

NATIONAL UNIVERSITY OF LESOTHO
FACULTY OF LAW
LL.B SUPPLEMENTARY EXAMINATIONS
L3302- LAW OF PROPERTY II

AUGUST 2023

MARKS: 100

TIME: 3 HOURS

INSTRUCTIONS:

1. There are six questions and two sections.
2. Answer **FOUR (4)** questions in all, with at least one question from each section.
3. All questions carry equal marks.
4. Answer each question on a separate page.

SECTION A

QUESTION ONE

It is a trite principle of law that a praedial servitude is independent of any agreement between owners of dominant and servient tenements.

Does case law support this assertion?

[25 MARKS]

QUESTION TWO

Comment on the view that the formation of a contract of lease is predicated on three key pillars and that the absence of any of the three pillars completely vitiates the contract.

[25 MARKS]

QUESTION THREE

Using relevant case law to substantiate your view point, discuss the assertion that although a debtor may pledge his moveable property as security for a debt owing, that does not give a creditor an unfettered power to deal with the pledged property as he pleases.

[25 MARKS]

QUESTION FOUR

Write short notes on any five of the following:

- | | |
|---------------------------|----------------|
| a) Usufruct | 5 Marks |
| b) <i>Actio negatoria</i> | 5 Marks |
| c) Tacit hypothec | 5 Marks |
| d) Salvage lien | 5 Marks |

e) Conventional mortgage;

5 Marks

f) *Actio pignoratitia*

5 Marks

[25 MARKS]

SECTION B

QUESTION FIVE

In January 2023, Sekoloto entered into a hire purchase agreement with Mangopeng Furnishers for a sale of a bedroom suit worth M75,000. Before Sekoloto finished paying the purchase price he lost his job and consequently failed to pay his subsequent instalments.

In January 2024, Sekoloto surrendered his motor vehicle to Mangopeng Furnishers as security for the outstanding debt. Without consultation with Sekoloto, Mangopeng Furnishers has been using the vehicle for its daily operations.

Sekoloto is aware of the use of his vehicle by Mangopeng furnishers and has come to you for legal advice.

Advise him accordingly.

[25 MARKS]

QUESTION SIX

Thabang is desperately looking for a rented apartment at Roma. In August 2022, Thabang spotted an apartment in Roma advertised on social media. He then proceeded to negotiate with the potential landlord (Mafi) and the parties agreed on the following terms:

1. The apartment is situated at City Mafefs.
2. The rent payable shall be at the going market rent and;
3. The landlord agrees to give occupation to the tenant on the 1st September 2022.

On the 1st September when Thabiso sought to take occupation of the apartment he discovered that the roof was leaking, some of the windows broken, and the door also broken.

Thabang feels that he has been cheated by his potential landlord and wants to a legal action against Mafi.

Advise him accordingly.

[25 MARKS]