

POLITEKNIK
Jabatan Pengajian Politeknik

EXAMINATION AND EVALUATION DIVISION
DEPARTMENT OF POLYTECHNIC EDUCATION
(MINISTRY OF HIGHER EDUCATION)

COMMERCE DEPARTMENT

FINAL EXAMINATION
DECEMBER 2011 SESSION

P2114 : COMMERCIAL LAW

DATE : 26 APRIL 2012 (THURSDAY)
DURATION : 2 HOURS (11.15 AM – 1.15 PM)

This paper consists of **FOUR (4)** pages including the front page.
Essay (4 questions – answer all)

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THE CHIEF INVIGILATOR

ESSAY (100 marks)

Instructions: This section consists of **FOUR(4)** essay questions. Answer all questions.

QUESTION 1

Eddy and his wife, Amy was married for ten years. During their marriage period, Eddy bought a land near Puchong and he also bought a double storey house at Shah Alam. A few months later Amy found out that her husband had an affair with his secretary and they had a fight over it. Eddy moved out from their house a week after that and told her that his lawyer will contact her for their divorce. Three months later Emily received a letter from a law firm, Khoo & Kim Associates regarding their divorce matter.

Amy met up with Eddy and told him that she wanted the house in Shah Alam and she is willing to pay the mortgage and Eddy agreed to Amy's condition. A few months later Amy contacted Eddy and demanded him to transfer the ownership of the house to her as she had already paid the entire mortgage. Eddy refused to do so and told her that the house belongs to him as he was still her husband when they made the agreement. Amy was frustrated and angry toward Eddy and she came to see you asking for an advice.

You are required to advise Emily with regard to her situation.

(25 marks)

QUESTION 2

- (a) Ali was subpoenaed by the High Court as a witness. He never been to any of courts in Malaysia and was curious of its functions. Clarify the court hierarchy in Malaysia and describe its functions.

(20 marks)

- (b) Malaysian law was developed based on three sources which are written law, unwritten law and Islamic law. Briefly explain **ONE (1)** source of Malaysian law.

(5 marks)

QUESTION 3

Hasnal is an owner of a Thai restaurant and he plans to go on a vacation at the end of July. While he is away, he appointed Zue to manage his business. One day, Zue found out that the restaurant stove is broken and she has to purchase a new one. She bought a new stove from Manan's shop at RM 6,600.00. Before she bought the stove, she tried to call Hasnal but failed.

After Hasnal comes back, he resumes his business as usual. One day Manan comes to see him and asks him to pay RM 6,600.00 for the stove, but Hasnal refuses to pay. He says that he never gives Zue any authority to buy the stove. Hasnal also refuses to give any commission to Zue because he is not satisfied with her performance while he was gone.

Based on the problem above, you are required to advise Zue.

(25 marks)

QUESTION 4

You are required to solve the following issues:

- (a) Define the Principle of *Nemo dat quod non habet*. Explain this rule in details.
(7 marks)
- (b) Haiza came upon an advertisement about a new edition of netbook which is not in the market yet. The netbook is her dream laptop since it is equipped with latest program. Haiza ordered the netbook through its manufacturer's agent in Kuala Lumpur and she expected to receive her laptop within one month.
(8 marks)
- (c) Haji Firdaus opened a grocery shop in his village last year where he sells groceries such as vegetables, rice, eggs and many more. Normally his customers will pay in cash. Mak Eli, a single mother always pays her groceries with vegetables from her farm because she doesn't have enough money.
(10 marks)