

ශ්‍රී ලංකා විවෘත විශ්වවිද්‍යාලය
මානව ශාස්ත්‍ර හා සමාජ විද්‍යා පීඨය
නීති අධ්‍යයන දෙපාර්තමේන්තුව
නීතිවේදී උපාධි පාඨමාලාව



දෙවන අඛණ්ඩ ඇගයීම් පරීක්ෂණය -2017/2018

ඉඩම් නීතිය- LLU 5810/ LWU3312

කාලය පැය 1

දිනය : 2019 අගෝස්තු මස 13

වේලාව: පෙ.ව.9.00 – ප.ව.10.00

එක් (01) ප්‍රශ්නයකට පමණක් පිළිතුරු සපයන්න.

අපැහැදිලි අත් අකුරු සඳහා ලකුණු අඩු කරනු ලැබේ.

1. නිරාඩ් ට , මාවනැල්ලේ පිහිටි නිවසක් දෙව්වපියන්ගෙන් උරුම වූ අතර ඔහු සිය බිරිඳ හා දියණියන් දෙදෙනා සමඟ එහි ජීවත් විය. වසර 1991 දී, සිය දේපල ඇත හැර යන ලෙස, ආයුධ සන්නද්ධ කණ්ඩායමක් විසින් නිරාඩ් ට හා පවුලේ අයට බලපෑම් කළ බැවින් ඔවුහු කොළඹට පැමිණියහ. එම ආයුධ සන්නද්ධ කණ්ඩායම නිරාඩ්ගේ නිවසේ වසර 3 ක් පමණ රැඳී සිට ඉන් ඉවත් විය. ඉන් පසුව, නිරාඩ් ගේ අසල්වැසියෙක්ව සිටි රන්ජන් නිරාඩ්ගේ ඉඩමට බලෙන් ඇතුල්වී එම ඉඩම වගාකිරීම ආරම්භ කළේය. පසුව, පැරණි නිවස කඩා බිඳ දැමූ රන්ජන් එහි හෝටලයක් ඉදි කළේය. මෙම කටයුතු ගැන දැනගත් නිරාඩ් 2004 ජූලි මස 01 වන දින දේපලට පැමිණියේය. රන්ජන් විසින් ඉඩමේ සිදු කර ඇති නීති විරෝධී වෙනස්කම් දැකීමෙන් නිරාඩ් පුදුමයට පත් විය. දේපලේ රැඳී සිටීමට හා මෙවැනි නීති විරෝධී වෙනස්කම් සිදු කිරීමට රන්ජන් ඇති බලය සම්බන්ධයෙන් නිරාඩ් ප්‍රශ්න කළේය. රන්ජන්, එම ප්‍රශ්නවලට පිළිතුරු නොදෙමින් නිහඬව සිටියේය.

කොළඹට නැවත පැමිණෙන අතරතුර නිරාඩ් මාවනැල්ල පොලිසියේ රන්ජන්ට විරුද්ධව පැමිණිල්ලක් දැමීමේය. සිය දේපල වෙත නැවත පැමිණීමේ කැමැත්තක් නිරාඩ් ට තිබුණද ඔහුගේ පවුලේ අය ආරක්ෂාව සම්බන්ධයෙන් බියක් දැක්වීය. කෙසේ හෝ, ඔහුගේ පවුලේ කැමැත්ත ලබා ගත් නිරාඩ් සිය පවුලේ අය සමඟ වසර 2017 දී මාවනැල්ලේ නිවසට පැමිණියේය. කෙසේ වුවත්, තමා විසින් මෙම දේපලේ අයිතිය අත්පත් කර ගෙන ඇති බව දක්වමින්, රන්ජන් දේපලෙන් ඉවත් වීම ප්‍රතික්ෂේප කළේය.

