



ZIMBABWE EZEKIEL GUTI UNIVERSITY

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FACULTY OF LAW AND LEGAL SERVICES

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PRIVATE LAW DEPARTMENT

EXAMINATION PAPER

MODULE CODE : LLB221  
MODULE TITLE : LAW OF PROPERTY  
DURATION : 3 HOURS  
LEVEL : 2:2  
DATE : 10 FEB 2025

**INSTRUCTIONS TO CANDIDATES:**

Answer Four (4) questions, any Two (2) questions from each section.

Each question from Section (A) carries fifteen (15) marks and each from Section (B) carries twenty (20) marks).

Number of marks for part questions are shown in brackets

Start each question on a new page

This paper consists of three (3) pages

## Section A

### Question 1

“The question whether agricultural land owned by an indigenous Zimbabwean can be expropriated under the Land Reform Programme is political rather than a legal question” **Bowers and Another v Minister of Lands, Agriculture, Fisheries, Water and Rural Settlement and 7 Others (72/2023 ZWHHC)**.

With reference to the above noted case, and any other Zimbabwean cases, illustrate how the Constitution of Zimbabwe Amendment (No.20) Act, 2013 protects the right of ownership of property.

[15 marks]

### Question 2

Discuss the distinctions between the following:

- i) real right and personal right; [3 Marks]
- ii) *mandament van spolie and rei vindicatio* [3 Marks]
- iii) Original acquisition and Derivative acquisition of ownership [3 Marks]
- iv) *Usufruct and Usus* [3 Marks]
- v) *Traditio longa manu and constitutum possessorium* [3 Marks]

### Question 3

- i) List and explain the 5 ways in which servitudes can be terminated [5 Marks]
- ii) Briefly list and discuss 5 methods of original acquisition of ownership [5 Marks]
- iii) With the aid of case law, briefly discuss public law limitations of ownership in Zimbabwe [5 Marks]

## Section B

### Question 4

In 1970, the late Harvey Potter obtained ownership of a certain piece of land in the District of Mpangeni known as the remaining extent of Vida measuring 1074.7410 hectares in extent, under deed of grant 2216/70. Harvey Potter does not appear to have bought the land as there is no mention of any money having exchanged hands. His son Jason Potter in due course inherited the said piece of land from his late father under deed of Transfer 2030/90.

Starting from 1996 to 2014, Jason Potter began to subdivide the main block of the remaining extent of Vida measuring 1074.7410 hectares in extent into 3 plots. The first 2 plots were purchased between 1996 and 2010. He however sold the remaining plot 3 to Sam Harper in 2014 in circumstances where Government had already issued a notice to compulsorily acquire the disputed land under General Notice 507A of 2014 published in the Extraordinary Government Gazette of 20 August 2014. Considering that it had acquired the whole land, the acquiring Authority offered lot 3 to Kudzai Mwenje as compensation for his farm which it had compulsorily acquired and distributed to other beneficiaries. Kudzai Mwenje accepted the offer. When Kudzai tried to occupy the farm, he found Sam Harper in occupation. Sam refused to move.

Aggrieved by this situation, Kudzai sought legal advice.

**Advice Kudzai.**

**[20 marks]**

### Question 5

Annie is the widow of the late Pedro Haruzivi. Kundi Haruzivi is the eldest son of the late Pedro with another woman. In terms of the last will and testament of the late Pedro Haruzivi, Annie was granted a lifetime usufruct over Lupote property and also over a farm known as Subdivision 1 of Lot 3 Greenwood Estate. The deceased bequeathed the rest of his property to the Haruzivi Family Trust, to which Kundi is a beneficiary. Ever since the passing on of her husband, Annie has enjoyed peaceful and undisturbed possession of the Lupote property without disturbance from anyone. On the 13<sup>th</sup> of January 2020, Kundi came to the property uninvited and used force and threats of physical violence to wrongfully and unlawfully gain entrance into the property, indicating that he had a right to the property because he was a beneficiary of the Haruzivi Family Trust. Kundi used a bot cutter to open the main gate and, in the process, he damaged the padlock. Kundi also gave instructions to the security officials that he was in charge of the property in his capacity as the son of the deceased. Kundi effectively occupied the place of business without Annie's consent. On the 25<sup>th</sup> of January 2019, Kundi unlawfully broke into the, main house and surrounding building to gain access. He also threatened the applicant's workers and pointed a firearm at one of them.

Both of them, Annie and Kundi state that they have the right to use the property, Advise the parties on the legal issues and remedies, if any, that they each have.

[20 marks].

#### Question 6

Rudo found the Antipolis, a shipwreck, abandoned by its owners and tried to remove a large condenser from the shipwreck. He failed and tied the rope to a large condenser in the engine room and left. Some 2 days after Rudo left, Tawanda and Kuda found the shipwreck and started to cut sections of the condenser loose to remove and sell them. Rudo wished to stop them by means of spoliation remedy. You are a lawyer, Rudo approached you for legal assistance.

With reference to case law, advice Rudo on:

i) the *mandament van spolie* remedy

[10 Marks]

ii) the major limitations (defenses) against *mandament van spolie*

[10 Marks]

[end]