



Republic of the Philippines
Supreme Court
Manila

2019 BAR EXAMINATIONS
CIVIL LAW

NOVEMBER 10, 2019

8:00 A.M. – 12:00 P.M.

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.
2. This Questionnaire is divided into two (2) parts: Part I and Part II. Write your answers to the questions in **Part I** (consisting of problem sets labelled **A.1. to A.10.**) in **Booklet I** and the answers to questions in **Part II** (consisting of problem sets labelled **B.11. to B.20.**) in **Booklet II**. **Answers written in the wrong booklet shall not be given any credit.**
3. Read each question carefully and note the points allocated for each question. In your answers, follow the sequence and the numbering system used in the Questionnaire. Answer each numbered question on a separate page; an answer to a sub-question under the same number set may be written continuously on the same page and succeeding pages until completed.
4. Your answers should demonstrate your ability to analyze the facts, apply the pertinent laws and jurisprudence, and arrive at sound and logical conclusions. Always support your answers with the pertinent laws, rules, and/or jurisprudence. A mere “yes” or “no” answer without any corresponding explanation or discussion may not be given full credit.
5. Marking of your booklets with your name or other identifying signs or symbols extraneous to the subject matter of the questions may be considered as cheating, and may disqualify you for the whole examinations.

YOU CAN BRING HOME THE QUESTIONNAIRE.


JUSTICE ESTELA M. PERLAS-BERNABE
Chairperson
2019 Bar Examinations

PART I

Note: As stated in the Instructions, **Part I** covers problem sets labelled **A.1. to A.10.** All answers to these questions should be written in **Booklet I.**

A.1.

In January 2018, Mrs. A, a married woman on her sixth (6th) month of pregnancy, was crossing a street when she was suddenly hit by a car being recklessly driven by Mr. X. As a result, Mrs. A sustained serious injuries and further, suffered an unintentional abortion. Mrs. A was hospitalized for two (2) months, during which she incurred ₱400,000.00 in medical fees. Her expenses were all duly substantiated by official receipts. During the two (2)-month period of her confinement, she was unable to report for work and earn any salary, which was established at the rate of ₱50,000.00 per month. Mrs. A then filed a civil case for damages against Mr. X.

- (a) Based on the case filed by Mrs. A, what is the source of Mr. X's obligation to her as a result of his acts? Explain. (2%)**
- (b) May Mrs. A claim actual damages from Mr. X? If so, how much can Mrs. A claim? Explain. (2%)**
- (c) May Mrs. A claim damages on behalf of her unborn baby? Explain. (3%)**
- (d) What must Mrs. A prove if she wants to recover moral damages from Mr. X? (2%)**
- (e) Assuming that Mrs. A is awarded actual and moral damages by the trial court, may she also claim interest if the final and executory judgment award remains unpaid by Mr. X? If so, when should the interest be reckoned and what is the rate of interest? Explain. (3%)**

A.2.

H and W were married in 1990. H, being a member of the Armed Forces of the Philippines (AFP), was deployed to a rebel-infested area in 1992. Since then, W has not heard from her husband, H.

One day, the AFP informed W that H had been declared missing since 1995. In consequence, W diligently pursued all available means to ascertain her husband's whereabouts, but to no avail.

Firmly believing that H had already died, W filed a claim before the AFP in 2008 for the death benefits of the missing serviceman. However, the AFP, despite being cognizant of H's status, would not act on the claim, contending that H could not be presumed dead unless a judicial declaration to this effect is issued by the proper court.

In what instance/s is a judicial declaration of presumptive death necessary? In this case, is the contention of the AFP correct? Explain. (3%)

A.3.

Mr. Reyes is legally married to Mrs. Reyes. During the subsistence of their marriage, Mr. Reyes cohabited with another woman, Ms. Cruz. Out of Mr. Reyes and Ms. Cruz's illicit relationship, a child named C was born. In C's birth certificate, "Cruz" appears as the child's surname, although Mr. Reyes expressly acknowledged C as his child.

