

NATIONAL UNIVERSITY OF LESOTHO

FACULTY OF LAW

LL.B FINAL EXAMINATIONS

L381- LAW OF PROPERTY

MAY 2017

MARKS: 100

TIME: 3HOURS

INSTRUCTIONS:

1. Answer **FOUR** (4) questions in all with at least **ONE** question from each section.
2. All questions carry equal marks.
3. Answer each question on a fresh page.

SECTION A

QUESTION 1

Under Roman-Dutch law, a possessor may acquire ownership over land of another through passage of time.

With reference to Section 4 of the Land Act No. 8 of 2010, discuss application of the principle of acquisition of land by prescription in Lesotho.

[25 MARKS]

QUESTION 2

With reference to decided cases, discuss the basis as well as the requirements for the legal remedy of *mandament van spolie* in the law of property.

[25 MARKS]

QUESTION 3

Under Roman-Dutch law, property can be classified as either movable or immovable.

Discuss the significance of this classification in the law of Property.

[25 MARKS]

QUESTION 4

Write short notes on any **FIVE** of the following:

- | | |
|-------------------------------|---------|
| a) <i>traditio brevi manu</i> | |
| b) <i>rei vindicatio</i> | 5Marks |
| c) <i>plantatio and satio</i> | 5 Marks |
| d) <i>praedial servitudes</i> | 5 Marks |
| e) <i>interdict</i> | 5 Marks |
| f) <i>lien</i> | 5 Marks |

[25 MARKS]

SECTION B

QUESTION 5

In July 2016 Tjeketjela let a house to Pokola. The lease was for a period of 15 years at a going market rent. The rent was payable at the beginning of every month.

During January 2017, Pokola further sub-let the house to Mangoele this time with a clear term that the rent would be M200.00 payable at the beginning of every month. This sub-letting was done without the prior consent of Tjeketjela. The sub-lease was for a period of 20 years.

The lease and sub-lease were not registered with the Deeds Registry. Within 6 months of occupation, Mangoele realised that there was a serious leakage in the roof of the house. Mangoele then complained to Pokola who refused to remedy the leakage specifically because he said the duty to maintain the premises rested with the owner of the property (Tjeketjela).

Two months after detecting the leakage a heavy rainfall came through the roof and flooded the house thereby damaging the property of Mangoele. He, however, did not vacate the premises.

At the beginning of the following month, Mangoele refused to pay rent on its due date claiming a set-off against his damaged property. In raging anger, Pokola stormed the property and took possession of some of the movable property belonging to Mangoele as security against the outstanding rent.

Advise Mangoele on his prospects. Your advice should also include case law on the subject. **[25MARKS]**

QUESTION 6

Ralebese bought a farm from Khamelo on hire-purchase. It was part of the agreement that ownership in the farm would remain with Khamelo until the last instalment would have been paid by Ralebese.

In the meantime, before Ralebese could pay all the instalments he further bought dairy equipment from Tsoku Dairies (Pty) Ltd also on hire purchase. The equipment was brought to the farm. The equipment was not mounted to the floor or wall, but because of its size, it would not be easily removed therefrom.

In due course Ralebese fell behind with his instalments with both Khamelo and Tsoku Dairies (Pty) Ltd. Both creditors sued Ralebese to recover their amounts and both have obtained judgments.

In execution of judgment, Khamelo has repossessed the farm and has also attached the dairy equipment thereon on the ground that the equipment had become part of the land.

On the other hand Tsoku Dairies (Pty) Ltd has also raised its claim to the dairy equipment.

Give your legal opinion regarding the rights of the respective parties.

[25MARKS]