

THE OPEN UNIVERSITY OF SRI LANKA

LL.B. DEGREE PROGRAMME – LEVEL 5

SECOND CONTINUOUS ASSESSMENT TEST 2008/2009

LAND LAW – LWU 3312

DURATION - 40 MINUTES



Date: 10TH December 2008

Time: 11.30 a.m. – 12.10 p.m.

Students will be penalized for illegible handwriting

Answer **ONE** question only

1. “Apart from the express undertakings and assurances contained in the contract of sale, an obligation is imposed upon a vendor by the Roman Dutch law not only to guarantee to his purchaser the peaceful possession of the thing sold, but also to give an implied guarantee against every form of molestation on the part of the vendor himself and of third parties.”

Perera v Perera (1956) 57 NLR 440

In the light of the above statement critically discuss the applicability of the principle of *exceptio rei venditae et traditae* in Sri Lanka

2. Piyal runs a property sales business in Colombo. He purchases land from private owners and resells them after developing the property. Piyal obtained a large sum of money as capital loans from private banks and lending institutions to initiate this business venture. The banks and lending institutions approved these loans without taking any security as Piyal was a well known businessman in Colombo. Piyal’s business grew fast and he regularly paid the loan instalments until he had completed payment of 25% of his total debt liability. However his business suddenly began crashing due to his extravagant overseas trips and gambling habits. As a result he defaulted paying the balance loan instalments. The creditors sent notice of arrears to Piyal and also letters of demand informing him that if the balance debts were not settled legal action would be taken against him.

On receiving these notices of arrears and letters of demand, Piyal alienated all his property to a third party to prevent his creditors obtaining a decree of judgement-debtor against him.

Piyal’s creditors seek legal advice from you. Advise them on the appropriate legal remedy available to creditors under the law of property in Sri Lanka.

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