

INSTRUCTIONS

1. This Questionnaire contains ten (10) 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 20 items (I to XX) to be answered within/our (4) hours.

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 sub-question. 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, to reason logically in a lawyer-like manner, and to form 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. 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 SUBMIT IT TOGETHER WITH YOUR NOTEBOOK

JUSTICE TERESITA J. LEONARDO-DE CASTRO
Chairperson
2015 Bar Examinations

I.

Alden and Stela were both former Filipino citizens. They were married in the Philippines but they later migrated to the United States where they were naturalized as American citizens. In their union they were able to accumulate several real properties both in the US and in the Philippines. Unfortunately, they were not blessed with children. In the US, they executed a joint will instituting as their common heirs to divide their combined estate in equal shares, the five siblings of Alden and the seven siblings of Stela. Alden passed away in 2013 and a year later, Stela also died. The siblings of Alden who were all citizens of the US instituted probate proceedings in a US court impleading the siblings of Stela who were all in the Philippines.

a) Was the joint will executed by Alden and Stela who were both former Filipinos valid? Explain with legal basis. (3%)

b) Can the joint will produce legal effect in the Philippines with respect to the properties of Alden and Stela found here? If so, how? (3%)

c) Is the situation presented in Item I an example of depe9age? (2%)

II.

Marco and Gina were married in 1989. Ten years later, or in 1999, Gina left Marco and lived with another man, leaving their two children of school age with Marco. When Marco needed money for their children's education he sold a parcel of land registered in his name, without Gina's consent, which he purchased before his marriage. Is the sale by Marco valid, void or voidable? Explain with legal basis. (4%)

III.

Julie had a relationship with a married man who had legitimate children. A son was born out of that illicit relationship in 1981. Although the putative father did not recognize the child in his certificate of birth, he nevertheless provided the child with all the support he needed and spent time regularly with the child and his mother. When the man died in 2000, the child was already 18 years old so he filed a petition to be recognized as an illegitimate child of the putative father and sought to be given a share in his putative father's estate. The legitimate family opposed, saying that under the Family Code his action cannot prosper because he did not bring the action for recognition during the lifetime of his putative father.

a) If you were the judge in this case, how would you rule? (4%)

b) Wishing to keep the peace, the child during the pendency of the case decides to compromise with his putative father's family by abandoning his petition in exchange for 1/2 of what he would have received as inheritance if he were recognized as an illegitimate child. As the judge, would you approve such a compromise? (2%)

IV.

Bert and Joe, both male and single, lived together as common law spouses and agreed to raise a son of Bert's living brother as their child without legally adopting him. Bert worked while Joe took care of their home and the boy. In their 20 years of cohabitation they were able to acquire real estate assets

registered in their names as co-owners. Unfortunately, Bert died of cardiac arrest, leaving no will. Bert was survived by his biological siblings, Joe, and the boy.

a) Can Article 147 on co-ownership apply to Bert and Joe, whereby all properties they acquired will be presumed to have been acquired by their joint industry and shall be owned by them in equal shares? (2%)

b) What are the successional rights of the boy Bert and Joe raised as their son? (2%)

c) If Bert and Joe had decided in the early years of their cohabitation to jointly adopt the boy, would they have been legally allowed to do so? Explain with legal basis. (3%)

V.

Mrs. L was married to a ship captain who worked for an international maritime vessel. For her and her family's support, she would claim monthly allotments from her husband's company. One day, while en route from Hong Kong to Manila, the vessel manned by Captain L encountered a severe typhoon at sea. The captain was able to send radio messages of distress to the head office until all communications were lost. In the weeks that followed, the search operations yielded debris of the lost ship but the bodies of the crew and the passengers were not recovered. The insurance company thereafter paid out the death benefits to all the heirs of the passengers and crew. Mrs. L filed a complaint demanding that her monthly allotments continue for the next four years until her husband may be legally presumed dead because of his absence. If you were the magistrate, how would you rule? (3%)

VI.

Kardo met Glenda as a young lieutenant and after a whirlwind courtship, they were married. In the early part of his military career, Kardo was assigned to different places all over the country but Glenda refused to accompany him as she preferred to live in her hometown. They did not live together until the 12th year of their marriage when Kardo had risen up the ranks and was given his own command. They moved to living quarters in Fort Gregorio. One day, while Kardo was away on official business, one of his military aides caught Glenda having sex with the corporal assigned as Kardo's driver. The aide immediately reported the matter to Kardo who rushed home to confront his wife. Glenda readily admitted the affair and Kardo sent her away in anger. Kardo would later come to know the true extent of Glenda's unfaithfulness from his aides, his household staff, and former neighbors who informed him that Glenda has had intimate relations with various men throughout their marriage whenever Kardo was away on assignment.

