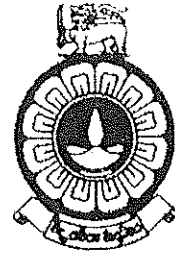


THE OPEN UNIVERSITY OF SRI LANKA
FACULTY OF HUMANITIES AND SOCIAL SCIENCE
DEPARTMENT OF LEGAL STUDIES
LL.B DEGREE PROGRAMME- LEVEL 05
FINAL EXAMINATION- 2017/2018
LAND LAW – LLU5810/ LWU3312
DURATION: 03 HOURS



Date : 24th February 2020

Time: 1.30 p.m. - 4.30 p.m.

Total Number of Question: 08

Number of questions to be answered: 05

Candidates will be penalized for illegible handwritten.

1. Senarath the owner of the 'Desi-vila' house leased 'Desi-vila' to Kumara to start a decorative pot making business. That transaction was a notarially executed agreement and a condition of the lease agreement was that the lessee should not make any alteration or modification to the land and the premises. However, Kumara initiated the following improvements to the property without the consent of Senarath.
 - Fixed a motor to get water from the well.
 - Installed an air conditioner and tempered glass to the front room which he used as the office room
 - Built an artificial waterfall and hand carved an ornamental statue at the entrance
 - Repaired the roof of the house which was severely damaged due to heavy rain

When the lease period came to an end, Senarath requested Kumara to vacate the house. Kumara claimed compensation for all the improvements he had effected to the land, which Senarath refused. Kumara refused to leave, unless he was compensated for all improvements.

Discuss the rights and obligations of the parties.

Support your answer with decided cases.

(20 Marks)

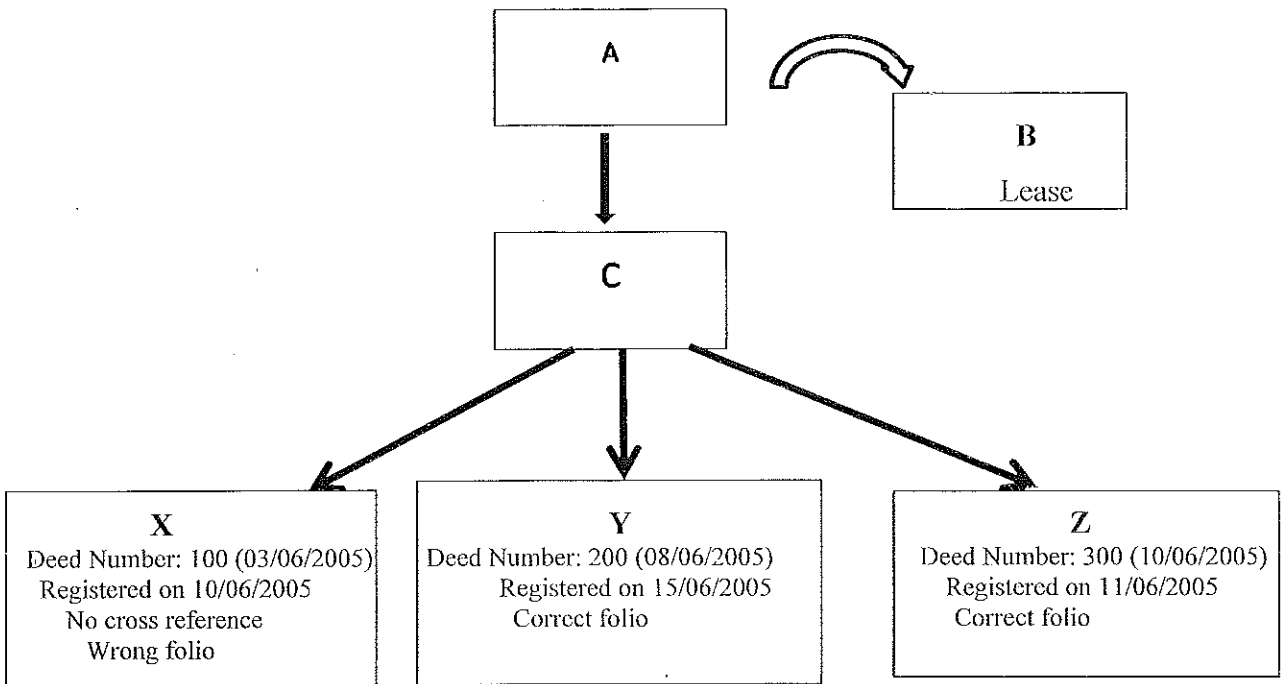
2. "In keeping with the monetary needs of society, mortgage plays an important role today. It has been developed and codified accordingly."

