



The University of the South Pacific
Emalus Campus

Examinations
Semester 1 - 1999-2003

SCHOOL OF LAW

COURSE NAME: Property Law

COURSE NO: LA300

TIME ALLOWED: 3 hours

READING TIME: 10 minutes

NUMBER OF PAGES: 3 including cover page

NUMBER OF QUESTIONS ON PAPER: 8

NUMBER OF QUESTIONS TO BE ANSWERED: Four

MARK ALLOCATED FOR EACH QUESTION: 25

TOTAL MARKS: 100

MATERIALS PERMITTED IN EXAMINATION ROOM:

SPECIAL INSTRUCTIONS

Students are required to indicate which jurisdiction(s) they are referring to when answering questions

Please do not turn over any page until you are told to do so.

1.

The law tends to evolve in response to the needs of society, influenced by economic and political considerations. The evolution of property law is slow to catch up with developments in technology and human inventiveness.

Consider what forms of property present particular challenges to the law in the first decade of the twenty-first century in the South Pacific region.

2.

Write a note on the nature of the property interests which vest in the following transferees and the rights and obligations which may be associated with these interests:

- a. A bailee of goods
- b. A mortgagee of land
- c. A donee of an equitable interest in shares
- d. The buyer of goods purchased on credit or hire purchase
- e. The finder of gold.

3.

Bernard, Arti, Melo, and Jone are four brothers. They each cultivate avocados, grapefruit, oranges and watermelon. Their land is good and they believe it could sustain more vegetable cultivation, especially quality export produce. They are the custom owners of the land. There is also the possibility of acquiring more land by way of a lease, from a neighbour. Bernard farms Arti's land for him as Arti is working abroad. Melo has four children who help him on the land. Jone has three children and he wants to have enough money to put them through school.

They are not sure what would be the best way of managing their land so as to both preserve it, and develop it. They realize that they may need to borrow finance and they may need to get some outside advice on producing and marketing quality produce.

Advise them of the possible options open to them indicating the pros and cons, the legal frameworks and the various risks and possible liabilities which are relevant to these.

4.

Write a note on the following indicating a) when such property devices may be used, b) who the parties to these are and c) what type of property they may apply to:

- i. A possessory lien
- ii. An Anton Pillar order

- iii. A Romalpa clause
- iv. A pledge
- v. Copyright

5. 'Possession is the key to most property claims'.

Consider the accuracy of this statement and illustrate your answer with reference to various examples which both support and refute it.

6.

To what extent is custom and customary law in the region relevant to the acquisition and alienation of property rights in real and personal property – including incorporeal property?

7.

Jane and Mere run a clothing business. The lease of the premises is in joint names. Profits from the business are paid into a joint bank account. The business has a small loan from the bank which is secured against the stock of the business. The supplies for the business are purchased on the basis of payment on delivery from the supplier. Unknown to Jane, Mere has been borrowing money out of the till. Also the last delivery of goods was damaged and Jane sent these back refusing to pay for damaged goods. Unfortunately business has not been going too well recently. Money is owing for loan repayments and the business trading licence is due to be paid next month. Another delivery of goods has just arrived and Mere has told Jane that they must not pay for them until they are sold.

Consider the various competing claims facing Jane and Mary and indicate how these might be prioritized.

8.

Classify the following things according to the Common law classification and indicate what would be required to protect rights of ownership to such property against claims by third parties:

- a) A manufacturing process
- b) The performance of a play
- c) An easement over land
- d) Security over crops
- e) A motor vehicle