



The University of the South Pacific
Emalus Campus

Semester 1 2007

**FACULTY OF ARTS AND LAW
SCHOOL OF LAW**

COURSE NAME: Property Law I

COURSE NO: LA300

TIME ALLOWED: Three [3] Hours

READING TIME: 10 [Ten] Minutes Reading Time

NUMBER OF PAGES: 4 [Four] including cover page

NUMBER OF QUESTIONS ON PAPER: 9 [Nine]

NUMBER OF QUESTIONS TO BE ANSWERED: Any 5 [Five]

MARK ALLOCATED FOR EACH QUESTION: 10% - all questions of equal value

TOTAL MARKS:

Special Instructions

1. Always give reasons for your answers, and refer to relevant legislation and cases to support your reasoning.
2. Legislation and subsidiary legislation, and reports of judicial decisions, may be taken into the examination room, but **NOT** textbooks, journal articles, course notes or personal notes.

APPROVED

J. A. P. (Hos) 24/05/07

LA 300 PROPERTY LAW I

FINAL EXAMINATION

1. Mother Sarah loves collecting butterflies and over the years has built up a unique collection of butterflies. Earlier this year she signed a deed in which she gave that collection “to my daughter Naomi provided that she does not marry Saul.” Earlier this month Naomi married Saul.

- (a) Is Naomi entitled to retain the butterfly collection?
- (b) What difference, if any, would it make to your answer if the deed had stated that the collection was given “to my daughter Naomi provided that she does not marry Saul, and, if she does, then the collection is to go to my brother, Jeremiah.” ?
- (c) What difference, if any, would it make if the deed had stated that the collection is given “to my daughter Naomi provided she does not marry, and if she does, then my property is to go to my brother Jeremiah.” ?

2. Your grandfather was an avid collector of corals, and he had created a very valuable collection of Pacific corals. About twenty years ago he died leaving a will in which he bequeathed the collection to your father for his lifetime, and then to you when you reach the age of 30 years.

- (a) Would this be a valid bequest to you under the common law?
- (b) Would this be a valid bequest to you under the law of your country?
- (c) If your father had sold that collection in 1990 to a natural history museum in New Caledonia which was unaware of the terms of your grandfather’s will could you recover the collection from the museum?

3. Describe, with examples, how

- (a) intermixture; and
- (b) accession; and
- (c) manufacture;

can operate as methods for acquiring ownership of property.

4. Last week Moses said to his son Paul: "My son I am getting old now and when I go, you are to have my truck." This morning Moses died.

(a) Does Paul own the truck?

(b) What difference, if any, would it make if Moses had said: "My son, I feel that my time is close now. When I go, you are to have my truck." ?

(c) What difference, if any, would it make if Moses had said: "My son, I feel that my time is close now. Here are the keys for my truck, and it is yours when I go." ?

5. Describe, with examples, when a gift of personal property may be set aside by the donor on the ground that the gift was procured by:

(a) actual undue influence?

(b) presumed undue influence?

6. Early last week, Cement Products Ltd agreed to sell 200 bags of cement to your client, payment to be made on delivery of the bags. Yesterday, before the bags were delivered, Cement Products Ltd went into liquidation.

(a) Can your client claim 200 bags of cement from the liquidator of the company?

(b) What difference, if any, would it make if before yesterday your client had paid half the purchase price in advance?

(c) What difference, if any, would it make if before yesterday, employees of the Cement Products had placed 200 bags of cement in the loading bay of the company ready for transport to your client.

7. Last week, Jeremiah bought a truck from Jonah, handing over a small car and a cheque as payment. Later in the week, Jeremiah sold the truck to Abraham for cash and disappeared. The cheque has now been returned to Jeremiah, dishonoured, and it appears that the small car was stolen from Isaac.

(a) Who owns the truck?

- (b) Who owns the small car?
- (c) What difference, if any, would it make if Jeremiah had sold the small car to Josiah for cash?

8. Last week Luke agreed to transport in his truck a load of valuable computer parts belonging to Computer Solutions Ltd from one town in your country to another. On the way the truck broke down, and Luke loaded the computer parts onto a truck of his friend, Mark, who was delivering some cargo to another part of the country but agreed to take on the computer parts and deliver them after he had delivered his own cargo. Whilst Mark was delivering his cargo, unfortunately and without any negligence on his part, his truck was struck by another vehicle and pushed off the road and down a steep bank into a river. Fortunately Mark was safe but all the computer parts were damaged beyond repair.

- (a) Could Computer Solutions Ltd sue Luke for the value of the computer parts?
- (b) What difference, if any, would it make if when his truck broke down Luke had telephoned Computer Solutions Ltd and the company had said that the computer parts were required urgently and he should try to put them on another vehicle?
- (c) What difference, if any, would it make to your answer to (b) if Mark had said that he would take the computer parts but without any liability for damage?

9. Describe, with examples:

- (a) what is a chose in action;
- (b) what is required to constitute a valid equitable assignment of a chose in action;
- (c) what is required to constitute a valid legal or statutory assignment of a chose in action.