Critically discuss the above statement in light of the recent developments in the law relating to mortgage in Sri Lanka.

Support your answer with case law and statutory provisions.

(20 Marks)

3. The Land named 'Arana' belonged to A and in year 2000 A granted a notarially attested lease over the property in favour of B. While the lease agreement was still subsisting, A died in January 2005 leaving his son C as the owner of the land 'Arana'. C engaged in three consecutive transactions with this land.



On 03rd June 2005 C sold his rights in the property to X under the Deed number 100. No consideration had passed between parties relating to this transaction. This deed was registered on 10th June 2005. Due to an oversight of the officer at the Land registry, this deed was registered in the wrong folio without having cross reference to the original folio.

On 08th June 2005 C sold his rights in the property to Y under the Deed number 200 for valuable consideration. This deed was registered on 15th June 2005 in the correct folio.

On 10th June 2005 C sold his rights in the property to Z under the Deed number 300 for valuable consideration. This deed was registered on 11th June 2005 in the correct folio.

After the death of A, B was paying his lease amounts to C and B left the land 'Arana' in 2008. At that time Y came into possession of the property. In 2014, Z claimed the ownership of the land under priority of registration.

With the support of statutory provisions and case law, analyze the arguments which can be forwarded by Z to make a successful claim. You should also pay attention to the possible counter arguments of Y.

(20 Marks)

4. “ A co-owner of a land has been treated differently to a sole land owner by the Sri Lankan judiciary when applying the country’s land law to co- owners.”

Critically discuss the above statement choosing **only two topics** in the following instances:

- (a) The right to make improvements by cultivating the co-owned property;
- (b) The right to build on co-owned property;
- (c) The right to prescribe to the co-owned property.

Support your answer citing relevant case law.

(10 Marks x 2 = 20 Marks)

5. The Jeep negligently driven by Perera who was drunk, crashed into Wimal’s car and caused severe damage to Wimal and his vehicle in 2013. The legal proceeding of this matter was held in the District Court Nugegoda and in 2016 the Learned District Judge awarded Rs.5 million as damages which included Rs.3 million as pecuniary loss and Rs.2 million for loss of love and affection. However, at that time Perera informed the court that he was bankrupt and had no means of settling this amount.

