

INSTRUCTIONS

1. This questionnaire contains ten (10) pages including this page. Check the number of pages and their proper sequencing. You may write notes on this questionnaire.

Read each question very carefully and write your answers in your Bar Examination Notebook in the same order as the questions. Write your answers only on the front page of every sheet. Note well the allocated percentage points for each question or sub-question. In your answers, use the numbering system in the questionnaire.

2. Answer the questions legibly, clearly, and concisely. Start each answer 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.

3. Your answer should demonstrate your ability to analyze the facts, apply the pertinent laws and jurisprudence, and arrive at a sound or logical conclusion. Always support your answer with the pertinent laws, rules, and/or jurisprudence.

A MERE "YES" OR "NO" ANSWER WITHOUT ANY CORRESPONDING EXPLANATION OR DISCUSSION WILL NOT BE GIVEN FULL CREDIT. THUS, ALWAYS BRIEFLY BUT FULLY EXPLAIN YOUR ANSWERS ALTHOUGH THE QUESTION DOES NOT EXPRESSLY ASK FOR AN EXPLANATION. DO NOT REWRITE OR REPEAT THE QUESTION ON YOUR NOTEBOOK.

4. 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 Notebook is considered cheating and can disqualify you.

YOU CAN BRING HOME THE QUESTIONNAIRE.

JUSTICE MARIANO C. DEL CASTILLO
Chairperson
2018 Bar Examinations

I

Sidley and Sol were married with one (1) daughter, Solenn. Sedfrey and Sonia were another couple with one son, Sonny. Sol and Sedfrey both perished in the same plane accident. Sidley and Sonia met when the families of those who died sued the airlines and went through grief-counseling sessions. Years later, Sidley and Sonia got married. At that time, Solenn was four (4) years old and Sonny was five (5) years old. These two (2) were then brought up in the same household. Fifteen (15) years later, Solenn and Sonny developed romantic feelings towards each other, and eventually eloped. On their own and against their parents' wishes, they procured a marriage license and got married in church.

(a) Is the marriage of Solenn and Sonny valid, voidable, or void? (2.5%)

(b) If the marriage is defective, can the marriage be ratified by free cohabitation of the parties? (2.5%)

II

After finding out that his girlfriend Sandy was four (4) months pregnant, Sancho married Sandy. Both were single and had never been in any serious relationship in the past. Prior to the marriage, they agreed in a marriage settlement that the regime of conjugal partnership of gains shall govern their property relations during marriage. Shortly after the marriage, their daughter, Shalimar, was born.

Before they met and got married, Sancho purchased a parcel of land on installment, under a Contract of Sale, with the full purchase price payable in equal annual amortizations over a period of ten (10) years, with no down payment, and secured by a mortgage on the land. The full purchase price was PhP1 million, with interest at the rate of 6% *per annum*. After paying the fourth (4th) annual installment, Sancho and Sandy got married, and Sancho completed the payments in the subsequent years from his salary as an accountant. The previous payments were also paid out of his salary. During their marriage, Sandy also won PhP1 million in the lottery and used it to purchase jewelry. When things didn't work out for the couple, they filed an action for declaration of nullity of their marriage based on the psychological incapacity of both of them. When the petition was granted, the parcel of land and the jewelry bought by Sandy were found to be the only properties of the couple.

(a) What is the filiation status of Shalimar? (2.5%)

(b) What system of property relationship will be liquidated following the declaration of nullity of their marriage? (2.5%)

(c) In the liquidation, who should get the parcel of land? The jewelry? (2.5%)

(d) Is Shalimar entitled to payment of presumptive legitime? If yes, how much should be her share and from where should this be taken? (2.5%)

III

Silverio was a woman trapped in a man's body. He was born male and his birth certificate indicated his gender as male, and his name as Silverio Stalon. When he reached the age of 21, he had a sex reassignment surgery in Bangkok, and, from then on, he lived as a female. On the basis of his sex reassignment, he filed an action to have his first name changed to Shelley, and his gender, to female. While he was following up his case with the Regional Trial Court of Manila, he met Sharon Stan, who also filed a similar action to change her first name to Shariff, and her gender, from female to male.

Sharon was registered as a female upon birth. While growing up, she developed male characteristics and was diagnosed to have congenital adrenal hyperplasia ("CAH") which is a condition where a person possesses both male and female characteristics. At puberty, tests revealed that her ovarian structures had greatly minimized, and she had no breast or menstrual development. Alleging that for all intents and appearances, as well as mind and emotion, she had become a male, she prayed that her birth certificate be corrected such that her gender should be changed from female to male, and that her first name should be changed from Sharon to Shariff.

