

NATIONAL UNIVERSITY OF LESOTHO

FACULTY OF LAW

LL.B EXAMINATIONS

L3301- LAW OF PROPERTY I

JANUARY 2024

MARKS: 100

TIME: 3 HOURS

INSTRUCTIONS:

1. There are six questions. Answer any **FOUR** (4) of them.
 2. All questions carry equal marks.
 3. The use of case law in your answers will be rewarded.
 4. Answer each question on a fresh page.
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QUESTION 1

Tebalo built a 4 roomed residential house in Mafeteng. Just as he was about to fit a roof onto it, he got a job in South Africa (SA) and had to leave the incomplete house in Lesotho. He has been in SA for seven years, without any visits to Lesotho, nor anyone looking over the house. After seven years of his absence, he travelled to Lesotho. Upon his arrival in Lesotho, he found Mokoao, a man unknown to him, living in his incomplete house. He wants to kick Mokoao out of the incomplete house, on the ground that he (Tebalo) has possession of the incomplete building.

Advise Tebalo on whether he has possession over the incomplete building. Note that Tebalo's ownership of the house is not in dispute. **[25 MARKS]**

QUESTION 2

Explain whether the items below are a thing or not. In your answer indicate how they fit or do not fit **all** the characteristics of a thing.

- a) A house 5 Marks
- b) Oxygen compressed in an oxygen tank 5 Marks
- c) Human hair sold at a hair salon 5 Marks
- d) The sun 5 Marks
- e) A river 5 Marks

[25 MARKS]

QUESTION 3

Mahlale has a piece of land at Roma, Ha Mafefoane, but lives in the NUL campus. One day while visiting his land at Ha Mafefoane, he was shocked to find building

bricks packed on the land. While still in shock, an unknown truck pulled into his land and unloaded building sand. He inquired from the truck driver why they were infringing his right of ownership over the land. The truck driver responded that he is simply acting under the instructions of Mr. Solo. He gave Mahlale the contact details of Mr. Solo. Mahlale telephoned Mr. Solo about the matter and requested him to stop unloading the building material on his land. Mr. Solo sarcastically responded that Mahlale cannot stop him from building on that piece of land. He categorically told Mahlale that he will proceed with the construction despite Mahlale's protests.

Mahlale is frustrated by Mr. Solo's ongoing infringement of his ownership in the land and has come to you for advice.

Advise Mahlale on the remedy available for protection of his ownership and how it will apply in his case.

[25 MARKS]

QUESTION 4

Is possession a factual situation or a real right?

Critically analyse the position of possession in the law of property. In the analysis, consider, among others, whether the nature of a legal right operates in conjunction or in contradiction with acquisition and protection of possession.

[25 MARKS]

QUESTION 5

Thabo had two cattle in his kraal. One Sunday morning, he discovered that the cattle had been stolen. He subsequently learnt that the cattle have been stolen by Ramatla, who lives two villages away from him. He went to Ramatla's kraal to

confirm that his cattle were taken by him. The cattle were indeed in Ramatla's kraal.

Advice Thabo on the remedy he must apply for to recover his cattle from Ramatla.

[25 MARKS]

QUESTION 6

Neo is a client of Makoko Attorneys, a firm of lawyers that provide legal services to their clients at a low cost. Neo has been paying substantial amounts of money into Makoko Attorneys office, which money is kept in a safe. Neo has agreed with Makoko Attorneys that they will hold the money for him, and he will use the money if he encounters any legal challenges. One day Neo was involved in a car accident and injured a pedestrian. The pedestrian claimed compensation for the injuries he incurred from Neo's vehicle.

Having conceded that he has caused the pedestrian injuries, Neo informed the pedestrian that he has transferred ownership of his money, an amount of M10 000.00, that he has kept in the custody of Makoko Attorney, to the pedestrian. He told the pedestrian to collect the money from Makoko Attorneys. The pedestrian went to collect the money from the Attorneys, but they refused to hand over the money to him. Makoko Attorneys' argument was that the money belongs to Neo, they are holding it for him, and Neo has not said anything to them about the pedestrian. The pedestrian claims that Neo has transferred ownership of M10 000 of the money to him.

Considering acquisition of ownership by attornment, advise the pedestrian on whether he has acquired ownership over the M10 000 held by Makoko Attorneys or not.

[25 MARKS]