION OF OFFER) R V CLARKE (1927) 40 C.L.R. 227.

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An Australia government offered a reward for information in regards of a murder of 2 police officers.

X and Clarke were later arrested and charged with the murders. Clarke later gave some information to the police which resulted in the arrest of another person Y. Clarke was later found not guilty. Clarke later claimed for the reward.

Held: his claim failed because although he has seen the offer, it was no present to his mind when he gave the information to the police.

TYPES OF OFFER

GENERAL

SPECIFIC

- The offer is address to a specific or particular person.
- Also known as bilateral offer.

 Only the adressee may accept the offer.

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 Any other person, who is not the adressee cannot make the acceptance to the such offer.

 Ex: Mr. Azhar Sulaiman offer to sell his bungalow to Mr Beto Qushairi for RM500000. This offer is specific as it is made to Mr. Beto The offer is addressed generally to any one who may satisfy all the terms or condition of the offer stipulated by the offeror.

 Anyone who meets or satisfies all the terms of the offer is considered as making the acceptance to such offer

 Once the stipulation of the offer is satisfied by a person, the offeror is bound to the contract with that person.

•Ex case: CARLILL v CARBOLIC SMOKE BALLCO (1893)

OFFER DISTINGUISHED FROM INVITATION TO TREAT (ITT)

- An offer must be distinguished from an invitation to treat. An invitation to treat is not an offer, but rather is an offer to consider offers. Instances which are generally regarded as invitations to treat include:
 - ✓ Auctions

- ✓ Advertisement of tender
- ✓ Catalogues
- ✓ Price lists
- ✓ Goods displayed in shop window and shelves



PHARMACEUTICAL SOCIETY OF GREAT BRITAIN V. BOOT CASH CHEMIST LTD (1953) I QB 401.

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The defendants were charge under the Pharmacy and Poisons Act 1933 (U.K). This is because, under the Act, it is provide that it is unlawful to sell certain poison unless such sale was supervised by a registered pharmacist. The issue in this case was whether a sale had occurred when the shopper put the displayed item into his basket. The court held that when the goods are displayed, that was merely an invitation to treat. When the shopper took it off the display, and put it in a basket, that is a proposal. Acceptance of this sale is only made when the cashier receives the money from the shopper.

In this case, since there was a registered pharmacist at the cashier, the defendant was not liable.

COUNTER PROPOSAL

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Counter proposal is an offer made by either party in a collective bargaining during negotiations in response to a proposal mode by the other party. Agreement is usually reached after a series of proposals and counterproposals are made by all parties. The agreed upon proposals or counter proposals will result in a collective bargaining agreement.

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#### CASE: HYDE VS WRENCH (1840)

Facts: On June 6, the defendant made an offer to the plaintiff to sell his estate for 1000 pounds sterling. On June 8, in reply, the plaintiff made a counter-proposal to purchase at 950 dollars. On June 27, the defendant refused to accept the offer, and the plaintiff wrote again that he was prepared to pay the original sum demanded. The defendant refused to sell it to the plaintiff.

Issue: Is there a valid contract between the plaintiff and defendant?

Held: No valid contract exists between them because the plaintiff rejected the original proposal on June 8 so that he was no longer capable of accepting it later.

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#### MAJUMDER V ATTORNEY- GENERAL OF SARAWAK

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In the case of Majumder v Attorney– General of Sarawak, the Federal Court held an advertisement in the newspaper for the post of a doctor was an invitation to treat.

When an auctioneer invites bids, he is merely making an 'invitation to treat', and when a bidder makes a bid he is making an offer.

REVOCATION OF OFFER

Section 5(1) provides that a proposal may be revoked at any time before the communication of its acceptance is complete as against the proposer, but not afterwards.

The time prescribed in the proposal for its acceptance elapses, or if no time is prescribed for acceptance, by the lapse of a reasonable time under section 6(b)



Communicating the notice of revocation by the proposer to the party to whom theproposal was made under section 6(a).

The failure of the acceptor to fulfill a condition precedent to acceptance under section 6(c). The death or mental disorder of the proposer if the fact of the proposer's death or mental disorder comes to the knowledge of the acceptor before acceptance under section 6(d).



