

INSTRUCTIONS

1. This Questionnaire contains FOURTEEN (14) pages including these Instructions pages. Check the number of pages and the page numbers at the upper right hand corner of each page of this Questionnaire and make sure it has the correct number of pages and their proper numbers.

There are THIRTY (30) Essay and Multiple Choice Questions (MCQs) to be answered within *four (4) hours*.

The essay portion contains questions that are equivalent to *not less* than 80% of the whole examination, while the MCQ portion contains questions equivalent to *not more* than 20%.

2. Read each question very carefully and write your answers in your Bar Examination Notebook *in the same order the questions are posed*. Write your answers only on the *front*, not the back, page of every sheet in your Notebook. Note well the allocated percentage points for each number, question, or subquestion. In your answers, use the numbering system in the questionnaire.

If the sheets provided in your Examination Notebook are not sufficient for your answers, use the back page of every sheet of your Examination Notebook, starting at the back page of the first sheet and the back of the succeeding sheets thereafter.

3. Answer the Essay questions *legibly, clearly, and concisely*. Start each number on a separate page. An answer to a sub-question under the same number may be written continuously on the same page and the immediately succeeding pages until completed.

Your answer should demonstrate your ability to analyze the facts presented by the question, to select the material from the immaterial facts, and to discern the points upon which the question turns. It should show your knowledge and understanding of the pertinent principles and theories of law involved and their qualifications and limitations. It should demonstrate your ability to apply the law to the given facts, and to reason logically in a lawyerlike manner to a sound conclusion from the given premises.

A mere "Yes" or "No" answer without any corresponding explanation or discussion will not be given any credit. Thus, always *briefly* but fully explain your answers although the question does not expressly ask for an explanation. At the same time, remember that a complete explanation does not require that you volunteer information or discuss legal doctrines that are not necessary or pertinent to the solution to the problem. You do not need to re-write or repeat the question in your Notebook.

4. MCQs are to be answered by writing in your Notebook the capital letter A, B, C, or D corresponding to your chosen answer. There is only one correct answer to every MCQ; choose the BEST answer from among the offered choices. Note that some MCQs may need careful analysis both of the questions and the choices offered.

5. Make sure you do not write your name or any *extraneous note/s* or *distinctive marking/s* on your Notebook that can serve as an identifying mark/s (such as names that are not in the given questions, prayers, or private notes to the Examiner).

Writing, leaving or making any distinguishing or identifying mark in the exam Notebook is considered cheating and can disqualify you for the Bar examinations.

You can use the questionnaire for notes you may wish/need to write during the examination.

YOU CAN BRING HOME THIS QUESTIONNAIRE OR HAND IT TOGETHER WITH YOUR NOTEBOOK

J. DIOSDADO M. PERALTA
Chairman
2014 Bar Examinations

I.

Ariz and Paz were officemates at Perlas ng Silangan Bank (PSB). They fell in love with each other and had a civil and church wedding. Meanwhile, Paz rapidly climbed the corporate ladder of PSB and eventually became its Vice President, while Ariz remained one of its bank supervisors, although he was short of 12 units to finish his Masters of Business Administration (MBA) degree.

Ariz became envious of the success of his wife. He started to drink alcohol until he became a drunkard. He preferred to join his "barkadas"; became a wifebeater; would hurt his children without any reason; and failed to contribute to the needs of the family. Despite rehabilitation and consultation with a psychiatrist, his ways did not change.

After 19 years of marriage, Paz, a devout Catholic, decided to have their marriage annulled by the church. Through the testimony of Paz and a psychiatrist, it was found that Ariz was a spoiled brat in his youth and was sometimes involved in brawls. In his teens, he was once referred to a psychiatrist for treatment due to his violent tendencies. In due time, the National Appellate Matrimonial Tribunal (NAMT) annulled the union of Ariz and Paz due to the failure of Ariz to perform and fulfill his duties as a husband and as a father to their children. The NAMT concluded that it is for the best interest of Paz, Ariz and their children to have the marriage annulled.

In view of the NAMT decision, Paz decided to file a Petition for Declaration of Nullity of Marriage of their civil wedding before the Regional Trial Court (RTC) of Makati City using the NAMT decision and the same evidence adduced in the church annulment proceedings as basis.

If you are the judge, will you grant the petition? Explain. (5%)

II.

