



SCHOOL OF LAW

COURSE NAME: PROPERTY LAW II

COURSE NO: LA 301

TIME ALLOWED: THREE HOURS

READING TIME: TEN MINUTES

NUMBER OF PAGES: FOUR

NUMBER OF QUESTIONS ON PAPER: NINE

NUMBER OF QUESTIONS TO BE ANSWERED: FIVE, AT LEAST TWO FROM EACH PART

MARK ALLOCATED FOR EACH QUESTION: ALL QUESTIONS ARE OF EQUAL VALUE

TOTAL MARKS: 100%

MATERIALS PERMITTED IN EXAMINATION ROOM:

Students are permitted to take unannotated copies of provisions of Constitutions, Legislations, subsidiary legislation and judicial decisions into the examination room, and unclassified and unannotated lists of case names, but not copies of textbooks, journal articles and personal notes.

SPECIAL INSTRUCTIONS

Students must answer FIVE questions at least two questions from each Part

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

PART A

1. "In custom, it is accepted that the custom owner is the descendant of the person who first came here and built a nasara": Cooke CJ in Marie and Kaltabang v Kilman [1980-88], Van LR 343,
What customary modifications to this basic principle of customary land ownership have developed in island countries of the South Pacific?
2. "The central thrust of the case for the complain[ant] claims..... that they were the original discoverer of the land..... and, thereby are the true owners in custom" Armet CJ in In re Land Titles Commission Application 90/101 (Re Hides Gas Project Land Case [1993] PNG LR310,313.

What modifications to this basic principle of customary land ownership have been made by the State in island countries of the South Pacific?

3. Describe and contrast the legislative provisions with regard to registration of customary land in THREE of the following countries:
 - (a) Cook Islands;
 - (b) Fiji;
 - (c) Kiribati;
 - (d) Samoa;
 - (e) Solomon Islands;
 - (f) Vanuatu.
4. Describe and contrast the methods adopted for the management of customary land in THREE of the following countries:
 - (a) Cook Islands
 - (b) Fiji
 - (c) Kiribati
 - (d) Samoa
 - (e) Solomon Islands
 - (f) Vanuatu

PART B

5. Your client tells you that some months ago he purchased a block of freehold land in Fiji and registered the transfer and he tells you that
 - (a) a neighbor has excavated close to the boundary causing some of the land within your client's boundary to subside and a large building on that land to collapse;
 - (b) a neighbor on the other side has built a very large and high warehouse close to the boundary which blocks the light into the rooms on one side of your client's house, and also obstructs the attractive view from those rooms.

- (c) part of the land is occupied by a group of squatters who say that they have been living on the land for 5 years
What remedies, if any, would your client have?
- 6. What difference, if any, would it make if your client in the preceding question was the registered owner of a fixed term estate for 75 years in Solomon Islands?
- 7. Your client tells you that he is the owner of a large block of freehold land which he is planning to subdivide, but he wants to ensure that the purchasers of the subdivided lots
 - (a) do not carry on any noisy or noxious trade or business;
 - (b) keep all common drains clean and boundary fences in good order;
 - (c) do not erect buildings over 4 meters in height or closer than 2 meters to the boundaries.

He asks you how these objectives can be legally achieved. How would you reply assuming that there is no physical planning legislation in force in the area where his land is situated?

- 8. Your client tells you that he is occupying a large warehouse in a country of your choice in the USP region for which he is paying the sum of \$500 per month. He tells you that
 - (a) the roof is leaking and this causes damage to the goods stored by him in the warehouse;
 - (b) the owner of the warehouse uses the cemented area outside the warehouse as a car repair workshop and this obstructs your client's access to and from the warehouse.
 - (c) when your client asked the owner to repair the roof and remove the repair workshop from around the door of the warehouse, the owner refused and retaliated by boarding over the windows of the warehouse.

Your client asks you what remedies he has in those circumstances.

How would you reply?

- 9. Describe, compare and contrast the various method recognized by the common law by which a person who is not the owner can occupy land.