Silverio and Sharon fell in love and decided to marry. Realizing that their marriage will be frowned upon in the Philippines, they travelled to Las Vegas, USA where they got married based on the law of the place of celebration of the marriage. They, however, kept their Philippine citizenship.

(a) Is there any legal bases for the court to approve Silverio's petition for correction of entries in his birth certificate? (2.5%)

(b) Will your answer be the same in the case of Sharon's petition? (2.5%)

(c) Can the marriage of Silverio (Shelley) and Sharon (Shariff) be legally recognized as valid in the Philippines? (2.5%)

IV

Severino died intestate, survived by his wife Saturnina, and legitimate children Soler, Sulpicio, Segundo and the twins Sandro and Sandra. At the time of his death, the twins were only 11 years of age, while all the older children were of age. He left only one property: a 5,000 sq. m. parcel of land. After his death, the older siblings Soler, Sulpicio, and Segundo sold the land to Dr. Santos for PhP500,000 with a right to repurchase, at the same price, within five (5) years from the date of the sale. The deed of sale was signed only by the three (3) older siblings, and covered the entire property. Before the five (5) years expired, Sole and Sulpicio tendered their respective shares of PhP166,666 each to redeem the property. Since Segundo did not have the means because he was still unemployed, Saturnina paid the remaining PhP166,666 to redeem the property. After the property was redeemed from Dr. Santos, the three (3) older children and Saturnina, for herself and on behalf of the twins who were still minors, sold the property to Dr. Sazon, in an absolute sale, for PhP1 million. In representing the twins, Saturnina relied on the fact that she was the natural guardian of her minor children.

(a) Was the first sale to Dr. Santos, and the subsequent repurchase, valid? (2.5%)

(b) Was the second sale to Dr. Sazon valid? May the twins redeem their share after they reach the age of majority? (2.5%)

V

Sol Soldivino, widow, passed away, leaving two (2) legitimate children: a 25- year old son, Santino (whom she had not spoken to for five [5] years prior to her death since he attempted to kill her at that time), and a 20-year-old daughter, Sara. She left an estate worth PhP8 million and a will containing only one provision: that PhP1 million should be given to "the priest who officiated at my wedding to my children's late father." Sara, together with two (2) of her friends, acted as an attesting witness to the will.

On the assumption that the will is admitted for probate and that there are no debts, divide the estate and indicate the heirs/legatees entitled to inherit, the amount that each of them will inherit, and where (*i.e.*, legitime/free portion/intestate share) their shares should be charged. (5%)

VI

Sammy and Santi are cousins who separately inherited two (2) adjoining lots from their grandfather. Sammy is based overseas but wants to earn income from his inherited land, so he asked a local contractor to build a row of apartments on his property which he could rent out. The contractor sent him the plans and Sammy noticed that the construction encroached on a part of Santi's land but he said nothing and gave approval to construct based on the plans submitted by the local contractor. Santi, based locally, and who loved his cousin dearly, did not object even if he knew of the encroachment since he was privy to the plans and visited the property regularly. Later, the cousins had a falling out and Santi demanded that the portion of the apartments that encroached on his land be demolished.

Can Santi successfully file legal action to require the demolition? (5%)

VII

Sydney, during her lifetime, was a successful lawyer. By her own choice, she remained unmarried and devoted all her time to taking care of her nephew and two (2) nieces: Socrates, Saffinia, and Sophia. She wrote a will giving all her properties remaining upon her death to the three (3) of them. The will was admitted to probate during her lifetime. Later, she decided to make a new will giving all her remaining properties only to the two (2) girls, Saffinia and Sophia. She then tore up the previously probated will. The second will was presented for probate only after her death. However, the probate court found the second will to be void for failure to comply with formal requirements.

(a) Will the doctrine of dependent relative revocation apply? (2.5%)

(b) Will your answer be the same if the second will was found to be valid but both Saffinia and Sophia renounce their inheritance? (2.5%)

VIII

Sofronio was a married father of two when he had a brief fling with Sabrina, resulting in her pregnancy and the birth of their son Sinforoso. Though his wife knew nothing of the affair, Sofronio regretted it, but secretly provided child support for Sinforoso. Unfortunately, when Sinforoso was 10 years old, Sofronio died. Only Sofronio's father, Salumbides, knew of Sabrina and Sinforoso. For the purpose of providing support to Sinforoso, Salumbides gave Sabrina usufructuary rights over one of his properties - a house and lot - to last until Sinforoso reaches the age of majority. Sabrina was given possession of the property on the basis of *caucion juratoria*. Two (2) years after the creation of the usufruct, the house accidentally burned down, and three (3) years thereafter, Sinforoso died before he could reach the age of 18.

