



SCHOOL OF LAW

COURSE NAME: Property Law 1

COURSE NO: LA300

TIME ALLOWED: Three Hours

READING TIME: 10 Minutes

NUMBER OF PAGES: 4

NUMBER OF QUESTIONS ON PAPER: 9

NUMBER OF QUESTIONS TO BE ANSWERED: 4

MARK ALLOCATED FOR EACH QUESTION: 25

TOTAL MARKS: 100

MATERIALS PERMITTED IN EXAMINATION ROOM:

None

SPECIAL INSTRUCTIONS

Students should answer FOUR questions.

All questions carry equal marks

Where relevant students should indicate the jurisdiction to which their answer refers.

Students are expected to cite relevant authorities where appropriate particularly the case law and legislation of the region.

1.

John was given a stylish book bag by his grandmother when he left home to go to university. The bag is a well known make without any distinctive marks other than the usual logo. One day while studying in the library, John mislaid his bag. He subsequently saw a bag which looks just like his being carried by another student. He rushed up to the student and demanded the bag back. The other student refused saying this bag was his. John tried to snatch the bag in the attempt damaged it. In the meantime Lettie, who works in the library had found a bag of similar type lying outside the library. She picked it up and put it under the library counter with a note on it "Found in Library Monday morning in case anyone claims it." A week later no one has claimed it so Lettie decided to take the bag home. John – who is about to face disciplinary charges for assaulting another student – sees her carrying the bag and accuses her of theft.

None of these bags have any identifying marks on them. Who has the strongest claim in law to the various bags?

2.

The law of property cannot stand still because what we value as property is constantly changing and we require the law to keep up with these changes, the danger is that once the law creates structures to protect property rights people compete over resources which should be shared.

Discuss with reference to the perception of property in the Pacific region and any potential conflicts which you see arising in the development and application of property law.

3.

An American pharmaceutical company has recently discovered that certain Pacific Island people have blood cells which have a natural immunity to one of the world's most fatal diseases. Scientists think that if they can isolate the relevant cells they can develop a vaccine which could be used to treat thousands of people in the developed world. The company is seeking blood samples from identified Pacific Island groups and has applied for a patent to protect the cells they extract from the donor blood, the processes involved in this, and any future vaccine which is developed.

Consider: a) the requirements for a successful patent application and whether these are likely to be met in the circumstances

AND

b) whether the Pacific islanders who donate their blood will be entitled to share in any commercial benefits of such patents, or whether any measures could be put in place to enable them to do so?

4.

Write an explanatory note on three of the following, using cases to illustrate the application of these in factual circumstances:

- a) Where the equities are equal the first in time prevails
- b) A right in rem
- c) The nemo dat rule
- d) Indefeasibility of title
- e) Assignment of a chose in action

5.

Possession is an essential aspect of property law, regardless of the nature of the property. Without possession a person has no rights.

Discuss, with particular reference to case law which either supports or refutes this statement.

6.

Sunshine Foods is a health food company registered in the region. Its business is to package and market natural products and sell them as health foods, free of any chemical substances. At present it is seeking to promote various nuts found in the region. The company has come up with a logo, an advertising jingle - based on a traditional custom tune - to play on the radio, and an attractive yellow and green plastic wrapping for their products. Already the quality of their products is attracting customers within and beyond the region.

Identify the property interests they may have and advise them how they can best protect their product and its image from competitors, highlighting both the advantages and disadvantages of the law in this area.

7.

Write a note on two of the following indicating any particular issues raised by these forms of transfer:

- a) The transfer of shares in a private company way of a testamentary gift to a minor.

- b) The transfer by way of a credit sale of a motor vehicle being stored for the owner in a garage of the vendor
- c) The transfer of a cooker by way of a mail order purchase paid for by cheque on a sale or return basis.
- d) The assignment of performance rights of a play to a theatre company which plans to perform outside its country of origin.

8.

“Introduced notions of property law have no place in the Pacific region”

Present two arguments, supported by examples.

One which supports this statement and one which disagrees with it.

9.

Mary was getting old, although she was in good health. She decided to put her property affairs in order and called her grown up children to come to her house.

To her younger brother James she said: “My land is your land. When I am dead it is your responsibility to look after the land so that you too can pass it on”.

To her eldest son Sam she said: “This house and all that is in it will be yours when I die. You already have the keys to the door”.

To her daughter Alice she said: “This is my share certificate. I am giving it to you so that you can look after it and if anyone in the family needs money you can sell the shares. I have signed the share transfer form”.

To her youngest son Jim she said: “To you I entrust the family history, the secrets of our people and the cures for our illnesses. I have told you these many times and you must keep them safe and secret for this knowledge is of great value”.

Two days later Mary died quite suddenly. It was discovered that she had left a written document in a safe box in the bank which was stated to be her last will and testament. In it she had expressed a wish that all his property should be left to the church provided she could be buried in the church yard by the South wall. Unfortunately there is no space there for May so she is buried by the West wall.

Examine the facts and indicate who is entitled to what, and why.