

CONTENTS

	Page
Preface	ii
Table of Contents	iv
List of Cases	vii
List of Statutes	x

CHAPTER ONE

HISTORICAL BACKGROUND

Introduction to the Reception of the English Law	1
1. Penang	1
2. Malacca	3
3. Federated Malay States	3
4. Unfederated Malay States	5
5. East Malaysia	5
a) Sarawak	6
b) Sabah	8

CHAPTER TWO

REQUIREMENTS OF A TRUST

A. Definition	9
B. The Requirements	10
1. Formalities	11
a) intention	11
b) forms	14
2. Three Certainties	15
a) Certainty of words	15
b) Certainty of subject	17
c) Certainty of object	18
C. Conclusion	21

CHAPTER THREE

VARIOUS KINDS OF TRUSTS

A.	Introduction	23
B.	Completely and Incompletely Constituted Trusts	23
	a) Transfer of Trust Property	24
	b) Transfer of Shares	24
	c) Volunteers	25
C.	Discretionary Trusts	28
D.	Protective Trusts	30
E.	Implied or Resulting Trusts	32
F.	Constructive Trusts	37
	a) Profits made by person in fiduciary position	38
	b) Stranger intermeddling with trust property	39
	c) Property acquired by Fraud	40
	d) Vendor of land	41
G.	Conclusion	44

CHAPTER FOUR

CHARITIES

A.	Introduction, Classification of Charitable Trusts and Public Element	46
B.	Charitable Trusts for the Relief of Poverty	49
C.	Charitable Trusts for the Advancement of Education	53
D.	Charitable Trusts for the Advancement of Religion	58
	a) Religious trusts upheld in Malaysia	60
	b) Chinese ancestral worship	62
E.	Charitable Trusts for other purposes beneficial to the Community	66

CHAPTER FIVE

TRUSTEES

A.	Trustees in General	70
B.	Trustee's liability for Breach of Trust	73

CHAPTER SIX
TRUSTEE INVESTMENT

A.	Introduction	76
B.	English Law on Trustee Investment	77
C.	Malaysian Law on Trustee Investment	79
D.	Conclusion	81
CONCLUSION		82

CASES

1. Regina v Williams [1858 / 3 Ky. 16.
2. Re Yap Kwan Seng's Will / (1924) F.M.S.L.R. 313.
3. Motor Emporium v Arumugam (1933) M.L.J. 276.
4. Yeap Cheah Neo v Ong Cheng Neo (1872) 1 Ky. 326.
5. Green v Russell [1959 / 2 Q.B. 226.
6. Edwards v Carter [1893 / A.C. 360.
7. Jones v Lock (1865) 1 Ch. App. 25.
8. Farmeshiri Devi & Anor v Pure Life (1971) 1. M.L.J. 142.
9. Wan Naimah v Wan Mohd. Nawawai [1974 / 1. M.L.J. 41.
10. Knight v Knight (1840) 3 Beav. 148.
11. Re Adams and the Kensington Vestry (1884) 27 Ch. D. 394.
12. Re Dingle (1888) 39 Ch. D. 253.
13. Comiskey v Bowring-Hanbury [1905 / A.C. 84.
14. Palmer v Simmonds (1854) 2 Drew 221.
15. Boyce v Boyce (1849) 16 Sim. 476.
16. Re Golay's Will Trusts [1965 / 2 All. E.R. 660.
17. I.P.C. v Broadway Cottages Trusts [1955/ Ch. 20.
18. Re Chionh Ke Hu decd. (1964) 30 M.L.J. 270.
19. Re Endacott [1960 / Ch. 232.
20. Re Lee Moey Chye [1966 / 1 M.L.J. 42.
21. Milroy v Lord (1862) 42 De. G.F. & J. 264.
22. Re Rose [1952 / Ch. 499.
23. Pullan v Koe [1913 / 1 Ch. 9.
24. Lee Eng Teh & Ors. v Teh Thiang & Ors. [1967 / 1 M.L.J. 42.
25. Dillwyn v Llewelyn (1862) 6 L.T.R. 878.
26. Re Brown [1754 / Ch. 39.
27. Re Ames' Settlement [1946 / Ch. 217.
28. Re Gillingham Bus Disaster Fund [1958 / Ch. 300.
29. Dyer v Dyer (1788) 2 Cox Eq. 92.
30. Palaniappa Chettiar v Arunasalam Chettiar (1968) 28 M.L.J. 143 P.C.
31. Standing v Bowring (1885) 31 Ch. D. 282.
32. Shepard v Cartwright [1955 / A.C. 431.
33. Firm of P.M.N. v Syed Alsagoff (1929) 7 F.M.S.L.R. 93.
34. Re Transfer of Eng Joo Estate (1910) Innes 121.