(අ) නිරාඩ්, ඉඩමේ අයිතිය ඉල්ලා රන්ජන්ට එරෙහිව නඩුවක් පැවරුවේය. රන්ජන්ට ඇති වඩාත්ම යෝග්‍ය විත්තිවාචකය පිළිබඳ සාකච්ඡා කරන්න. (ලකුණු 15)

(ආ) අදාළ දේපල ශ්‍රී ලංකාවේ උතුරු පළාතේ පිහිටා තිබුනේ නම් ඔබගේ පිළිතුර වෙනස් වේද? (ලකුණු 05)



**THE OPEN UNIVERSITY OF SRI LANKA
FACULTY OF HUMANITIES AND SOCIAL SCIENCES
DEPARTMENT OF LEGAL STUDIES,
LL.B. DEGREE PROGRAMME – LEVEL V
2ND CONTINUOUS ASSESSMENT TEST- 2017/2018
LLU 5810/ LWU3312 – LAND LAW
DURATION – 1 HOUR**

DATE: 13-08-2019

TIME: 9.00 am – 10.00 am

Answer one (01) question only.

Candidates will be penalized for illegible handwritten.

1. Nirad inherited a house in Mawanella from his parents and he lived there with his wife and two daughters. In 1991, an armed group forced Nirad and his family to leave their property and due to these threats, they moved to Colombo. The armed gang stayed in Nirad's house for 3 years and left. Thereafter, Nirad's neighbor Ranjan forcibly entered Nirad's property and started cultivating it. Later, Ranjan demolished the old house and built a hotel on it. Nirad came to know of these activities and on 1st July 2004, he visited the property. Nirad was surprised by seeing the unauthorized changes made in the property by Ranjan. Nirad questioned as to the authority of Ranjan to occupy in property and make those unauthorized changes. Ranjan kept silent without answering to Nirad.

On the way back to Colombo, Nirad made a complaint at Mawanella police station against Ranjan. Even though, Nirad wished to come back to the property, his family feared for their safety. By some means, Nirad managed to get the consent of his family and returned to Mawanella property with his family in 2017. However, Ranjan refused to vacate property claiming that he had now acquired ownership to the property.

(a) Nirad filed legal actions against Ranjan claiming the title to the property. Discuss the most appropriate defense available to Ranjan. (15 Marks)

(b) Would your answer be different if the property was located in the Northern province of Sri Lanka? (05 Marks)

2. "Everyone is entitled to retain whatever he has in his possession, to resist whoever attempts to deprive him of it and to continue in such possession until another person has judicially established his ownership in the thing."

(Grotius. 2.2.6), cited by Rajapaksha W. (2003) in *The Law of Property Volume III-Actions*,(n.p) Author, p 209

In the light of above statement, discuss the importance of 'possessory action' focusing on the requirements that should be satisfied by a possessor. (20 Marks)

2. “තමාගේ භුක්තිය යටතේ පවතින ඕනෑම දෙයක් රඳවා තබා ගැනීමට සහ එයට බාධා කිරීමට උත්සහ කරන ඕනෑම අයෙකුට විරුද්ධ වී, අදාළ දේපල සම්බන්ධයෙන් අනෙකුත් පුද්ගලයා විසින් ඔහුගේ අයිතිය අධිකරණයක් මඟින් තහවුරු කරගන්නා තුරු එකී භුක්තිය පවත්වාගෙන යාමට සෑම කෙනෙකුටම අයිතිය තිබේ.”

(Grotius. 2.2.6), cited by Rajapaksha W. (2003) in *The Law of Property*

Volume III-Actions,(n.p) : Author, p 209

ඉහත ප්‍රකාශය ඇසුරින්, භුක්තික නඩුකරයකදී, භුක්තිකරු සපුරාලිය යුතු මූලික අවශ්‍යතා කෙරෙහි අවධානය යොමු කරමින්, එවැනි නඩුකරයක ඇති වැදගත්කම සාකච්ඡා කරන්න.