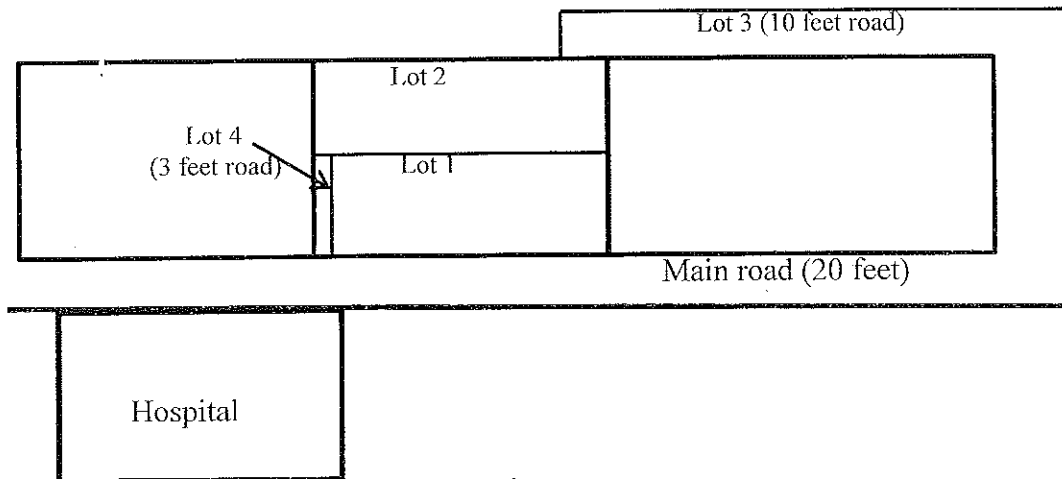
However, the counsel appearing on behalf of Wimal later found out that the 30 perch land with a modern house which was previously owned by Perera had been sold to one Karunadasa in 2015 for Rs. 6 million and that Perera continued to live in the same house as a tenant.

Discuss the most suitable remedy available to Wimal regarding his legal right to set aside the transaction between Karunadasa and Perera.

Your arguments should be based on the relevant legal authorities.

(20 Marks)

6. Nimal and Bimal were the owners of Lot 1 and Lot 2 respectively. Nimal's land faced the main road and Bimal could access to the main road via Lot 3. Both Bimal and his wife worked in the nearby hospital and Nimal allowed them to use the 3 feet wide path (Lot 4) over Lot 1 to reach the main road even though Lot 4 was not mentioned as a road in the deed pertaining to Lot 2. Bimal and family used Lot 4 for the last 12 years without any objection.



Since Bimal and his wife got jobs in New Zealand they sold Lot 2 to a doctor. After purchasing this land, the doctor commenced construction work on a multi storied building in Lot 2 which can be used to provide accommodation to nurses. The doctor wished to widen Lot 4 to a 10 foot road to give easy access to the main road. When construction work progressed, the doctor wanted to put up scaffolding on Lot 1 to build a boundary wall. However, Nimal refused to allow him to do so. Nimal also claimed that construction of the boundary wall will diminish his right to light, air and view. Further Nimal stated that, as the doctor can use Lot 3 to access to the main road, there is no necessity to exercise a right of way over Lot 1. Moreover, Nimal informed the doctor that he would not allow anyone to use Lot 4 if the building was constructed.

With the support of the case law analyze the legal rights and of the parties.

(20 Marks)

7. Kalani inherited a land of 30 perches with a two storied house in Kurunagala from her father in 1998. In 2001, Kalani went to Australia for higher studies and before leaving she requested her brother Rohan to look after her property. Rohan had mortgaged his own land to a state bank and since he did not pay the installments, Rohan's mortgage was forfeited. Since there was no place to live, Rohan moved to Kalani's house with his family, without informing Kalani. He also put the goods belongings to Kalani in one room of the house. In 2005 Rohan destroyed all Kalani's belongings which were in the room and rented the upstairs to another family. He also added a garage to the house.

Kalani returned to Sri Lanka in 2017 and when she visited her house Rohan refused to allow her to enter the premises. Kalani informed this situation to a friend of hers, who was a local politician. He forced Rohan to leave the property which he did due to fear of harm. However, Rohan returned to the property after 2 days.

Now Kalani wants to sell this property. Nevertheless, Rohan claims that he has acquired the property by prescription.

(a) Advise Kalani.

(b) Would your answer be different if Kalani had returned to her property in 2006, and stayed there one month before going back to Australia?

Support your answer with statutory provisions and case law.

(10 Marks x 2 = 20 Marks)

8. Write short notes on any **two (02)** of the following.

(a) *Rei vindicatio*

(b) Application of the doctrine of *Exceptio Rei Venditae et Traditae*

(c) Title Registration

(d) Action for definition of boundaries

(10 Marks x 2 = 20 Marks)

- Copyright reserved -