ACCEPTANCE 0 Section 9 of the said Act provides that : _ Section 2(b) of the Contract Act "there is an expressed 1950 provides that "when the acceptance if the acceptance person to whom the proposal is of any promise is made in made signifies his assent words and implied acceptance thereto, the proposal has been if the acceptance is made accepted". other than words".

ACCEPTANCE

•As a general proposition of law, the acceptance of the offer made by one party by the other party is what creates the contract.

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In fact, by making a conditional acceptance, the offeree is rejecting the offer. However the offerer, at his choosing, by act or word which shows acceptance of the counter-offer, can be bound by the conditions tendered by the offeree.



This acceptance, as a general rule, cannot be withdrawn, nor can it vary the terms of the offer, or alter it, or modify it

To do so makes the acceptance a counter-offer. Though this proposition may vary from state to state, the general rule is that there are no conditional acceptances by law.

ELEMENTS OF ACCEPTANCE

Absolute and Unqualified

 For a proposal to be
 converted into a promise, the
 acceptance of that proposal
 must be absolute and
 unqualified- section 7 of the
 Contract Act 1950.

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Reasonable period

 An acceptance must be made within a reasonable period section 6(b). What amounts to reasonable time is a question of fact depending in the circumstance of each case.

ELEMENTS OF ACCEPTANCE

 Expression of acceptance –Acceptance must be expressed in some usual and reasonable manner, unless the proposer prescribe the manner in which is to be accepted under section 7(b).

When the acceptor deviates from the prescribed form, the offer must not keep silent. If he does so and fails to insist upon the prescribe manner, he is considered as having accepted the acceptance in the modified manner under section 7(b).



COMMUNICATION OF ACCEPTANCE THROUGH POST

Accaptance through post is complete when the letter of acceptance is posted, even though it has not come to the actual knowledge/received by the offeror.

The contract is binding on the offeror, irrespective of any delay or disappearance of the letter of acceptance.



Section 4(2)(a) provide the communication of acceptance is complete as against the proposer when it is put in a course of transmission to him.

The offeror is bound to the contract when the offeree posts the letter of acceptance, even though the offeror has no knowledge of acceptance.







INTENTION TO CREATE LEGAL RELATION

Intention to create legal relation classified into 2. Social and domestic agreements – parties do not intend legal relations. Business or commercial agreements – parties do intend to create legal relations Courts will presume that agreements between friends and/or family members are not intended to be legally enforceable.

Balfour vs Balfour

Facts: Mr B promised to pay his wife £30 per month. Mr B had to return to Ceylon. Mrs B was to remain in England for medical reasons. The couple later separated. Mrs B claimed £30 per month pursuant to Mr B's promise.

Did this promise by a husband to his wife amount to a contract?

CONSIDERATION

Consideration may be seen as the reason for the promise. Under section 26, the general rule in a contract is that an agreement without consideration is void

Defined in section 2(d) of the Contract Act follows: "when, at the desire of the promisor, the promisee or any other person has done or abstained from doing, or does or abstains from doing, or promises to do or to abstain from doing, something, such act or abstinence or promise is called a consideration for the promise".
EXCEPTIONS TO CONSIDERATION

 An agreement made on account of natural love and affection.
 English law does not recognize it.
 However, Malaysia does recognize this exception under section 26(a).
 Thus, an agreement made on account of natural love and affection would be held to be binding in Malaysia

If the requirement under section 26(a) are present: 1. It is expressed in writing. 2. It is registered (if applicable) 3. The parties stand in near relation to each other. Near relation varies from one social group to another as it depends on the custom and practice of such group.

EXCEPTIONS TO CONSIDERATION

2. A promise to compensate for something done under section 26(b). "It is promise to compensate, wholly or in part, a person who has already voluntarily done something for the promisor, or something which the promisor was legally compellable to do".

3. A promise to pay a debtoarred by limitation law under section 26(c). "It is promise, made in writing and signed by the person to be charged therewith, or by his agent generally or specially authorize in that behalf, to pay wholly or in part, a debt of which the creditor might have enforce payment but for the law for the limitation of suit".

CONSIDERATION NEED NOT MOVE FROM PROMISE

Tweddle vs Atkinson (1861) Facts: The son and daughter of the parties involved in this dispute were getting married. As such, the father of the groom and the father of the bride entered into an agreement that they would both pay sums of money to the couple. Unfortunately, the father of the bride died before he paid the money to the couple, and the father of the son died before he could sue over the agreement between the parties. As a result of this, the groom brought a claim against the executor of the will for the payment that was previously agreed upon between the fathers.