Will the usufruct continue after the house has burned down? If yes, will it continue after Sinforoso's death? (2.5%)

IX

Newlyweds Sam and Sienna had contracted with Sangria Hotel for their wedding reception. The couple was so unhappy with the service, claiming, among other things, that there was an unreasonable delay in the service of dinner and that certain items promised were unavailable. The hotel claims that, while there was a delay in the service of the meals, the same was occasioned by the sudden increase of guests to 450 from the guaranteed expected number of 350, as stated in the Banquet and Meeting Services Contract. In the action for damages for breach of contract instituted by the couple, they claimed that the Banquet and Meeting Services Contract was a contract of adhesion since they only provided the number of guests and chose the menu. On the other hand, the hotel's defense was that the proximate cause of the complainant's injury was the unexpected increase in their guests, and this was what set the chain of events that resulted in the alleged inconveniences.

(a) Does the doctrine of proximate cause apply in this case? (2.5%)

(b) Was the Banquet and Meeting Services Contract a contract of adhesion? If yes, is the contract void? (2.5%)

X

Sinclair and Steffi had an illicit relationship while Sinclair was married to another. The relationship produced a daughter Sabina, who grew up with her mother. For most parts of Sabina's youth, Steffi spent for her support and education. When Sabina was 21 years old, Sinclair's wife of many years died. Sinclair and Steffi lost no time in legitimizing their relationship. After the 40-day prayers for Sinclair's late wife, Sinclair and Steffi got married without a marriage license, claiming that they have been cohabiting for the last 20 years.

After graduating from college, Sabina decided to enroll in law school. Sinclair said that he was not willing to pay for her school fees since she was no longer a minor. Sinclair claimed that, if Sabina wanted to be a lawyer, she had to work and spend for her law education.

(a) What is Sabina's filiation status? (2.5%)

(b) Is Sinclair legally required to finance Sabina's law education? (2.5%)

XI

Samantha sold all her business interest in a sole proprietorship to Sergio for the amount of PhP1 million. Under the sale agreement, Samantha was supposed to pay for all prior unpaid utility bills incurred by the sole proprietorship. A month after the Contract to Sell was executed, Samantha still had not paid the PhP50,000 electricity bills incurred prior to the sale. Since Sergio could not operate the business without electricity and the utility company refused to restore electricity services unless the unpaid bills were settled in full, Sergio had to pay the unpaid electricity bills. When the date for payment arrived, Sergio only tendered PhP950,000 representing the full purchase price, less the amount he paid for the unpaid utility bills. Samantha refused to accept the tender on the ground that she was the one supposed to pay the bills and Sergio did not have authorization to pay on her behalf.

(a) What is the effect of payment made by Sergio without the knowledge and consent of Samantha? (2.5%)

(b) Is Samantha guilty of *mora accipiendi*? (2.5%)

XII

Saachi opened a savings bank account with Shanghainese Bank. He made an initial deposit of PhP100,000. Part of the bank opening forms that he was required to sign when he opened the account was a Holdout Agreement which provided that, should he incur any liability or obligation to the bank, the bank shall have the right to immediately and automatically take over his savings account deposit. After he opened his deposit account, the Shanghainese Bank discovered a scam wherein the funds in the account of another depositor in the bank was withdrawn by an impostor. Shanghainese Bank suspected Saachi to be the impostor, and filed a criminal case of estafa against him. While the case was still pending with the Prosecutor's office, the bank took over Saachi's savings deposit on the basis of the Holdout Agreement.

(a) What kind of contract is created when a depositor opens a deposit account with a bank? (2.5%)

(b) In this case, did the bank have the right to take over Saachi's bank deposit? (2.5%)

XIV

Socorro is the registered owner of Lot A while Segunda is the registered owner of the adjoining Lot B. Lot A is located at an elevated plateau of about 15 feet above the level of Lot B. Since Socorro was allegedly removing portions of the land and cement that supported the adjoining property, Segunda caused the annotation of an adverse claim against 50 sq. m. on Lot A's Transfer Certificate of Title, asserting the existence of a legal easement.

(a) Does a legal easement in fact exist? If so, what kind? (2.5%)

(b) If a legal easement does in fact exist, is an annotation of an adverse claim on the title of the servient estate proper? (2.5%)

XV

Simon owned a townhouse that he rented out to Shannon, a flight attendant with Soleil Philippine Airlines (SPA). They had no written contract but merely agreed on a three (3)-year lease. Shannon had been using the townhouse as her base in Manila and had been paying rentals for more than a year when she accepted a better job offer from Sing Airlines. This meant that Singapore was going to be her new base and so she decided, without informing Simon, to sublease the townhouse to Sylvia, an office clerk in SPA.