In 2018, Mr. Reyes and Ms. Cruz ended their relationship. Mr. Reyes thereafter lodged a petition in court for parental custody and change or correction of C's surname in the child's birth certificate from "Cruz" to "Reyes." At that time, C was only ten (10) years old.

(a) Should Mr. Reyes be granted custody of C? Explain. (2.5%)

(b) Can Mr. Reyes validly compel the change or correction of C's surname from "Cruz" to "Reyes"? Explain. (2.5%)

A.4.

F, a Filipina, married J, a Japanese, in the Philippines. After three (3) years, they had a falling out and thus, separated. Soon after, F initiated a divorce petition in Japan which was not opposed by J because under Japanese law, a grant of divorce will capacitate him to remarry. F's divorce petition was then granted by the Japanese court with finality.

May the legal effects of the divorce decree be recognized in the Philippines, and consequently, capacitate F to remarry here? Explain. (3%)

A.5.

X and Y were in a live-in relationship for the longest time, and were already blessed with a child, Z. They finally decided to get married on March 15, 2020. When X's parents found about the news, they were thrilled and thus, donated in

favor of Z, the family heirloom, particularly, a gold ring valued at ₱250,000.00, which X and Y orally accepted on behalf of their minor child. One day, X and Y got into a serious quarrel, which resulted in them setting aside their marriage plans.

(a) Is the donation to Z valid? Explain. (3%)

(b) Assuming that the donation to Z is valid, may X's parents revoke the donation on the ground that the marriage of X with Y did not push through? Explain. (3%)

A.6.

Name at least two (2) exclusions from the following property regimes as enumerated under the Family Code:

(a) Absolute community of property (2%)

(b) Conjugal partnership of gains (2%)

A.7.

Believing that he owned a certain parcel of land and completely unaware of any defect in his title thereto, Mr. A started to build a house thereon. When Mr. P, the real owner of the land learned of Mr. A's actions, Mr. P immediately demanded Mr. A to leave the premises. However, Mr. A refused to leave, and instead, asserted that as a builder in good faith, Mr. P is obliged to sell the land to him.

(a) Is the claim of Mr. A correct? Explain. (3%)

(b) Assuming that Mr. P all the while, knew but did not object to Mr. A's construction of the house on his property, may Mr. A compel Mr. P to purchase the said improvement due to Mr. P's bad faith? Explain. (3%)

A.8.

Mr. E leased a piece of land from Mr. F to be used for his sawmill business for a period of ten (10) years. Consequently, Mr. E placed heavy machineries thereon to be used for his aforementioned business, with the intention of removing them after the expiration of the lease period.

Are Mr. E's heavy machineries considered real properties under the Civil Code? Explain. (3%)

A.9.

Ms. U is a usufructuary of a piece of land owned by Mr. L. During the existence of the usufruct, Ms. U introduced various useful improvements on the land. Upon termination of the usufruct, Mr. L requested Ms. U to remove the said improvements, but Ms. U refused, demanding instead that Mr. L reimburse her the value of the same.

- (a) What is a usufruct? (2%)**
- (b) Is Ms. U's demand proper? Explain. (3%)**

A.10.

Village H and Village L are adjoining residential villages in a mountainous portion of Antipolo City, Rizal, with Village L being lower in elevation than Village H. In an effort to beautify Village H, its developer, X, Inc., constructed a clubhouse which included an Olympic-sized swimming pool and an artificial lagoon on a portion of land overlooking Village L.

During the monsoon season, the continuous heavy rains caused Village H's swimming pool and artificial lagoon to overflow, resulting into a massive spillover that damaged various properties in Village L. Aggrieved, the homeowners of Village L filed a complaint for damages against X, Inc. In defense, X, Inc. contended that pursuant to the Civil Code, Village L, as the lower estate, was obliged to receive the waters descending from Village H, the higher estate. Hence, it cannot be held liable for damages.

- Is X, Inc.'s position tenable? Explain. (3%)**

- END OF PART I -

Note: This marks the end of Part I. The forthcoming problem sets will fall under Part II and the answers therefor should be written in Booklet II.

PART II

Note: As stated in the Instructions, **Part II** covers problem sets labelled **B.11.** to **B.20.** All answers to these questions should be written in **Booklet II.**

B.11.