Issue: The primary issue for the court was whether or not the son could, as a third party to the agreement, enforce the contract between the fathers, which was ultimately for the benefit of him and his wife. It was argued that the intention of the agreement between the fathers was for the couple to derive a benefit from the payment of the money. Moreover, it was argued that preventing the son from being able to enforce the contract would effectively ignore the intentions of the fathers.

Held: The groom's claim was rejected by the court. It was held that the groom was not a part of the agreement between the fathers, and he did not provide any consideration for the promise made by the father of the bride. Also, as a stranger to the contract, the son could not enforce it. On this basis, the court found in favor of the executor of the will.

CASE: RE TAN SOH SIM, CHAN LAO KEONG & ORS VS TAN SAW KEOW (1951) Facts: Before Tan died, he had

expressed his intention to

hand over his property to his 4

10 heirs who had made a treaty

adopted children. He also left

claiming their willingness to

release the property to the

their adopted children.

four foster children, who were

Issue: Property struggle between Tan sister and four foster children

AN AGREEMENT ON ACCOUNT OF NATURAL LOVE AFFECTION BETWEEN PARTIES STANDING IN NEAR

RELATION TO EACH OTHER

Held: The word 'relationship' and 'curb' must be interpreted based on the beliefs and culture as well the circumstances of each case involved. The father and the sisters did not have a close relationship with their adopted children. The agreement is null.

AN AGREEMENT TO COMPENSATE FOR PAST VOLUNTARY ACT KEPONG PROSPECTING VS A.E.SCHMIDT (1968)

Facts: T agreed with Schmidt in writing that, in consideration of Schmidt's assistance to obtain a permit and start mining operations, T would pay Schmidt 1% of the price that all ore from the land was sold at. A year later, KP agreed to work the land and undertake T's agreement with Schmidt. The agreement that KP and Schmidt signed stated that it was supplementary to the original agreement between KP and T. These terms were later terminated by a consent order, which stated that J would take over the company and provide the company with an indemnity for the payment owed to Schmidt. Schmidt claimed for the money that was agreed upon, and KP claimed that they had been indemnified by J. The trial judge dismissed Schmidt's claim, and the Federal Court later reversed the decision and ordered k to pay S. KP appealed the decision

Issue: The court was required to establish at which point Schmidt had given consideration during proceedings. His first argument was that he had given consideration to the agreement between T and KP. If the court disagreed, Schmidt held that he had given effective consideration to the agreement between himself and KP, and therefore he should be able to claim the money owed to him. Held: The court dismissed Schmidt's claim to be able to enforce the original agreement between T and KP, as he was not a party to that agreement. However, Schmidt was deemed to have given consideration under Malaysian law to the agreement between himself and KP. Therefore, Schmidt could sue for the sum that was owed on the agreement between himself and KP.

CERTAINTY OF CONTRACT

The terms of a contract must be certain and not vague.

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Agreements, the meaning of which is not certain or capable of being made certain, are void under section 30. An agreement which is uncertain or is not capable of being made certain is void– KaruppanChetty v SuahThian (1916) FMSLR 300

CAPACITY

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Section 11 Contract Act 1950 "Every person is competent to contract, who is of the age of majority according to the law to which he is subject, and who is of sound mind, and is not disqualified from contracting by any law to which he is subject"

Capacity refers to the ability of the parties to a contract to fully understand its terms and obligations.





# VOIDABLE AGREEMENTS

A voidable agreement occurs when the agreements was entered due to coercion, undue influence, fraud and misrepresentation by virtue of section 19(1) of the Contract Act 1950.

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According to section 19(1), when a consent to an agreement is caused by coercion, fraud or misrepresentation, the agreement is a contract voidable at the option of the party whose consents was so caused.

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# THE EFFECTS OF A VOIDABLE AGREEMENT.

According to section 19(2) of the Contract Act, the innocent party (the other party) in case of fraud or misrepresentation may, if he thinks fit, insist that the contract be performed, and that he shall be put in the position in which he would have been if the representation made had been

true.

According to section 65 of the Contract Act, the party rescinding a voidable contract shall, if he has received any benefit from the other party to such contract, restore the benefit to the person from whom it was received.

