

**NATIONAL UNIVERSITY OF LESOTHO**

**FACULTY OF LAW**

**LL.B FINAL EXAMINATIONS**

**L3302- LAW OF PROPERTY 2**

**MAY 2023                      MARKS: 100                      TIME: 3 HOURS**

**INSTRUCTIONS:**

1. There are six questions. 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 separate page.

## SECTION A

### QUESTION ONE

Comment on the view that although a *usufruct* and *usus* constitute two distinct servitudes, however, the difference is so narrow that it is unworthy of any legal distinction.

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[25 MARKS]

### QUESTION TWO

Using decided case law to support your view point, critically discuss the assertion that although delivery is a component of an effective pledge, it, however, simply serves an evidentiary purpose of the transaction.

[25 MARKS]

### QUESTION THREE

Write short notes on any five of the following:

- |                               |         |
|-------------------------------|---------|
| a) Habitatio                  | 5 marks |
| b) <i>Actio confessoria</i>   | 5 marks |
| c) Improvement lien           | 5 marks |
| d) <i>Rei vindicatio</i>      | 5 marks |
| e) <i>Pactum antichresios</i> | 5 marks |
| f) Rural servitude            | 5 marks |

[25 MARKS]

### QUESTION- FOUR

Comment on the view that although a contract of lease imposes an array of duties on the landlord, it equally imposes corresponding duties on the tenant.

[25 MARKS]

## SECTION B

### QUESTION FIVE

Neo is a street vendor running a spaza shop in Mafikeng. In January 2023, Neo took his old Nissan to Thabo, a local mechanic for repairs. In March 2023, Thabo notified Neo that he had finished ~~doing~~ the repairs on the car. When Neo came to collect the car, he was told that the bill for the repairs was M50 000. Unfortunately, Neo could only raise M15 000. ~~He~~ however, ~~he~~ requested to take the car on a test drive. When Neo came back, he informed Thabo that the car had developed yet another problem and that he had to leave it at his house. Thabo is desirous of collecting the vehicle alleging that he has a lien over it. The agreement for repairs was done unknown to Thabo that the car had already been sold to Pule. Thabo has approached you for legal advice in the belief that he has a preferred right over the motor vehicle.

With the aid of relevant case law, advise Thabo on his prospects of success on the apparent legal saga between him and Pule.

[25 MARKS]

### QUESTION SIX

Pitso is a third year law student at the University of Lebaleng. In August 2023, he rented a two roomed apartment from Tapole for the purposes of residing therein. Since January 2024, Pitso has not been receiving his monthly stipend. As a result of this problem he resorted to using the same apartment to sell alcoholic beverages to supplement his financial resources. On the other hand, the roof of the apartment has started leaking and part of the property of Pitso has been destroyed. Pitso has informed Tapole of the defect in the roof but to no avail.

Pitso has ultimately effected the repairs and wishes to claim the said expenses from Tapole. Tapole, on the other hand, feels that since Pitso has been using the apartment for some other purpose other than for the purpose for which it was rented, he is not entitled to any compensation or remission of rent.

Pitso has come to you for legal advice. Using relevant case law, Advise Pitso accordingly.

**[25 MARKS]**