

THE OPEN UNIVERSITY OF SRI LANKA
 FACULTY OF HUMANITIES AND SOCIAL SCIENCES
 DEPARTMENT OF LEGAL STUDIES
 LLB DEGREE PROGRAMME- LEVEL 5
 FINAL EXAMINATION- 2023/2024
 LLU 5810 – LAND LAW
 DURATION- 3 HOURS



DATE: 16th of May 2025

TIME: 01.30 p.m. – 04.30 p.m.

Total number of questions: 08

Answer **FIVE** questions only.

Students will be penalized for illegible handwriting.

01. Ravindu was the owner of a land known as 'Mandawila'. In the year 2000, he executed a usufructuary mortgage in favour of Kalum. Although the mortgage deed (Deed M1) was not registered, Kalum took possession of 'Mandawila' in the same year. Ravindu passed away in 2001, and his only daughter, Sanali, inherited the property.

In 2002, Sanali executed two separate sales transactions concerning 'Mandawila'. The first transfer was to Nadeen (Deed T1), and the second was to Keshan (Deed T2). At the time Keshan purchased the property, he was aware that Nadeen had already bought it, although Nadeen had not yet completed the registration process. Keshan bribed an official at the Land Registry to delay the registration of Nadeen's deed. Keshan's Deed T2 was registered on 18th June 2003, whereas Nadeen's deed was registered later on 16th July 2003. It was subsequently discovered that Nadeen's Deed T1 had been mistakenly registered in the wrong folio due to the negligence of Land Registry officials.

The mortgage to Kalum came to an end in 2004, and Kalum passed away from a heart attack in 2005. Immediately following Kalum's death, Nadeen took possession of 'Mandawila'. Keshan later filed a declaratory action against Nadeen, asserting priority on the basis of registration. In response, Nadeen claims that he has acquired ownership of 'Mandawila' by prescription.

Discuss the legal issues arising from the above facts and evaluate the competing claims of the parties.

(20 Marks)

02. "The developments in the law relating to compensation for improvements in Sri Lanka align with the economic policy on ownership (dominium), grounded in the equitable doctrine of unjust enrichment."

Critically analyse the above statement by supporting your answer with relevant legal principles and case law. **(20 Marks)**

03. Sandaruwan, a government officer, obtained an interest-free loan from his friend Damsara, to be repaid within three years. He obtained the loan to construct his new house. However, due to certain health issues, Sandaruwan failed to make regular instalment payments for over nine months. After several reminders, Damsara sent a letter of demand to Sandaruwan through his lawyer asking him to return the money within 30 days from the date of the letter of Demand. Sandaruwan immediately gifted all his property to his only sister, Sandani. Damsara now seeks to take legal action against Sandaruwan.

Advise Damsara, referring to relevant legal principles and remedies. **(20 Marks)**

04. "Possession, as I understand it, is occupation either in person or by agent with intention of holding the land as the owner."

Bonser CJ in *Maduwanwala v Ekneligoda* 3 NLR 213, p.214

In light of the above quotation discuss the concept of 'possession' and its applicability in claiming prescriptive title to a land. Support your answer with relevant statutory provisions and case law. **(20 Marks)**

05. Senuka, Rushira and Jayaru are co-owners of a ten-acre coconut plantation.

Analyse the following situations with reference to relevant legal principles and decided cases.

- (a) Senuka is in possession of an undefined portion of the property. He complains of acts of disturbance to his possession by Rushira and wishes to obtain a possessory remedy.

(05 Marks)

- (b) Senuka, Rushira and Jayaru mutually agree that Jayaru should have the sole use and occupation of the land. Jayaru occupies the land exclusively for a period of over ten years. Now he claims that he has acquired prescriptive title to the land.

(10 Marks)

- (c) Senuka and Rushira wish to remove coconut plantation in the land and convert it into a housing complex. Jayaru strongly objects to this plan but constructs a house in an area of ten perches of the property.

(05 Marks)

(5+10+5= 20 Marks)

06. "On a survey of the case law up to 1911, it is evident that the consensus of judicial opinion in Ceylon was in favour of the view that *civiles possessio* or *ut dominus* was indispensable as the foundation of relief under possessory action. However, a significant change in the development of the law is effected by the opinion of the Privy Council in *Abdul Azees v Abdul Rahiman*. This position had a considerable impact on the moulding of contemporary judicial attitudes in Sri Lanka with regard to possessory action."

Prof. G. L. Pieris *The Law of Property in Sri Lanka* Volume 1 pp. 241-242.

Critically evaluate the above statement stating the elements of possessory action. Support your answer with relevant case law. **(20 Marks)**

07. Tharindu, the owner of a beach house situated in Unawatuna, has enjoyed an uninterrupted view of the sea across a vacant plot of land owned by his neighbour, Nuwan, for the past twenty-eight years. Additionally, Tharindu has consistently used a footpath across Nuwan's land to access the beach. Nuwan has now expressed his intention to construct a hotel on his property, which is likely to obstruct Tharindu's sea view and restrict his access to the beach. Critically evaluate Tharindu's legal position and advise him on the possible remedies available under Land law.

(20 Marks)

08. Write notes on any two (2) of the following

- (a) State Lands
- (b) Classification of mortgages
- (c) Merits and demerits of title registration
- (d) The action of definition of boundaries

(10x2=20 Marks)

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