Mr. R is the registered owner of a parcel of land located in Cebu City covered by Transfer Certificate of Title (TCT) No. 1234 issued in 1955. Since his acquisition of the lot, Mr. R and his family had been in continuous, open, and peaceful possession thereof. Mr. R died in 1980, resulting in the land being transferred in the names of his heirs, *i.e.*, A, B, and C, who became registered owners thereof as per TCT No. 5678. During the entire time, said land had never been encumbered or disposed, and that its possession always remained with them.

Sometime in 1999, A, B, and C wanted to build a concrete fence around the parcel of land, but they were opposed by Mrs. X, who started claiming ownership over the same property on the strength of a Deed of Absolute Sale purportedly entered into by her with Mr. R during the time that he was still alive. Aggrieved, A, B, and C intend to file a complaint for quieting of title against Mrs. X.

- (a) What are the substantive requisites for the action to prosper? Do they obtain in this case? Explain. (3%)**
- (b) Within what period should A, B, and C file the complaint for quieting of title? Explain. (2%)**
- (c) Assuming that B and C are residing abroad, may A, without the knowledge of B and C, file the complaint for quieting of title on behalf of all the heirs? Explain. (2%)**

B.12.

D, an Overseas Filipino Worker, was on his way home to the Philippines after working for so many years in the Middle East. He had saved ₱100,000.00 in his local savings account which he intended to use to start up a business in his home country. On his flight home, tragedy struck as a suicide bomber blew up the plane. All the passengers, including D, died. He left behind his widowed mother M; his common-law wife, W, who is the mother of his twin sons, T and S; and his brother, B. He left no will, no debts, no other relatives, and no other properties except the money in his savings account.

Who are the heirs entitled to inherit from D and how much should each receive? Explain. (5%)

B.13.

M, single, named his sister N in his will, as a devisee over a certain parcel of land that he owned, with the obligation of preserving the land and transferring it, upon N's death, to her illegitimate daughter O, who was then only a year old.

Is the condition imposed on N to preserve the land and to transmit it upon her death to O a valid case of fideicommissary substitution? Explain. (3%)

B.14.

Prior to his death, H, married to W, with children X, Y, and Z, executed a holographic will entirely written, dated, and signed by him. In his will, H instituted W, X, and Y as his heirs, and consequently, made testamentary dispositions in their favor. H, however, expressly disinherited Z on the ground that the latter once filed a civil case against him in order to collect a particular sum of money he previously owed Z.

(a) Was the disinheritance of Z proper? Explain. (3%)

(b) Assuming that the disinheritance of Z was improper, how will it affect the institution of heirs and testamentary dispositions made in H's will? Explain. (3%)

B.15.

Mr. P offered to sell his Manila Polo Club shares to Ms. Q for ₱2,500,000.00. Ms. Q accepted on the condition that their agreement will not take effect until after one (1) year. Mr. P then acceded and both of them shook hands. Excited about the prospect of acquiring Mr. P's shares, Ms. Q approached the former and offered to pay him an earnest money equivalent to 1% of the purchase price, which Mr. P accepted. After one (1) year, Ms. Q approached Mr. P seeking the enforcement of their agreement for Mr. P to sell his shares to her. Mr. P refused to honor their agreement, claiming that the same was covered by the Statute of Frauds because it was not reduced into writing and hence, unenforceable.

Is the position of Mr. P correct? Explain. (3%)

B.16.

C Corp. entered into a contract with D, Inc. for the construction of the latter's production warehouse. In consideration thereof, D, Inc. was obliged to pay C Corp. the amount of ₱50,000,000.00 within a period of one (1) month from the

time of the project's completion. To secure the payment of the said sum, D, Inc. entered into a surety agreement with S Company.

After more than a month from the completion date of the project, C Corp. remained unpaid. Claiming that it was suffering from serious financial reverses, D, Inc. asked C Corp. for an extension of three (3) months to pay the ₱50,000,000.00 it still owed, to which C Corp. agreed. However, after more than three (3) months, D, Inc. still refused to pay. Hence, C Corp. proceeded to collect the above sum from the surety, S Company.