(ලකුණු 20)

-හිමිකම් ඇවිරිණි-





இலங்கை திறந்த பல்கலைக்கழகம்
 மானுடவியல் மற்றும் சமூக விஞ்ஞானங்கள் பீடம்
 சட்டக்கற்கைகள் திணைக்களம்
 சட்டமாணி பட்டப்படிப்பு நிகழ்ச்சித் திட்டம் - மட்டம் 5
 தொடர் மதிப்பீட்டுப் பரீட்சை II - 2017/18
 LWU 3312/ LLU 5810 - காணிச் சட்டம்
 காலம் : ஒரு (01) மணித்தியாலம்

திகதி : 13.08.2019

நேரம் : மு.ப 09.00- மு.ப 10.00

தெளிவற்ற கையெழுத்திற்கு புள்ளிகள் குறைக்கப்படும்.

ஒரு (01) வினாவிற்கு மாத்திரம் விடையளிக்க.

1. நிராட் என்பவன் அவனது பெற்றோரிடம் இருந்து மாவனல்லை எனும் இடத்தில் வீடு ஒன்றை வழியுரிமையாக பெற்றுக் கொண்டதுடன், அங்கு தனது மனைவி மற்றும் இரு மகர்களுடன் வசித்தான். 1991 இல் ஆயுதம் தாங்கிய குழு ஒன்று நிராட்டையும் அவனது குடும்பத்தையும் அவர்களது உடமையில் இருந்து நீங்குமாறு வற்புறுத்தியதுடன், அவ்வற்புறுத்தல் காரணமாக அவர்கள் கொழும்பிற்கு இடம்பெயர்ந்தனர். அந்த ஆயுதம் தாங்கிய குழு நிராட்டினுடைய வீட்டில் மூன்று வருடங்கள் தங்கியிருந்து, பின்னர் அவ்விடத்தை விட்டு நீங்கினர். அதன் பின்னர், நிராட்டினுடைய அயலவரான ரஞ்சன் என்பவன் நிராட்டினுடைய உடமைக்குள் பலவந்தமாக நுழைந்ததுடன், அங்கு பயிர் செய்யவும் ஆரம்பித்தான். பின்னர், ரஞ்சன் அப்பழைய வீட்டினை அழித்துவிட்டு அவ்விடத்தில் ஹோட்டல் ஒன்றையும் கட்டினான். நிராட்டிற்கு இச்செயற்பாடுகள் தொடர்பாக தெரியவந்ததுடன், 2004 ஜூலை முதலாம் திகதி அன்று தனது உடமையைப் பார்வையிடச் சென்றான். நிராட், ரஞ்சனால் அவ்வுடமையில் மேற்கொள்ளப்பட்டிருந்த அதிகாரம் அளிக்கப்படாத மாற்றங்களைக் கண்டு ஆச்சரியமடைந்தான். நிராட், அச்சொத்தினை கையகப்படுத்தி அதில் அதிகாரமளிக்கப்படாத மாற்றங்களை மேற்கொண்டதற்கான ரஞ்சனின் அதிகாரம் தொடர்பாக கேள்வியெழுப்பினான். நிராட்டிற்கு பதிலளிக்காமல் ரஞ்சன் மௌனம் காத்தான்.

கொழும்பிற்கு மீள் திரும்பும் போது, நிராட், ரஞ்சனுக்கு எதிராக மாவனல்ல பொலிஸ் நிலையத்தில் முறைப்பாடு ஒன்றை மேற்கொண்டான். நிராட் அவ்வுடமைக்கு மீள் திரும்ப விரும்பிய போதிலும், அவனது குடும்பம் அவர்களது பாதுகாப்பு தொடர்பில் அச்சம் கொண்டது. சில வழிகளின் மூலம் நிராட் தனது குடும்பத்தின் சம்மதத்தினை ஒருவாறு பெற்றுக் கொண்டு மாவனல்லையில் உள்ள உடமைக்கு 2017 இல் அவனது குடும்பத்துடன் திரும்பினான். எவ்வாறாயினும், ரஞ்சன் தான் தற்போது உடமையின் சொந்தத்தை பெற்றுக் கொண்டுள்ளதாகக் கோரி, அவ்வுடமையில் இருந்து வெளியேற மறுத்தான்.