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### KESARMAL A/L LETCHMAN DAS VS VALIAPPA CHETTIAR (1954)

Facts: A transfer of property was made under the orders of the Sultan and issued in the ominous presence of two Japanese officers during the Japanese occupation of Malaysia. Issue: Whether the transfer of property was successful or not? Whether the coercion made is valid or void? Held: The agreement is not valid. This is because the consent given was not free, and therefore the transfer became voidable at the will of the party whose consent was so caused.

# UNDUE INFLUENCE

section 16 of the contract Act 1950. Elements of undue influence under section 16 as are follows:

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(a) The relation between the parties to each other must be such that one is in a position to dominate the will of another. A person is deemed to be in a position to dominate the will of another: (i) Where he hold a real or apparent authority over the other, or where he stands in a fiduciary relation to the other; or
(ii) Where he makes a contract with person whose mental capacity is temporarily or permanently affected by reason of age, illness or mental or bodily distress.
(iii) The burden of proving that the contract was not induced by undue influence lies upon the person who was in a position to dominate the will of another.

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### TATE VS WILLIAMSON (1886)

Facts: Tate is a student, intending to sell some of his property to settle his tuition fees. He had met a defendant, who was a lawyer, for advice on the sale. The property was then bought for defendant Tate's £7,000 without informing Tate that the actual value of the property was £20,000. Issue: Whether the purchase of the property made by the defendant is valid or void? Held: The contract must be set aside as there is a trust relationship between the defendant and Tate. This is because Tate referred to the defendant for advice, and therefore the defendant did not have the right to purchase the property without making such disclosure.



### LETCHEMY ARUMUGAN VS ANNAMALAY (1982)

Facts: The defendant made a fraudulent misrepresentation to the plaintiff (an illiterate Indian woman wearing rubber tape) and had induced her to enter into a sale and purchase agreement. The defendant had fraudulently represented to the plaintiff that the document she was required to sign was for a loan she took and to free the land from a change. Actually, it was for a sale agreement relating to the land, the transfer of the land, and further agreements to purchase three unapproved sub-lots on her own

land.

Issue: Is the agreement valid because the plaintiff has already signed it? Held: The agreements were voidable at the option of the plaintiff. The initial agreement and the further agreements relating to the purchase of the three unapproved sub-lots could be rescinded, and the court could award her damages for the loss suffered by the plaintiff due to the defendant's fraudulent misrepresentation.



### BISSET VS WILKINSON (1927)

Facts: The defendant in this matter was the purchaser of land in New Zealand, which was purchased by the claimant for the purpose of sheep farming. The appeal, to which this judgment relates, is on the defendant's counterclaim. During the purchase process, the claimant informed the defendant that the land being purchased was capable of sustaining 2000 sheep. However, after the purchase, the defendant discovered that this was only possible if very careful land management was carried out and that the land as it stood could not sustain this number of sheep. The defendant therefore sought to rescind the contract on the basis that the claimant's statement was a misrepresentation.

Issue: The issue in this circumstance was whether the statement made by the claimant could be considered a statement of fact in terms of being a representation or whether it was simply an opinion held by the claimant. Held: The claimant's statement was nothing more than an opinion as to the capacity of the land, based on the claimant's knowledge of farming and the defendant's knowledge of the current stock. The statement was therefore not held to be a representation. In any event, the defendant had not been able to demonstrate that the land was not capable of carrying the 2000 sheep that the claimant had stated, and therefore the claimant's appeal was allowed and the contract could not be rescinded.



# RAFFLES VS WICHELHAUS (1864)

Facts: The complainant, Mr. Raffles, offered to sell an amount of Surat cotton to the defendant, Mr. Wichelhaus. This Surat cotton would be brought to Liverpool by a ship from Bombay. India. This ship was called the Peerless, but there were two ships that had this name. The complainant and the defendant were both thinking about a different Peerless ship when they agreed to make the sale. One of the ships was due to leave Bombay in October, which was what the defendant had thought for his Surat cotton delivery, but the complainant was referring to the ship that was to leave in December. When the Surat cotton arrived in Liverpool, Mr. Wichelhaus refused to pay, as, in his mind, it was months late. Issue: The complainant sued the defendant for breach of contract. The issue in this case was whether there was an enforceable contract between the parties? Held: It was held that the contract between the complainant and defendant was not enforceable. When the contract was being discussed, there was ambiguity in the Peerless and what ship was being referred to, as well as no agreement on the terms of the sale. There had been no consensus ad idem or meeting of the minds between the parties to form a binding contract. The objective test made it clear that a reasonable person would not have been able to identify with certainty what ship had been agreed on.