Crispin died testate and was survived by Alex and Josine, his children from his first wife; Rene and Ruby, his children from his second wife; and Allan, Bea, and Cheska, his children from his third wife.

One important provision in his will reads as follows:

"Ang lupa at bahay sa Lungsod ng Maynila ay ililipat at ilalagay sa pangalan nila Alex at Rene hindi bilang pamana ko sa kanila kundi upang pamahalaan at pangalagaan lamang nila at nang ang sinuman sa aking mga anak, sampu ng aking mga apo at kaapuapuhan ko sa habang panahon, ay may tutuluyan kung magnanais na mag-aral sa Maynila o sa kalapit na mga lungsod."

Is the provision valid? (4%)

III.

The Roman Catholic Church accepted a donation of a real property located in Lipa City. A deed of donation was executed, signed by the donor, Don Mariano, and the donee, the Church, as represented by Fr. Damian. Before the deed could be notarized, Don Mariano died. Is the donation valid? (4%)

IV.

Nante, a registered owner of a parcel of land in Quezon City, sold the property to Monica under a deed of sale which reads as follows:

"That for and in consideration of the sum of P500,000.00, value to be paid and delivered to me, and receipt of which shall be acknowledged by me to the full satisfaction of Monica, referred to as Vendee, I hereby sell, transfer, cede, convey, and assign, as by these presents, I do have sold, transferred, ceded, conveyed and assigned a parcel of land covered by TCT No. 2468 in favor of the Vendee."

After delivery of the initial payment of P100,000.00, Monica immediately took possession of the property. Five (5) months after, Monica failed to pay the remaining balance of the purchase price. Nante filed an action for the recovery of possession of the property. Nante alleged that the agreement was one to sell, which was not consummated as the full contract price was not paid. Is the contention of Nante tenable? Why? (4%)

V.

What is the effect of preterition ? (1%)

- (A) It annuls the devise and legacy
- (B) It annuls the institution of heir
- (C) It reduces the devise and legacy
- (D) It partially annuls the institution of heir

VI.

Miko and Dinah started to live together as husband and wife without the benefit of marriage in 1984. Ten (10) years after, they separated. In 1996, they decided to live together again, and in 1998, they got married.

On February 17, 2001, Dinah filed a complaint for declaration of nullity of her marriage with Miko on the ground of psychological incapacity under Article 36 of the Family Code. The court rendered the following decision:

- "1. Declaring the marriage null and void;
2. Dissolving the regime of absolute community of property; and
3. Declaring that a decree of absolute nullity of marriage shall only be issued after liquidation, partition and distribution of the parties properties under Article 147 of the Family Code."

Dinah filed a motion for partial reconsideration questioning the portion of the decision on the issuance of a decree of nullity of marriage only after the liquidation, partition and distribution of properties under Article 147 of the Code.

If you are the judge, how will you decide petitioners motion for partial reconsideration? Why? (4%)

VII.

Due to the continuous heavy rainfall, the major streets in Manila became flooded. This compelled Cris to check-in at Square One Hotel. As soon as Cris got off from his Toyota Altis, the Hotels parking attendant got the key of his car and gave him a valet parking customers claim stub. The attendant parked his car at the basement of the hotel. Early in the morning, Cris was informed by the hotel manager that his car was carnapped. (4%)

(A) What contract, if any, was perfected between Cris and the Hotel when Cris surrendered the key of his car to the Hotels parking attendant?

(B) What is the liability, if any, of the Hotel for the loss of Cris car?

VIII.

Tess leased her 1,500 sq. m. lot in Antipolo City to Ruth for a period of three (3) years, from January 2010 to February 2013.

On March 19, 2011, Tess sent a letter to Ruth, part of which reads as follows:

"I am offering you to buy the property you are presently leasing at P5,000.00 per sq. m. or for a total of P7,500,000.00. You can pay the contract price by installment for two (2) years without interest.

I will give you a period of one (1) year from receipt of this letter to decide whether you will buy the property."

After the expiration of the lease contract, Tess sold the property to her niece for a total consideration of P4 million.

Ruth filed a complaint for the annulment of the sale, reconveyance and damages against Tess and her niece. Ruth alleged that the sale of the leased property violated her right to buy under the principle of right of first refusal.

Is the allegation of Ruth tenable? (4%)

IX.

