

THE OPEN UNIVERSITY OF SRI LANKA

LL.B. DEGREE PROGRAMME – LEVEL 5

SECOND CONTINUOUS ASSESSMENT TEST 2007

LAND LAW LWU 3312

DURATION - 40 MINUTES

Date: 13th December 2007

Time: 11.30 a.m. – 12.10 p.m.



Illegible handwriting will be penalized

Answer ONE question only.

- 1 In 1992 Piyal the owner of Malwatte, appointed Puncha as the caretaker of the land and asked him to come and live on the land with his family. Puncha worked hard and cultivated the land with fruits and vegetables. Piyal visited Malwatte once a month and took vegetables and fruit home. One day in 1993, when Piyal went to the land Puncha objected and didn't allow Piyal to enter the land. Puncha also refused to give the produce to Piyal. Later Puncha built a house on the land. After a few months Piyal chased away Puncha and his family from Malwatte with the help of his friends, but Puncha came back and took control of the land within three weeks.

In 2001, Piyal died leaving his only child, 14 year old Chamila, as the sole heir to Malwatte. In 2003 Puncha died and his 20 year old son Siri, continued to stay in Malwatte with his mother despite all attempts to evict them by Piyal's brothers.

In 2006, Chamila institutes a declaratory action on Malwatte. Siri claims the ownership by prescription.

Advise Siri.

- 2 Discuss the shift of the approach taken by the courts in Sri Lanka regarding the nature of possession required in a possessory action from the strict '*civiles possessio*' to a more flexible approach. Support your answer with relevant case law from the jurisdictions of both South Africa and Sri Lanka.

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