# **VOID AGREEMENT**

Section 2(g) CA 1950 – A void agreement is an agreement not enforceable by the law. Section 24 CA 1950 - the consideration or object of an agreement is unlawful if it fails within any of the subsections of the section. The consideration or object of an agreement is lawful unless : (a)It is forbidden by a law, (b)if it of such the nature that, if permitted, it would defeat any law, (c)it is fraudulence, (d)it involves or implies injury to the person or property of another, or the court regards it as immoral, or oppose to public policy. The effects of a void agreement :

Any person who has received any advantage under the agreement is bound to restore it, or to make a compensation for it, to the person from whom he received it, virtue under section 66.

# TERMS AND IMPLIED TERMS

The express and implied term are divided into condition and warranties.

### CONDITION

Term that is vital to the contract.

Stipulation essential to the main purpose of the contract.

If there is a breach of condition, the injured party may rescind the contract and sue for damages.

### WARRANTIES

Type of term considered by the parties to be of lesser importance to the main purpose of the contract

Stipulation collateral to the main purpose of the contract, i.e. less important term compare to conditions.

If there is a breach of warranty, the injured party may only claim for damage.



## DISCHARGE BY PERFORMANCE

performance of a contract must be exact and precise

section 38(1),the parties to a contract must either perform or offer to perform their respective promises, unless such performance has been dispensed with by law. A contract is performance by the provision of the stated service and accommodation or the delivery of goods on the part of the seller and the payment of the contract price by the buyer.

# **DISCHARGE BY** AGREEMENT

| <ul> <li>a) Novation : When a new contract is substituted for an existing one, either between the same parties or between the one of the parties and the third party.</li> <li>b) Rescission: When all or some of the terms of contract are cancelled.</li> <li>c) Alteration : When one or more terms of the contract is/are altered by the mutual consent of the</li> </ul> |  |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| cancelled.<br>c) <u>Alteration</u> : When one or more terms of the contract is/are                                                                                                                                                                                                                                                                                            |  |
|                                                                                                                                                                                                                                                                                                                                                                               |  |
| parties to a contract.                                                                                                                                                                                                                                                                                                                                                        |  |
| (d) <u>Remission</u> : Acceptance of a lesser fulfillment of the promise made                                                                                                                                                                                                                                                                                                 |  |
| (e) <u>Waiver</u> : Intentional relinquishment or giving up of a right by a party entitled there to under a contract.                                                                                                                                                                                                                                                         |  |
| (f) <u>Merger</u> : When an inferior right accruing to a party under a contract merges in to a superior right accruing to the same party under a new contract.                                                                                                                                                                                                                |  |

# DISCHARGE BY FRUSTRATION

A contract is frustrated when there is a change in the circumstance which renders a contract legally of physically impossible of performing under section 57(2). For frustration to apply, the impossibility of performing the contract must arise without the fault of either party. Robinson v. Davidson (1871) 6 L.R. Exch, 269. In this case contract was that the defendant must play the piano at a concert on a specified date. On the specified date, the defendant was unable to perform as she was ill. It was held that the contract was discharge by frustration.





### DISCHARGE BY BREACH A BREACH OF CONTRACT OCCUR IN SOME WAYS INCLUDING: A refusal to perform a A refusal to perform a contract Where one of the parties when performance is due indicates to the other contract may occur would amount to a discharge either by conduct or in before the time for clear terms an intention performance is due not to go on with the (anticipatory breach) or contract, the party is said during the time of to have repudiated or performance itself renounced the contract





### RESCISSION OF CONTRACT

Allows an innocent party to cancel the contract by rescinding.

This is in accordance with section 40; "When a party to a contract has refused to perform, or disabled himself from performing, his promise in its entirety, the promise may put an end to the contract, unless he has signified, by words or conduct, his acquiescence in its continuance" If the party not in default chose to rescind the contract, any benefit which he has received from the defaulted party must be restored /returned. This is provided under section 65.