Spouses Macario and Bonifacia Dakila entered into a contract to sell with Honorio Cruz over a parcel of industrial land in Valenzuela, Bulacan for a price of Three Million Five Hundred Thousand Pesos (P3,500,000.00). The spouses would give a downpayment of Five Hundred Thousand Pesos (P500,000.00) upon the signing of the contract, while the balance would be paid for the next three (3) consecutive months in the amount of One Million Pesos (P1,000,000.00) per month. The spouses paid the first two (2) installments but not the last installment. After one (1) year, the spouses offered to pay the unpaid balance which Honorio refused to accept.

The spouses filed a complaint for specific performance against Honorio invoking the application of the Maceda Law. If you are the judge, how will you decide the case? (4%)

X.

Dorotea leased portions of her 2,000 sq. m. lot to Monet, Kathy, Celia, and Ruth for five (5) years. Two (2) years before the expiration of the lease contract, Dorotea sold the property to PM Realty and Development Corporation. The following month, Dorotea and PM Realty stopped accepting rental payments from all the lessees because they wanted to terminate the lease contracts.

Due to the refusal of Dorotea to accept rental payments, the lessees, Ruth, et al., filed a complaint for consignation of the rentals before the Regional Trial Court (RTC) of Manila without notifying Dorotea.

Is the consignation valid? (4%)

XI.

An easement that can be acquired by prescription: (1%)

(A) Right of way

(B) Watering of an animal

(C) Lateral and subjacent support

(D) Light and view

XII.

J.C. Construction (J.C.) bought steel bars from Matibay Steel Industries (MSI) which is owned by Buddy Batungbacal. J.C. failed to pay the purchased materials worth ₱500,000.00 on due date. J.C. persuaded its client Amoroso with whom it had receivables to pay its obligation to MSI. Amoroso agreed and paid MSI the amount of ₱50,000.00. After two (2) other payments, Amoroso stopped making further payments.

Buddy filed a complaint for collection of the balance of the obligation and damages against J.C. J.C. denied any liability claiming that its obligation was extinguished by reason of novation which took place when MSI accepted partial payments from Amoroso on its behalf.

Was the obligation of J.C. Construction to MSI extinguished by novation? Why? (4%)

XIII.

Esteban and Martha had four (4) children: Rolando, Jun, Mark, and Hector. Rolando had a daughter, Edith, while Mark had a son, Philip. After the death of Esteban and Martha, their three (3) parcels of land were adjudicated to Jun. After the death of Jun, the properties passed to his surviving spouse Anita, and son Cesar. When Anita died, her share went to her son Cesar. Ten (10) years after, Cesar died intestate without any issue. Peachy, Anitas sister, adjudicated to herself the properties as the only surviving heir of Anita and Cesar. Edith and Philip would like to recover the properties claiming

that they should have been reserved by Peachy in their behalf and must now revert back to them.

Is the contention of Edith and Philip valid? (4%)

XIV.

A pedestrian, who was four (4) months pregnant, was hit by a bus driver while crossing the street. Although the pedestrian survived, the fetus inside her womb was aborted. Can the pedestrian recover damages on account of the death of the fetus? (1%)

(A) Yes, because of Article 2206 of the Civil Code which allows the surviving heirs to demand damages for mental anguish by reason of the death of the deceased.

(B) Yes, for as long as the pedestrian can prove that she was not at fault and the bus driver was the one negligent.

(C) No, because a fetus is not a natural person.

(D) No, if the fetus did not comply with the requirements under Article 41 of the Civil Code.

XV.

Mr. Bong owns several properties in Pasig City. He decided to build a condominium named Flores de Manila in one of his lots. To fund the project, he obtained a loan from the National Bank (NB) secured by a real estate mortgage over the adjoining property which he also owned.

During construction, he built three (3) pumps on the mortgaged property to supply water to the condominium. After one (1) year, the project was completed and the condominium was turned over to the buyers. However, Mr. Bong failed to pay his loan obligation to NB. Thus, NB foreclosed the mortgaged property where the pumps were installed. During the sale on public auction of the mortgaged property, Mr. Simon won in the bidding. When Mr. Simon attempted to take possession of the property, the condominium owners, who in the meantime constituted themselves into Flores de Manila Inc. (FMI), claimed that they have earlier filed a case for the declaration of the existence of an easement before the Regional Trial Court (RTC) of Pasig City and prayed that the easement be annotated in the title of the property foreclosed by NB. FMI further claimed that when Mr. Bong installed the pumps in his adjoining property, a voluntary easement was constituted in favor of FMI.

