



ZIMBABWE EZEKIEL GUTI UNIVERSITY

FACULTY OF LAW, BUSINESS INTELLIGENCE AND ECONOMICS

DEPARTMENT OF LAW AND LEGAL SERVICES

EXAMINATION PAPER

MODULE CODE : LLB 221

MODULE TITLE : LAW OF PROPERTY

SPECIAL REQUIREMENTS:

DURATION : 3 HOURS

LEVEL : 2.2

DATE : JAN 2024 SUPP

INSTRUCTIONS TO CANDIDATES:

1. This exam is out of **100**.
2. Answer **any two** questions from section A and **any two** questions from section B..
3. Notes, handouts and textbooks **are not** allowed into the examination.
4. Cell phones **are not** allowed into the examination room.
5. Begin each answer to a full question on a fresh page.
6. No materials allowed.

SECTION A:

ANSWER ANY TWO QUESTIONS FROM THIS SECTION

QUESTION 1

The distinction between real rights and personal rights is not so clear cut. Discuss the Court's approach in distinguishing between real and personal rights in Zimbabwe. [25]

QUESTION 2

- a) Discuss the characteristics of a thing [10]
- b) Discuss fully the distinction between movable and immovable things. Your discussion should also include the circumstances in which the distinction is of practical importance. [10]
- c) Fran owns two sheep farms lying adjacent to one another. On her son Barry's eighteenth birthday, she takes him to the boundary fence which separates the two farms and points to the other farm with the words: "Son, this farm is now yours".

Explain fully whether Barry acquired ownership of the farm. [5]

[Total: 25 Marks]

QUESTION 3

- a) Discuss between derivative and original acquisition of ownership [10]
- b) Prescription is method upon which a person can acquire ownership of land. Discuss the circumstances under which prescription is deemed to be suspended as set out in the **Prescription Act [CAP 8:11]** [5]
- c) Getrude takes fabric from Fishy Fabrics and fashions a wedding gown. Explain fully who has ownership of the dress. Substantiate your answer. [10]

[Total: 25 Marks]

SECTION B: YOU ARE REQUIRED TO ANSWER ANY TWO QUESTIONS

QUESTION 4

- a) The Constitution of the Republic of Zimbabwe, 2013 entrenches both property rights as well as land rights. Distinguish between property and land rights as envisaged in the Constitution. [10]
- b) Ownership is sometimes wrongly characterised as individualistic and absolute. Discuss the limitation placed on ownership in Zimbabwean Property law.

[15]

[Total: 25 Marks]

QUESTION 5

Ann lives on an agricultural small-holding where she farms with chickens. Siphos, her neighbour, is a rally enthusiast and tests the engines of racing cars on his premises. Ann is profoundly disturbed by the constant noise that emanates from Siphos's premises. Furthermore, the noise has a disquieting effect on the farm animals. Her numerous appeals to him that he should consider his neighbours bear no results.

Ann approaches you for advice, you are required to advise Ann on what her legal position is and whether or not there are any legal remedies she might institute against Siphos.

[25]

[Total: 25 Marks]

QUESTION 6

Nomathandazo is unemployed and is unable to pay her water bills. The local authority, who supplies both these services to Nomathandazo, terminates these services. Nomathandazo wishes to apply for a *mandament van spoile* to compel the local authority to restore the water supply.

With reference to case law discuss fully the remedy of **mandement van spolie**. [25]

[Total: 25 Marks]

QUESTION 7

- a) Carrie Bradshaw is the lessee of a vehicle and bears the risk for damage to the car. Earlier this year she went on holiday and left her house in the care of her neighbour, Samantha Jones. Samantha decided to steal the car and drove it to Chicken Matty, where she parked and locked it. The car was subsequently stolen from the parking lot. Carrie is furious and approaches you

for advice. She would like to know how she can go about claiming her loss from Samantha.

Advise Carrie fully with regards to case law

[10]

- b) Michael Hutawesango owns a biscuit making equipment. He is in the business of biscuit making. In February 2019, production was shelved for a while due to COVID-19. Shechem Hlabano a friend of Marcus offered to store the equipment at his friend's place Misheck. Marcus understood that the storage was going to be free of charge. Meanwhile Misheck was unaware of the rental arrangement. When Michael asked for his equipment, from Shechem he was advised that he was also renting the space the equipment was stored in from Misheck and that he owed Misheck rentals for the storage. Shechem then asked Michael to pay rentals to Misheck for the period the equipment was stored at the premises. Michael is unwilling to pay rent as he believes that he is not privy to the lease agreement entered into between Shechem and Misheck. Michael decides to institute an application for rei vindicatio against Misheck.

With reference to case law discuss the possible defence(s) available to Misheck. Note that you are not required to discuss the requirements for instituting an action of rei vindicatio. **[10]**

- c) Discuss the circumstances under which a person can institute the actio legis aquilae **[5]**

[Total: 25 Marks]

Sum Total: 100 Marks

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