

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**
Course: Trust, Equity and Fiduciary Relationship
Semester-IV (Batch: 2015-20)

Mid Semester Test: Feb-Mar. 2017

Date: 3rd March, 2017

Duration: 2 hours

Max. Marks: 30

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.

Answer all the questions

Marks

- Q.1 “Common law and equity are working in different ways towards the same ends, and it is therefore as wrong to assert the independence of one from the other as it is to assert that there is no difference between them”. Critically discuss the above statement by highlighting the significance of equity and also by analyzing the conflict between common law and equity with the help of a leading case law. Explain how the conflict was resolved? (10)
- Q.2 “The court of equity giving relief to the plaintiff to which he is entitled will do so only upon the terms of his submitting to give the defendant such corresponding rights (if any) as he also may be entitled to in respect of the subject matter of the suit; What these rights are must be determined by strict rules of law, and not by any arbitrary determination of the court”. Discuss the statement by applying the relevant maxim/s of equity with the help of leading case laws. Also explain its significance in the Indian legal system. (10)
- Q.3 “Equity deals with a matter according to its actual substance, and regards mere form as a secondary consideration. It pierces through the shell of a thing to what is within: it does not suffer itself to be circumvented by formal devices. And so, in procedure, it will not permit a mere technicality to conceal the real position of the parties, nor any mere form to divert the action of the court away from the actual merits of the cause. Mere appearances and external form will be put aside and the real relations of the parties will be ascertained and examined: no form will avail if the substance is wanting, and the form will be disregarded if the substance exists. This is not to be taken, however, as any declaration that essential rules of procedure may be disregarded. It means only that rules, when they do not go to the substantial rights of one of the parties, in a given situation, are not to be allowed to subvert, to mere technical form, the actual right of another.” Explain the statement in detail. Whether this maxim has any significance in the Indian legal system? Substantiate your answer with the help of leading case laws, examples and relevant provisions of applicable statutes. (10)