Will the action prosper? (4%)

XVI.

A congregation for religious women, by way of commodatum, is using the real property owned and registered in the name of Spouses Manuel as a retreat house.

Maria, a helper of the congregation discovered a chest in the backyard. When she opened the chest, it contained several pieces of jewelry and money. (4%)

(A) Can the chest containing the pieces of jewelry and money be considered as hidden treasure?

(B) Who has the right to claim ownership of it?

XVII.

On March 30, 2000, Mariano died intestate and was survived by his wife, Leonora, and children, Danilo and Carlito. One of the properties he left was a piece of land in Alabang where he built his residential house.

After his burial, Leonora and Marianos children extrajudicially settled his estate. Thereafter, Leonora and Danilo advised Carlito of their intention to partition the property. Carlito opposed invoking Article 159 of the Family Code. Carlito alleged that since his minor child Lucas still resides in the premises, the family home continues until that minor beneficiary becomes of age.

Is the contention of Carlito tenable? (4%)

XVIII.

Spouses Magtanggol managed and operated a gasoline station on a 1,000 sq.m. lot which they leased from Francisco Bigla-awa. The contract was for a period of three (3) years. When the contract expired, Francisco asked the spouses to peacefully vacate the premises. The spouses ignored the demand and continued with the operation of the gasoline station.

One month after, Francisco, with the aid of a group of armed men, caused the closure of the gasoline station by constructing fences around it.

Was the act of Francisco and his men lawful? Why? (4%)

XIX.

Who enjoys the Right of Retention? (1%)

(A) Depository until full payment of what may be due him in deposit.

(B) Lessee if he advances the expenses for the repair of the leased premises.

(C) Bailee if bailor owes him something.

(D) Builder in bad faith for the recovery of necessary and useful expenses.

XX.

Mabuhay Elementary School organized a field trip for its Grade VI students in Fort Santiago, Manila Zoo, and Star City. To be able to join, the parents of the students had to sign a piece of paper that reads as follows:

"I allow my child (name of student), Grade Section, to join the schools field trip on February 14, 2014.

I will not file any claim against the school, administrator or teacher in case something happens to my child during the trip."

Joey, a 7-year-old student of Mabuhay Elementary School was bitten by a snake while the group was touring Manila Zoo. The parents of Joey sued the school for damages. The school, as a defense,

presented the waiver signed by Joeys parents.

Was there a valid waiver of right to sue the school? Why? (4%)

XXI.

A delayed accession is: (1%)

(A) formation of an island

(B) avulsion

(C) alluvium

(D) change in the course of the riverbed

XXII.

On March 27, 1980, Cornelio filed an application for land registration involving a parcel of agricultural land that he had bought from Isaac identified as Lot No. 2716 with an area of one (1) hectare. During the trial, Cornelio claimed that he and his predecessors-in-interest had been in open, continuous, uninterrupted, public and adverse possession and occupation of the land for more than thirty (30) years. He likewise introduced in evidence a certification dated February 12, 1981 citing a presidential declaration to the effect that on June 14, 1980, agricultural lands of the public domain, including the subject matter of the application, were declared alienable and disposable agricultural land. (4%)

(A) If you are the judge, will you grant the application for land registration of Cornelio?

(B) Can Cornelio acquire said agricultural land through acquisitive prescription, whether ordinary or extraordinary?

XXIII.

After undergoing sex reassignment in a foreign country, Jose, who is now using the name of "Josie," married his partner Ador. Is the marriage valid? (1%)

(A) Yes, the marriage is valid for as long as it is valid in the place where it is celebrated following Article 17 of the Civil Code.

(B) Yes, the marriage is valid if all the essential and formal elements of marriage under the Family Code are present.

(C) No, the marriage is not valid because one essential element of marriage is absent.

(D) No, the marriage is not valid but is voidable because "Josie" concealed her real identity.

XXIV.

Ted, married to Annie, went to Canada to work. Five (5) years later, Ted became a naturalized Canadian citizen. He returned to the Philippines to convince Annie to settle in Canada. Unfortunately,

Ted discovered that Annie and his friend Louie were having an affair. Deeply hurt, Ted returned to Canada and filed a petition for divorce which was granted. In December 2013, Ted decided to marry his childhood friend Corazon in the Philippines. In preparation for the wedding, Ted went to the Local Civil Registry of Quezon City where his marriage contract with Annie was registered. He asked the Civil Register to annotate the decree of divorce on his marriage contract with Annie. However, he was advised by the National Statistics Office (NSO) to file a petition for judicial recognition of the decree of divorce in the Philippines.