- (அ) நிராட் அவ் உடமையின் உரிமையைக் கோரி ரஞ்சனுக்கு எதிராக வழக்கு ஒன்றினைத் தொடர்ந்தான். ரஞ்சனிற்கு கிடைக்கக்கூடிய மிகப் பொருத்தமான எதிர்வாதம் தொடர்பாக கருத்துரைக்க. (15 புள்ளிகள்)
- (ஆ) உடமையானது இலங்கையின் வட மாகாணத்தில் அமைந்திருப்பின் உமது விடை வேறுபடுமா? (05 புள்ளிகள்)

**THE OPEN UNIVERSITY OF SRI LANKA
FACULTY OF HUMANITIES AND SOCIAL SCIENCES
DEPARTMENT OF LEGAL STUDIES,
LL.B. DEGREE PROGRAMME – LEVEL V
2ND CONTINUOUS ASSESSMENT TEST- 2017/2018
LLU 5810/ LWU3312 – LAND LAW
DURATION – 1 HOUR**



00078

DATE: 13-08-2019

TIME: 9.00 am – 10.00 am

Answer one (01) question only.

Candidates will be penalized for illegible handwritten.

1. Nirad inherited a house in Mawanella from his parents and he lived there with his wife and two daughters. In 1991, an armed group forced Nirad and his family to leave their property and due to these threats, they moved to Colombo. The armed gang stayed in Nirad's house for 3 years and left. Thereafter, Nirad's neighbor Ranjan forcibly entered Nirad's property and started cultivating it. Later, Ranjan demolished the old house and built a hotel on it. Nirad came to know of these activities and on 1st July 2004, he visited the property. Nirad was surprised by seeing the unauthorized changes made in the property by Ranjan. Nirad questioned as to the authority of Ranjan to occupy in property and make those unauthorized changes. Ranjan kept silent without answering to Nirad.

On the way back to Colombo, Nirad made a complaint at Mawanella police station against Ranjan. Even though, Nirad wished to come back to the property, his family feared for their safety. By some means, Nirad managed to get the consent of his family and returned to Mawanella property with his family in 2017. However, Ranjan refused to vacate property claiming that he had now acquired ownership to the property.

(a) Nirad filed legal actions against Ranjan claiming the title to the property. Discuss the most appropriate defense available to Ranjan. (15 Marks)

(b) Would your answer be different if the property was located in the Northern province of Sri Lanka? (05 Marks)

2. "Everyone is entitled to retain whatever he has in his possession, to resist whoever attempts to deprive him of it and to continue in such possession until another person has judicially established his ownership in the thing."

(Grotius. 2.2.6), cited by Rajapaksha W. (2003) in *The Law of Property Volume III- Actions*,(n.p) Author, p 209

In the light of above statement, discuss the importance of 'possessory action' focusing on the requirements that should be satisfied by a possessor. (20 Marks)

2. “ஓவ்வொருவரும் தனது உடமையில் கொண்டிருக்கும் எதனையும் தொடர்ந்தும் கொண்டிருப்பதற்கும், அதனை அவரிடம் இருந்து பறிக்க முயற்சிக்கும் எவரையும் தடுப்பதற்கும், வேறு ஒருவர் சட்ட ரீதியாக அப்பொருளின் மீது அவரது சொந்தத்தினை நிறுவும் வரை, அவ்வுடமையினை தொடர்வதற்கும் உரித்துள்ளவர் ஆவார்.”

(Grotius.2.2.6), cited by Rajapaksha W. (2003) in The Law of Property Volume III- Actions,(n.p) Author,p209

மேலுள்ள கூற்றின் மீது உடமையாளரால் திருப்திப்படுத்த வேண்டிய தேவைப்பாடுகளின் மீது கவனம் செலுத்தி “ உடமை கோரல்” வழக்கின் முக்கியத்துவம் குறித்து கருத்துரைக்க

(20 புள்ளிகள்)

-பதிப்புரிமை பெற்றது-

11