GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR
Course: Trust, Equity and Fiduciary Relationship
Semester-IV (Batch: 2014-19)

End Semester Examination: April-May 2016

Date: 9ᵗʰ May, 2016
Duration: 3 hours　　　　　　　　　　　　　　　　　**Max. Marks: 50**

Instructions:
- Read the questions properly and write the answers in the given answer book.
- The respective marks for each question are indicated in-line.
- Do not write anything on the question paper.
- Indicate correct question numbers in front of the answers.
- No clarifications can be sought during the exam period, answer as it is, giving reason, if any.
- **Bare Act is not allowed.**

<div align="center">

Part-A　　　　　　　　　　　　　　　　　　　　**Marks**

Answer **all the** questions

</div>

Q.1　"Charles Dickens begins *Bleak House* with a savage indictment. Fog and mud fill the　(10)
streets of London, but they are nothing, he tells us, compared to "the groping and
floundering condition" of the Court of Chancery, where members of the bar are "mistily
engaged in one of the ten thousand stages of an endless cause, tripping one another up
on slippery precedents, groping knee-deep in technicalities," and "making a pretense of
equity with serious faces, as players might."

As a chancellor in the existing courts of Equity, would you agree to this statement?
Criticize/ comment based on the last five maxims of equity.

Q.2　Justice XYZ has observed that in spite of the historic basis for injunctions, "In deciding　(10)
whether to grant injunctions, modern courts are less and less willing to be bound by
tradition alone and more and more willing to base their decisions on the relative
advantages and disadvantages of damages or an injunction… History and the traditional
hierarchy are replaced by principle and pragmatism. A context specific determination of
the advantages and disadvantages of damages on the one hand and injunctive relief on
the other allows the court to select the remedy that best fits the right that is to be
protected or vindicated." Is it possible to understand equitable remedies in light of the
statement of Justice XYZ? Discuss.

Q.3　Ashok as a Settlor created a Trust by way of indenture. Under the said settlement, Diya　(10)
is a beneficiary of the Trust known as Susheeleena Trust along with her sister Ms. Sheela
and Dr. Pramila (mother of Diya). In all, there are three beneficiaries under the said
trust. The settler constituted himself and two others Arvind and Shashi respectively as
trustees. The object of the said Trust is to distribute the income earned by the Trust
among the above mentioned three beneficiaries for 15 years (from 2ⁿᵈ January, 2004 to
2ⁿᵈ January, 2019) and to distribute the corpus thereafter. At the time of creation of trust
Diya was a minor. On the demise of Ashok, Anil was inducted as a trustee. Anil is also a
majority share holder in M/s Lotus Co. Ltd.

On 18th December 2011, an agreement was entered into between the trustees and M/s Micra Co. Ltd. (except Arvind as he was settled abroad) which is a holding Company of M/s Lotus Co. Ltd. Whereby trust premises were leased out for 33 years on monthly rent to Micra Co. Ltd. The monthly rent was payable to the trustees/ owners @ Rs. 2,00,000. The rent was much lower than the prevailing market rate. The beneficiaries Sheela and Pramila had the knowledge of the above stated agreement.

During the period September, 2009 to January, 2015, Diya was in U.S.A. She was studying abroad. When Diya returned, she was shocked to learn that premises were alienated vide agreement dated 18th December, 2011 and she was further shocked to learn that after August 2013, M/s Micra Co. Ltd. had refused to pay even the monthly rent to the trustees.

Diya also learnt that Shashi had invested Rs. 1,50,000 in the securities of M/s Lotus Company Ltd. and both the trustees sold trust furniture to their relatives at much lower price and further they even failed to recover Rs.1,10,000 from their relatives. Diya learnt that her sister and mother never asked for any account details from the trustees.

Advice Diya and substantiate your answer with the provisions of the Indian Trust Act, 1882 and relevant case laws.

Q.4   Vishes, who died in 2011, left his estate in trust for his grandchildren, Bela, Anand and   (10)
Siya, with an instruction that the estate shall be divided between the beneficiaries at the age of 25, in equal shares absolutely, for this purpose he appointed Rajesh and Dev as trustees. Bela is 19 years old; Anand is 20 and Siya is 17 years old. The trustees have invested the fund and accumulated all the income on it. The capital value of the fund is Rs. 20,00,000.

The trustees have received the following requests:

First, they have been asked by Bela to transfer Rs. 4,00,000 to her personal account.

Secondly, Anand's parents have asked the trustees to pay all the income of the fund to them for 10 years to enable them to meet the initial running costs of a school which they propose to establish at their home. Anand is interested and supports the proposal.

Thirdly, beneficiaries want a new trustee for management and organization of trust instead of Dev.

Fourthly, beneficiaries want that a trust property (small house) should be sold to Mr. Raman who is ready to pay huge amount for the house.

Lastly, Anand wants to transfer his beneficial interest in favour of Satyam.

Whether trustees can distribute the trust estate and income to the beneficiaries before the age of 25 if they are major but have not attained the specified age of 25 years? Discuss.

Whether the trustees can comply with these requests? Substantiate your answers with the relevant provisions of the Indian Trust Act, 1882 and leading case laws.

OR

Define Charity. Discuss in detail about creation and formation of public / charitable trust in India. Explain the essential characteristics of the doctrine of Cypress and its applicability in the execution of public/charitable trust in India.

Part-B
Answer **any two** questions

(2x5=10)

Q.5   Explain various kinds of trusts.

Q.6   Discuss about the rights of the beneficiary in case where the trustee has wrongfully purchased the trust property.

Q.7   "Ability to be a trustee is co extensive with the capacity to hold property". Discuss

****