Kardo filed a petition for declaration of nullity of marriage under Article 36. Based on interviews from Kardo, his aide, and the housekeeper, a psychologist testified that Glenda's habitual infidelity was due to her affliction with Histrionic Personality Disorder, an illness characterized by excessive emotionalism and uncontrollable attention-seeking behavior rooted in Glenda's abandonment as a child by her father. Kardo himself, his aide, and his housekeeper also testified in court. The RTC granted the petition, relying on the liberality espoused by *Te v. Te* and *Azcueta v. Republic*. However, the OSG filed an appeal, arguing that sexual infidelity was only a ground for legal separation and that the RTC failed to abide by the guidelines laid down in the *Molina* case. How would you decide the appeal? (5%)

VII.

Mr. and Mrs. X migrated to the US with all their children. As they had no intention of coming back, they offered their house and lot for sale to their neighbors, Mr. and Mrs. A (the buyers) who agreed to buy the property for 128 Million. Because Mr. and Mrs. A needed to obtain a loan from a bank first, and since the sellers were in a hurry to migrate, the latter told the buyers that they could already occupy the house, renovate it as it was already in a state of disrepair, and pay only when their loan is approved and released. While waiting for the loan approval, the buyers spent .PI Million in repairing the house. A month later, a person carrying an authenticated special power of attorney from the sellers demanded that the buyers either immediately pay for the property in full now or vacate it and pay damages for having made improvements on the property without a sale having been perfected.

a) What are the buyers' options or legal rights with respect to the expenses they incurred in improving the property under the circumstances? (3%)

b) Can the buyers be made to immediately vacate on the ground that the sale was not perfected? Explain briefly. (3%)

VIII.

X, Y, Z are siblings who inherited a 10-storey building from their parents. They agreed in writing to maintain it as a co-owned property for leasing out and to divide the net profits among themselves equally for a period of 20 years. On the 8th year, X wanted to get out of the co-ownership so he could get his 1/3 share in the property. Y and Z refused, saying X is bound by their agreement to keep the co-ownership for 20 years. Are Y and Z correct? Explain. (3%)

IX.

Jose, single, donated a house and lot to his only niece, Maria, who was of legal age and who accepted the donation. The donation and Maria's acceptance thereof were evidenced by a Deed of Donation. Maria then lived in the house and lot donated to her, religiously paying real estate taxes thereon. Twelve years later, when Jose had already passed away, a woman claiming to be an illegitimate daughter of Jose filed a complaint against Maria. Claiming rights as an heir, the woman prayed that Maria be ordered to reconvey the house and lot to Jose's estate. In her complaint she alleged that the notary public who notarized the Deed of Donation had an expired notarial commission when the Deed of Donation was executed by Jose. Can Maria be made to reconvey the property? What can she put up as a defense? (4%)

X.

X, a dressmaker, accepted clothing materials from Karla to make two dresses for her. On the day X was supposed to deliver Karla's dresses, X called up Karla to say that she had an urgent matter to attend to and will deliver them the next day. That night, however, a robber broke into her shop and took everything including Karla's two dresses. X claims she is not liable to deliver Karla's dresses or to pay for the clothing materials considering she herself was a victim of the robbery which was a fortuitous event and over which she had no control. Do you agree? Why? (3%)

XI.

Jackie, 16, inherited a townhouse. Because she wanted to study in an exclusive school, she sold her townhouse by signing a Deed of Sale and turning over possession of the same to the buyer. When the buyer discovered that she was still a minor, she promised to execute another Deed of Sale when

she turns 18. When Jackie turned 25 and was already working, she wanted to annul the sale and return the buyer's money to recover her townhouse. Was the sale contract void, voidable or valid? Can Jackie still recover the property? Explain. (4%)

XII.

A. Iya and Betty owed Jun P500,000.00 for advancing their equity in a corporation they joined as incorporators. Iya and Betty bound themselves solidarily liable for the debt. Later, Iya and Jun became sweethearts so Jun condoned the debt of P500,000.00. May Iya demand from Betty P250,000.00 as her share in the debt? Explain with legal basis. (2%)

B. Juancho, Don and Pedro borrowed P150,000.00 from their friend Cita to put up an internet cafe orally promising to pay her the full amount after one year. Because of their lack of business know-how, their business collapsed. Juancho and Don ended up penniless but Pedro was able to borrow money and put up a restaurant which did well. Can Cita demand that Pedro pay the entire obligation since he, together with the two others, promised to pay the amount in full after one year? Defend your answer. (2%)

XIII.