For its part, S Company refused the claim and raised the defense that the extension of time granted by C Corp. to D, Inc. without its consent released it from liability.

(a) Will the defense of S Company against the claim hold water? Explain. (3%)

(b) Assuming that S Company instead refused the claim on the ground that C Corp. has yet to exhaust D, Inc.'s property to satisfy the claim before proceeding against it, will this defense prosper? Explain. (2%)

B.17.

In 2015, O, the original registered owner of a 300-square meter property covered by Original Certificate of Title (OCT) No. O-1234, appointed F as its caretaker. A year after, while O was abroad, F surreptitiously broke open O's safe and stole the duplicate copy of the said OCT. F then forged a Deed of Absolute Sale and made it appear that O sold the property to him. Consequently, F was able to have OCT No. O-1234 cancelled and in lieu thereof, a new title, Transfer Certificate of Title (TCT) No. T-4321, was issued in his name.

A few months after, F offered the property for sale to X. After conducting the required due diligence to verify the title of F, and finding no occupant in the property during ocular inspection, X signed the contract of sale, and thereupon, fully paid the purchase price. A few days later, X was able to obtain TCT No. T-5678 under his name.

When O discovered F's fraudulent acts upon his return in 2017, O immediately filed a complaint for reconveyance against F and X, principally pointing out that F merely forged his signature in the Deed of Absolute Sale purportedly made in F's favor and thus, F could not have validly transferred the title thereof to X. Consequently, he sought the return of the subject property to him.

(a) Will the prayer of O for the return of the subject property prosper? Explain. (3%)

(b) Assuming that O could no longer recover the subject property in view of X's registration thereof in his name, may a claim against the Assurance Fund pursuant to the provisions of the Property Registration Decree be instituted? Explain. (3%)

B.18.

In light of a new business venture, Mr. A entered into a lease contract with Mr. B involving one of the latter's warehouses. One day, Mr. B, who was then encountering financial difficulties, approached Mr. A and sought for a loan, which Mr. A readily granted to him. In order to secure the loan obligation, Mr. B mortgaged the leased warehouse in favor of Mr. A. In addition, Mr. B executed a promissory note in favor of A, wherein prior demand was waived by him.

When Mr. B defaulted on his loan obligation, Mr. A simply stopped paying rentals due to Mr. B on the ground that legal compensation had already set in up to the concurrent amount. Furthermore, since there was still a balance due on the promissory note, Mr. A foreclosed the real estate mortgage over Mr. B's property, without any prior demand furnished to Mr. B.

Aggrieved, Mr. B opposed the foreclosure due to the lack of prior demand, contending that the waiver of prior demand was stipulated in the promissory note and not in the mortgage instrument. Mr. B likewise argued that when Mr. A invoked legal compensation between the unpaid rentals and the loan arrearages, it amounted to a novation that resulted in the extinguishment of the loan contract between them. As such, the real estate mortgage, being a mere accessory contract to the principal loan, was necessarily extinguished.

- (a) May Mr. A validly claim legal compensation? Explain. (2%)**
- (b) May Mr. A validly foreclose on the real estate mortgage even without prior demand to Mr. B? Explain. (2%)**
- (c) Is Mr. B's claim of novation correct? Explain. (2%)**

B.19.

Mr. A entered into a lease contract covering one of his commercial buildings with XYZ Company, a partnership composed of X, Y, and Z, as lessee, for use as an office space. Upon failure to receive the rental payments when they fell due, Mr. A immediately sought payment of the same from X, Y, and Z, asserting that the individual partners are solidarily liable together with the partnership for its debts.

X, Y, and Z disagreed with Mr. A's contention, arguing further that in any event, rentals should not be paid up until Mr. A makes the necessary arrangements

N

for the repair of the defective electrical wirings in the office that caused power outages and hence, made it difficult, if not impossible, for them to conduct their usual business operations.

Rule on the parties' respective arguments. (5%)

B.20.

Distinguish the following:

- (a) Contract of sale and contract to sell (2%)**
- (b) Interruption and tolling of prescription of actions (2%)**

- END OF PART II -
Nothing follows