35. Haji Abdullah bin Mohd. v Abdul Majid bin Ibrahim and Ors. / 1949 / M.L.J. 12.
36. Chang Lin v Chong Swee Sang (1908) Innes 95.
37. Chin Shah Len v Lin Fah (1962) 28 M.L.J. 418.
38. Dharmaratna v Dharmaratna (1939) 8 M.L.J. 310.
39. Nagapushani v Nesaratnam [1970] 2 M.L.J. 8.
40. Liu Sau v Henry (1912) Innes 186.
41. Yew Phaik Hoon v Seah Ooi Keat (1969) 1 M.L.J. 32, P.C.
42. Keech v Sandford (1726) Sel. Cas. Ch. 61.
43. Boardman v Phipps [1967] 2 A.C. 46.
44. Lee v Sankey (1872) L.R. 15 Eq. 204.
45. Soar v Ashwell [1893] 2 Q.B. 390.
46. Selangor United Rubber Estates Ltd. v Cradock (No.3) / 1968 / 1 W.L.R. 1555.
47. Barnes v Addy (1874) 9 Ch. App. 244.
48. Re Oldham [1925] Ch. 75.
49. Re Hagger [1930] 2 Ch. 190.
50. Sellack v Harris (1708) 5 Vin. Abr. 521.
51. Barnister v Barnister [1948] 2 All. E.R. 133.
52. Ng Ah Kiang v Goo Cheo Choon (1908) 1 F.M.S.L.R. 36.
53. Lee Chee Peng & Anor v Lee Chee Pooi & Ors. [1968] 1 M.L.J. 198.
54. G.R. Nair & Anor. v Eastern Mining & Metals Co. Sdn. Bhd. [1974] 1 M.L.J. 176.
55. Commissioners for Special Purposes of Income Tax v Pensei [1891] A.C. 531.
56. Re Compton [1945] Ch. 123.
57. Re Hobourne Air Raid Distress Fund [1946] Ch. 194.
58. Cheng Tew Nuey v Cheng Cheow Lean Neo (1930) S.S.L.R. 58.
59. Lim Chooi Chuan v Lim Chew Chee (1948 - 49) M.L.J. Supp. 66.
60. Re Tan Swee Hong (1934) 3 M.L.J. 5.
61. Re Coulhurst [1951] Ch. 661.
62. Re Gardom [1941] 1 Ch. 662.
63. Spiller v Maude (1881) 32 Ch. D. 158n.
64. Re Syed Shaik Alkaff (1923) 2 M.C. 38.
65. Att.-Gen. v Duke of Northumberland [1877] 7 Ch. D. 745.
66. Re Haji Esmail bin Kassim (1911) 12 S.S.L.R. 74.
67. Fatimah v Logan (1871) 1 Ky. 255.

68. Re Shaw [1957 / 1 W.L.R. 729.
69. Re Hopkin's Will Trust [1965 / Ch. 669.
70. Re Delius [1957 / Ch. 235.
71. Re Shakespeare Memorial Trust [1923 / 2 Ch. 398.
72. Royal Choral Society v I.R.C. [1943 / 2 All. E.R. 101.
73. Re Pinion [1965 / Ch. 85.
74. Tai Kien Lung v Tye Peh Sun 27 M.L.J. 78.
75. Thorton v Howe (1862) 31 Beav. 14.
76. Re Watson [1973 / 1 W.L.R. 1472.
77. Gilmore v Coats [1949 / A.C. 426.
78. C'Hanlon v Logue [1906 / I.R. 247.
79. Att.-Gen. v Thirpooree Soonderee (1874) 1 Ky. 377.
80. Re Low Kim Pong's Settlement (1938) 7 M.L.J. 119.
81. Re Garrand [1907 / 1 Ch. 382.
82. Lim Chooi Chuan v Lim Chew Chee [1948 - 49 / M.L.J. Supp. 66.
83. Yeap Cheah Neo v Ong Cheng Neo (1875) L.R. 6 P.C. 381.
84. Chao Choon Neo v Spottiswoode (1869) 1 KY. 216.
85. Phan Kin Thin v Phan Kwon Ying (1940) 9 M.L.J. 44.
86. The British Malaya Trustee and Executor Co., Ltd. v Khoo Seng Seng (1933) 2 M.L.J. 149.
87. D' Aquiar v I.R.C. [1970 / W.L.R. 15.
88. Re Wedgwood [1915 / 1 Ch. 113.
89. Re Douglas (1889) 35 Ch. D. 472 C.A.
90. Re Grove-Grady (1929) 1 Ch. 557.
91. Re Lord Strateden and Campbell [1894 / 3 Ch. 265.
92. Re Stephens [1892 / 8 T.L.R. 792.
93. Re Driffill [1949 / 2 All. E.R. 933.
94. Re Smith [1932 / 1 Ch. 153.
95. Re Whiteley (1886) 33 Ch. D. 347.
96. Leary v Whiteley (1887) 12 App. Cas. 727.
97. Re Vickery [1931 / 1 Ch. 572.
98. Wong Weng Hong v Tsoi Lau Ying [1941 / M.L.J. 141.
99. Khoo Tek Keong v Ch'ng Joo Tuan Neoh since deceased & Anor [1934/ MLJ 255.
100. Re Haji Ali bin Haji Mohamed Noor deceased [1933 / M.L.J. 135.
101. Chung Peng Chee v Cho Yew Fai and Ors. (1954) M.L.J. 100.

STATUTES

A MALAYSIA:

1. Civil Law Ordinance, 1956.
2. Civil Law Act, 1956 (Revised - 1971 / Act 67 /).
3. F.M.S. Civil Law Enactment, 1937 (No. 3 of 1937).
4. Application of Laws Ordinance, 1949 (Sarawak).
5. Application of Laws Ordinance, 1951 (Sabah).
6. Civil Law Ordinance (Extension) Order, 1971.
7. Age of Majority Act, 1971.
8. National Land Code, 1965.
9. Wills Ordinance, 1959.
10. Specific Relief Act, 1950.
11. Trustee Ordinance, 1949.
12. Contracts Act, 1950 (Revised - 1974).
13. Estate Duty Enactment, 1941.
14. Trust Companies Act, 1949.
15. Public Trustee Ordinance, 1950.
16. Trustee Investment Act, 1961.

B ENGLAND

1. Family Law Reform Act, 1969.
2. Law of Property Act, 1925.
3. Statute of Frauds, 1677.
4. Wills Act, 1837.
5. Executor Act, 1890.
6. Finance Act, 1969.
7. Trustee Act, 1925.
8. Charitable Uses Act, 1601.
9. Trustee Investment Act, 1965.