#### **QUANTUM MERUITS**

Quantum merit is the determination of value of the services extended based on the amount of work and the rate of work existing there for similar work, when an agreement or contract is not existing between the parties. This Latin word 'kwahn-tuhm mare-ooh-it' means "as much as he deserved."

Section 71 which states: 'Where a person lawfully does anything for another person, or delivers anything to him, not intending to do so gratuitously, and such other person enjoys the benefit thereof, the latter is bound to make compensation to the former in respect of, or to restore, the thing so done or delivered' Generally all standard forms of construction contract used in the private sector in Malaysia allow for the quantum meruit claims under the circumstances of works being executed by the contractor which are deemed varied or far exceed those contemplated by the parties.





## EXERCISE Chapter one

THE LAW IS VERY IMPORTANT IN SOCIETY. IT IS A MUST IN ORDER FOR A SOCIETY TO BE PEACEFUL And problem-face. Which of the following statement is incorrect about law

A. SYSTEM OF RULES WHICH IS ENFORCED THROUGH SOCIAL INSTITUTIONS TO GOVERN BEHAVIOUR. B. LEGAL SYSTEMS ARE PARTICULAR WAYS OF ESTABLISHING AND MAINTANING SOCIAL ORDER. C. NO PERSON MUST BE PUNISHED EXCEPT FOR PUNISHED EXCEPT FOR A BREACH OF CONTRACT. D. ALL PEOPLE ARE NOT EQUAL BEFORE THE LAW, STATUS OR POSITION MUST BE TAKEN INTO CONSIDERATION



THIS LAW GOVERN THE RELATIONSHIP BETWEEN INDIVIDUALS AND THE GOVERMENT. This statement refers to: A. Private Law B. State Law C. International Law D. Public Law The Party who brings a claim in a civil case is known as

A. A DEFENDANT

**B. A PROSECUTOR** 

C. A PLAINTIF

D. A ACCUSED



A COURT WHICH HAS JURISDICTION TO HEAR AND DETERMINE DECISIONS OF ANY APPEAL CASES OF Criminal and Civil Cases from high court is

A. FEDERAL COURT

B. COURT OF APPEAL

C. MAGISTRATE COURT

D. SESSION COURT

WHICH IS THE FOLLOWING IS NOT A FUNCTION OF LAW ? A. COST CONTROL B. MAINTAINING ORDER

- C. RESOLVING DISPUTES
- **D. PROTECTING LIBERTIES**



- What is the main function of law? 1.
  - А. В. Maintain justice in society
  - Maintain the stability in society
  - С. Maintain prosperity in society
  - D. Maintain equality in society
- Private law consists of the following **EXCEPT**; A. Tort law 2.

  - B. Trust law
  - C. Contract law
  - D. Criminal law
- 3. This law governs the relationship between individuals and the state
  - Public Law A.
  - В. Private Law
  - Individual Law C.
  - D. International Law
- 4. The party who brings a claim in a civil case is known as
  - A Defendant A Prosecutor A.
  - В.
  - A Plaintiff С. D. The King
- 5. Ancestral property is meant to be inherited by daughter or daughters; this situation is best example for\_\_\_\_\_ A. Customary law

  - В. English law
  - C. D. Judicial precedent
  - Legislation



6.

7.

9.

- Choose the CORRECT jurisdiction of High Court
   A. Determine law made by parliament
   B. Focus on matters in which Magistrate and Session Court have no jurisdiction
   C. Decide on disputes on any other questions between states
   D. Determine appeals on criminal and civil matters
- Identify the **CORRECT** statement about sources of Malaysian Law. A. Subsidiary legislation is categorized under common law. B. Federal Constitution is the supreme law of the land. C. Equity is considered as a source of law under written law. D. Islamic law is the law of the land after Merdeka.
- A court which has jurisdiction to hear and determine decisions on any appeal cases of criminal and civil cases from High Court is \_\_\_\_\_\_. A. Court of Appeal B. Session Court C. Federal Court D. Syariah Court 8.