(a) Can Simon compel Shannon to reduce the lease agreement into writing? (2.5%)

(b) Does the sublease without Simon's knowledge and consent constitute a ground for terminating the lease? (2.5%)

XVI

Selena was a single 18-year old when she got pregnant and gave birth to Suri. She then left to work as a caregiver in Canada, leaving Suri with her parents in the Philippines. Selena, now 34 years old and a permanent resident in Canada, met and married Sam who is a 24-year old Canadian citizen who works as a movie star in Canada. Sam's parents are of Filipino ancestry but had become Canadian citizens before Sam was born. Wanting Suri to have all the advantages of a legitimate child, Selena and Sam decided to adopt her. Sam's parents, already opposed to the marriage of their son to someone significantly older, vehemently objected to the adoption. They argued that Sam was not old enough and that the requisite age gap required by the Inter-Country Adoption Act between Sam as adopter and Suri as adoptee was not met.

Are Sam's parents correct? (2.5%)

XVII

Sofia and Semuel, both unmarried, lived together for many years in the Philippines and begot three children. While Sofia stayed in the Philippines with the children, Semuel went abroad to work and became a naturalized German citizen. He met someone in Germany whom he wanted to marry. Semuel thereafter came home and filed a petition with the Regional Trial Court (RTC) for partition of the common properties acquired during his union with Sofia in the Philippines. The properties acquired during the union consisted of a house and lot in Cavite worth PhP2 million, and some personal properties, including cash in bank amounting to PhP1 million. All these properties were

acquired using Samuel's salaries and wages since Sofia was a stay-at-home mother. In retaliation, Sofia filed an action, on behalf of their minor children, for support.

(a) How should the properties be partitioned? (2.5%)

(b) Should Semuel be required to support the minor children? (2.5%)

XVIII

Shasha purchased an airline ticket from Sea Airlines (SAL) covering Manila-Bangkok- Hanoi-Manila. The ticket was exclusively endorsable to Siam Airlines (SMA). The contract of air transportation was between Shasha and SAL, with the latter endorsing to SMA the Hanoi-Manila segment of the journey. All her flights were confirmed by SAL before she left Manila. Shasha took the flight from Manila to Bangkok on board SAL using the ticket. When she arrived in Bangkok, she went to the SAL ticket counter and confirmed her return trip from Hanoi to Manila on board SMA Flight No. SA 888. On the date of her return trip, she checked in for SMA Flight No. SA 888, boarded the plane, and before she could even settle in on her assigned seat, she was off-loaded and treated rudely by the crew. She lost her luggage and missed an important business meeting. She thereafter filed a complaint solely against SAL and argued that it was solidarily liable with SMA for the damages she suffered since the latter was only an agent of the former.

(a) Should either, or both, SAL and SMA be held liable for damages that Shasha suffered? (2.5%)

(b) Assuming that one is an agent of the other, is the agency coupled with interest? (2.5%)

XIX

Sebastian, who has a pending assessment from the Bureau of Internal Revenue (BIR), was required to post a bond. He entered into an agreement with Solid Surety Company (SSC) for SSC to issue a bond in favor of the BIR to secure payment of his taxes, if found to be due. In consideration of the issuance of the bond, he executed an Indemnity Agreement with SSC whereby he agreed to indemnify the latter in the event that he was found liable to pay the tax. The BIR eventually decided against Sebastian, and judicially commenced action against both Sebastian and SSC to recover Sebastian's unpaid taxes. Simultaneously, BIR also initiated action to foreclose on the bond. Even before paying the BIR, SSC sought indemnity from Sebastian on the basis of the Indemnity Agreement. Sebastian refused to pay since SSC had not paid the BIR anything yet, and alleged that the provision in the Indemnity Agreement which allowed SSC to recover from him, by mere demand, even if it (SSC) had not yet paid the creditor, was void for being contrary to law and public policy.

Can Sebastian legally refuse to pay SSC? (2.5%)

XX

Simeon was returning to Manila after spending a weekend with his parents in Sariaya, Quezon. He boarded a bus operated by the Sabbit Bus Line (SBL) on August 30, 2013. In the middle of the journey, the bus collided with a truck coming from the opposite direction, which was overtaking the vehicle in front of the truck. Though the driver of the SBL bus tried to avoid the truck, a mishap occurred as the truck hit the left side of the bus. As a result of the accident, Simeon suffered a fractured leg and was unable to report for work for one week. He sued SBL for actual and moral damages. SBL raised the defense that it was the driver of the truck who was at fault, and that it

exercised the diligence of a good father of a family in the selection and supervision of its driver.

(a) Is SBL liable for actual damages? Moral damages? (2.5%)

(b) Will SBL be liable to pay interest if it is required to pay damages, and delays in the payment of the judgment award? What is the rate of interest, and from when should the interest start running? (2.5%)

-NOTHING FOLLOWS-