Is it necessary for Ted to file a petition for judicial recognition of the decree of divorce he obtained in Canada before he can contract a second marriage in the Philippines? (4%)

XXV.

Mario executed his last will and testament where he acknowledges the child being conceived by his live-in partner Josie as his own child; and that his house and lot in Baguio City be given to his unborn conceived child. Are the acknowledgment and the donation mortis causa valid? Why? (4%)

XXVI.

Isaac leased the apartment of Dorotea for two (2) years. Six (6) months after, Isaac subleased a portion of the apartment due to financial difficulty. Is the sublease contract valid? (1%)

(A) Yes, it is valid for as long as all the elements of a valid sublease contract are present.

(B) Yes, it is valid if there is no express prohibition for subleasing in the lease contract.

(C) No, it is void if there is no written consent on the part of the lessor.

(D) No, it is void because of breach of the lease contract.

XXVII.

Fe, Esperanza, and Caridad inherited from their parents a 500 sq. m. lot which they leased to Maria for three (3) years. One year after, Fe, claiming to have the authority to represent her siblings Esperanza and Caridad, offered to sell the leased property to Maria which the latter accepted. The sale was not reduced into writing, but Maria started to make partial payments to Fe, which the latter received and acknowledged. After giving the full payment, Maria demanded for the execution of a deed of absolute sale which Esperanza and Caridad refused to do. Worst, Maria learned that the siblings sold the same property to Manuel. This compelled Maria to file a complaint for the annulment of the sale with specific performance and damages.

If you are the judge, how will you decide the case? (4%)

XXVIII.

Spouses Esteban and Maria decided to raise their two (2) nieces, Faith and Hope, both minors, as their own children after the parents of the minors died in a vehicular accident.

Ten (10) years after, Esteban died. Maria later on married her boss Daniel, a British national who had been living in the Philippines for two (2) years.

With the permission of Daniel, Maria filed a petition for the adoption of Faith and Hope. She did not include Daniel as her co-petitioner because for Maria, it was her former husband Esteban who raised the kids.

If you are the judge, how will you resolve the petition? (4%)

XXIX.

Timothy executed a Memorandum of Agreement (MOA) with Kristopher setting up a business venture covering three (3) fastfood stores known as "Hungry Toppings" that will be established at Mall Uno, Mall Dos, and Mall Tres.

The pertinent provisions of the MOA provides:

1. Timothy shall be considered a partner with thirty percent (30%) share in all of the stores to be set up by Kristopher;
2. The proceeds of the business, after deducting expenses, shall be used to pay the principal amount of P500,000.00 and the interest therein which is to be computed based on the bank rate, representing the bank loan secured by Timothy;
3. The net profits, if any, after deducting the expenses and payments of the principal and interest shall be divided as follows: seventy percent (70%) for Kristopher and thirty percent (30%) for Timothy;
4. Kristopher shall have a free hand in running the business without any interference from Timothy, his agents, representatives, or assigns, and should such interference happen, Kristopher has the right to buy back the share of Timothy less the amounts already paid on the principal and to dissolve the MOA; and
5. Kristopher shall submit his monthly sales report in connection with the business to Timothy.

What is the contractual relationship between Timothy and Kristopher? (4%)

XXX.

Joe Miguel, a well-known treasure hunter in Mindanao, executed a Special Power of Attorney (SPA) appointing his nephew, John Paul, as his attorney-in-fact. John Paul was given the power to deal with treasure-hunting activities on Joe Miguels land and to file charges against those who may enter it without the latters authority. Joe Miguel agreed to give John Paul forty percent (40%) of the treasure that may be found on the land.

Thereafter, John Paul filed a case for damages and injunction against Lilo for illegally entering Joe Miguels land. Subsequently, he hired the legal services of Atty. Audrey agreeing to give the latter thirty percent (30%) of Joe Miguels share in whatever treasure that may be found in the land.

Dissatisfied however with the strategies implemented by John Paul, Joe Miguel unilaterally revoked the SPA granted to John Paul.

Is the revocation proper? (4%)

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