  - Choose the FALSE statement from the following in reference to international law:

     A.
     Deals with relationship between states

     B.
     Concerned with the application of various national law

     C.
     Concerned with any matter which involves the relations of citizens with the state

     D.
     Deals with relationship between nations
- 10. Unwritten Law in Malaysia may be found in the following EXCEPT ...
  - Choose the best answer. A. Judicial Decisions B. Customs C. State Constitution D. Common Law





## EXERCISE Chapter two

### EXERCISE CHAPTER 2



| 1. | The legislation that governs contracts in Malaysia is                                                                                                          |
|----|----------------------------------------------------------------------------------------------------------------------------------------------------------------|
|    | <ul> <li>A. The Companies Act 2016</li> <li>B. The Hire-Purchase Act 1967</li> <li>C. The Sale of Goods Act 1957</li> <li>D. The Contracts Act 1950</li> </ul> |
| 2. | Which of the following is <b>NOT</b> basic element of valid contract?<br>A. Offer<br>B. Mistake<br>C. Consideration<br>D. Certainty                            |
| 3. | These are regarded as invitations to treat <b>EXCEPT:</b><br>A. Auctions<br>B. Advertisement of tenders<br>C. Agreement                                        |
|    |                                                                                                                                                                |
|    |                                                                                                                                                                |



| 4. | The general rules state that contracts made by minors are void EXCEPT:<br>A. Contracts of buying product.<br>B. Contracts of partnership<br>C. Contracts of scholarship<br>D. Contracts of sales of goods      |
|----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 5. | Choose the CORRECT ways that a proposal may be withdrawn:<br>i. Communication of the notice of revocation<br>ii. The time prescribed elapses<br>iii. Failure to fulfial e condition precedent to an acceptance |
|    | iv. Death of the proposer                                                                                                                                                                                      |
|    | A. i, ii and iii<br>D. ii, iii and iv<br>C. i, iii and iv<br>D. All of the above                                                                                                                               |
| 6. | Any modifications of the offer is named asand it is a rejection of the original offer.                                                                                                                         |
|    | A. Acceptance                                                                                                                                                                                                  |
|    | B. Invitation to treat                                                                                                                                                                                         |
|    | C. Counter acceptance                                                                                                                                                                                          |
|    | D. Counter offer                                                                                                                                                                                               |
| 7. | Section of the Contracts Act 1950 underlined that all agreements are contra<br>if they are made by the free consent of parties competent to contract.<br>A. 11<br>B. 11<br>C. 15<br>D. 16                      |
| 8. | The consideration or object of an agreement is lawful unless:<br>i. It is forbidden by a law<br>ii. It is fraudulent                                                                                           |
|    | iii. It involves injury to the person or property of another                                                                                                                                                   |
|    | iv. It is of such a nature permissible by law                                                                                                                                                                  |
|    | A. i, ii and iii                                                                                                                                                                                               |
|    |                                                                                                                                                                                                                |
|    | B. ii. iii and iv                                                                                                                                                                                              |
|    |                                                                                                                                                                                                                |



9. A contract may be discharged by\_

E. MistakeF. Undue influenceG. FrustrationH. Quantum merit

is a court order restraining a party from breaking their contract or from committing a wrongful act and will not be awarded if damages are an adequate remedy. The above statement is referred to\_\_\_\_\_? A. Rescission B. Injunction C. Quantum merit D. Specific performance 10.



Puan Elani wants to give her land to her son, Elan on his 21st birthday. Since Elan will not pay any money to his mother, Puan Elani is worried that the land transferral to Elan, might be void under the virtue of Section 26 of the Contracts Act 1950.

Based on the above situation, you are required to:

i. Write an issue to the above situation. [2 mark]

ii. Derive the relevant provisions of the Contracts Act 1950. [3 marks]

iii. Apply ONE (1) relevant case to support your answer. [6 marks]

iv. Prepare your conclusion. [4 marks]



### REFERENCES

Lee M. P. and Ivan J. D. (2018). Business Law. 3rd Edition. Oxford University Press

Aiman Nariman Mohd Sulaiman. Zuhairah Ariff Abd. Ghadas and Mushera Ambaras Khan. (2011). Corporations and Partnership in Malaysia. The Netherlands: Kluwer Law International BV.

Lee M. P. and Ivan J. D. (2013). Commercial Law. 2nd Edition. Oxford Fajar.

### **RELATED STATUTES:**

Companies Act 2016 Contracts Act 1950 (Revised 1974) Partnership Act 1961 (Revised 1974) Civil Law Act 1956 Sale of Goods Act 1957

