

UNIVERSITY OF ESWATINI
FACULTY OF SOCIAL SCIENCES
DEPARTMENT OF LAW
SUPPLEMENTARY EXAMINATION, JULY 2019

TITLE OF PAPER : THE LAW OF PROPERTY II

COURSE CODE : LAW 210

TIME ALLOWED : THREE (3) HOURS

INSTRUCTIONS :

- 1) ANSWER ANY FOUR (4) QUESTIONS INCLUDING QUESTION ONE.**
- 2) QUESTION ONE IS COMPULSORY.**

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QUESTION ONE (Compulsory)

- a) Jordashe supplied R. Motors with motor vehicles to be sold by R. Motors. Jordashe retained ownership of the vehicles until the last instalment had been paid by R. Motors with the explicit agreement that R. Motors was not permitted to transfer, ownership of the vehicles without Jordashe's consent. On inspection of the premises where the vehicles were displayed, Jordashe's representative established that the vehicles were registered in name of R. Motors. These registration were effected by means of false documents. Unbeknown to Jordashe, in the meantime, R. Motor had also entered into a floor plan agreement with ABSA Bank in terms of which it sold and delivered (by means of Constitutum Possessorium) certain vehicles to ABSA Bank. As owner of the vehicles to ABSA Bank. As owner of the vehicles in question, Jordashe wishes to attach them.

Advise Jordashe on all the legal issues that arise herein, as well as his prospects of success. (15 marks)

- b) Muzi sows wheat on the land he leases from his cousin Max. Before he can reap the crop, the terms of the lease comes to an end. His cousin chooses not to renew the lease. Discuss the legal position of the parties involved.

(25 marks)

QUESTION TWO

Briefly distinguish between:

- a) Delivery with the long hand (tradition longa manu) and delivery with the short hand (traditio brevi manu). (10 marks)
- b) Original and derivative methods of acquiring ownership. (10 marks)
- c) Alluvio and avulsion (5 marks)
- (25 marks)

QUESTION THREE

"A thing which immovable today may be movable tomorrow ... conversely, a movable may be affixed to an immovable by natural or artificial means in such a manner that it loses its identity and becomes an integral part of the immovable thing".

Consider the factors which must be taken into account in determining whether a movable has become an immovable. Illustrate your answer by referring to case law.

(25 marks)

QUESTION FOUR

Write brief, but comprehensive notes on the following:

- a) An improvement lien; (7 marks)
 - b) Personal Servitudes, and (10 marks)
 - c) Differentiate between a covering bond and the kustingbrief. (8 marks)
- (25 marks)

QUESTION FIVE

- a) S has a registered right of way traversing over X and Y's farm. S has allowed his neighbour P to use this road to access the main road. X and Y request P orally and in writing to desist from using the road. They indicate to him that the servitude is only available to S. P ignores their requests and persists in using the road. X and Y do ask S to revoke his permission to P. S. and P. are not cooperating despite all these endeavours. Discuss the legal position of all of these parties with reference to case law. (15 marks)
 - b) Explain the criteria laid down by the Court in Redelinghuis V Bazzini 1976 (1) SA 110 (T) at 117 B, for determining whether one is dealing with a rural or an urban tenant. What was the finding of the court when it applied these principles regarding the applicability of the action aquae pluviae arcedenda to the land in cash. (10 marks)
- (25 marks)