A. X and Y are partners in a shop offering portrait painting. Y provided the capital and the marketing while X was the portrait artist. They accepted the P50,000.00 payment of Kyla to do her portrait but X passed away without being able to do it. Can Kyla demand that Y deliver the portrait she had paid for because she was dealing with the business establishment and not with the artist personally? Why or why not? (3%)

B. In this jurisdiction, is a joint venture (*i.e.*, a group of corporations contributing resources for a specific project and sharing the profits therefrom) considered a partnership? (3%)

XIV.

A driver of a bus owned by company Z ran over a boy who died instantly. A criminal case for reckless imprudence resulting in homicide was filed against the driver. He was convicted and was ordered to pay P2 Million in actual and moral damages to the parents of the boy who was an honor student and had a bright future. Without even trying to find out if the driver had assets or means to pay the award of damages, the parents of the boy filed a civil action against the bus company to make it directly liable for the damages.

a) Will their action prosper? (4%)

b) If the parents of the boy do not wish to file a separate civil action against the bus company, can they still make the bus company liable if the driver cannot pay the award for damages? If so, what is the nature of the employer's liability and how may civil damages be satisfied? (3%)

XV.

A. Sara borrowed P50,000.00 from Julia and orally promised to pay it within six months. When Sara tried to pay her debt on the 8th month, Julia demanded the payment of interest of 12% per annum because of Sara's delay in payment. Sara paid her debt and the interest claimed by Julia. After rethinking, Sara demanded back from Julia the amount she had paid as interest. Julia claims she has

no obligation to return the interest paid by Sara because it was a natural obligation which Sara voluntarily performed and can no longer recover. Do you agree? Explain. (4%)

B. Distinguish civil and natural obligations. (2%)

XVI.

Donna pledged a set of diamond ring and earrings to Jane for P200,000.00 She was made to sign an agreement that if she cannot pay her debt within six months, Jane could immediately appropriate the jewelry for herself. After six months, Donna failed to pay. Jane then displayed the earrings and ring set in her jewelry shop located in a mall. A buyer, Juana, bought the jewelry set for P300,000.00.

a) Was the agreement which Donna signed with Jane valid? Explain with legal basis. (2%)

b) Can Donna redeem the jewelry set from Juana by paying the amount she owed Jane to Juana? Explain with legal basis. (2%)

c) Give an example of a pledge created by operation of law. (2%)

XVII.

Z, a gambler, wagered and lost P2 Million in baccarat, a card game. He was pressured into signing a Deed of Absolute Sale in favor of the winner covering a parcel of land with improvements worth P20 Million. One month later, the supposed vendee of the property demanded that he and his family vacate the property subject of the deed of sale. Was the deed of sale valid? What can Z do? (4%)

XVIII.

A lawyer was given an authority by means of a Special Power of Attorney by his client to sell a parcel of land for the amount of P3 Million. Since the client owed the lawyer P1 Million in attorney's fees in a prior case he handled, the client agreed that if the property is sold, the lawyer was entitled to get 5% agent's fee plus P1 Million as payment for his unpaid attorney's fees. The client, however, subsequently found a buyer of his own who was willing to buy the property for a higher amount. Can the client unilaterally rescind the authority he gave in favor of his lawyer? Why or why not? (4%)

XIX.

Mr. A, a businessman, put several real estate properties under the name of his eldest son X because at that time, X was the only one of legal age among his four children. He told his son he was to hold those assets for his siblings until they become adults themselves. X then got married. After 5 years, Mr. A asked X to transfer the titles over three properties to his three siblings, leaving two properties for himself. To A's surprise, X said that he can no longer be made to transfer the properties to his siblings because more than 5 years have passed since the titles were registered in his name. Do you agree? Explain. (4%)

XX.

A. Mr. and Mrs. Roman and Mr. and Mrs. Cruz filed an application for registration of a parcel of land which after due proceedings was granted by the RTC acting as a land registration court. However, before the decree of registration could be issued, the spouses Roman and the spouses Cruz sold the

lot to Juan. In the notarized deed of sale, the sellers expressly undertook to submit the deed of sale to the land registration court so that the title to the property would be directly issued in Juan's name. Is such a stipulation valid? (2%)

B. Distinguish a direct attack from a collateral attack on a title. (2%)

C. If the title in Item XX.A is issued in the names of the original sellers, would a motion filed by Juan in the same case to correct or amend the title in order to reflect his name as owner be considered a collateral attack? (2%)

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