

UNIVERSITY OF COLOMBO, SRI LANKA
FACULTY OF LAW

BACHELOR OF LAWS EXAMINATION, YEAR II – 2022

LAND LAW

(Three Hours)

Total Number of Questions: 06

Answer THREE (03) questions and **no more**.
(Candidates will be penalized for illegible handwriting.)

01. "When lands are acquired for public purposes, it is important to spell out the true purpose for which such acquisition is being made to justify such acquisition. "

Horana Plantations Ltd. V Minister of Agriculture and others, SC Appeal No. 06/2009,
C.A.(Writ)1364/2004

Examine the above statement in light of Land Acquisition Act No. 09 of 1950 and relevant case law.

(100 Marks)

02. Rasika is the owner of the 5-acre property known as *Amanvila*, and he orally granted Amal permission to use the property for ten years before leaving the country for a job abroad in 2012. During that time period, Rasika permitted Amal to utilize the land as necessary. Furthermore, he agreed to lease the land for another ten years once he returns to the island. Amal entered the property in 2013 and renovated the house on the land and established a children's park. In addition to the slides and playground climbers, he constructed an electric ferris wheel (kathuruonchilla) for children and a ground level miniature train station. The ferris wheel was detachable, but the railway track required for the train was installed and secured to the ground using iron plates and nails. Moreover, while attempting to renovate the old house on the land using modern architectural techniques, Amal discovered that the roof was severely deteriorated and could collapse, so he replaced the entire roof with new wood. Amal installed an imported electric stove and a security camera system, as well as tiled the entire garden. Using a large

carved wooden board, Amal divided the house living room into two sections and built a temporary kitchen in one section.

Rasika returned to Sri Lanka in December 2021, pleased with the restorations to the land. However, Rasika has informed Amal that he has resigned from his job abroad and plans to cancel the agreement as this is the sole property he owns. Amal has been given one month to vacate the property.

Consider yourself Amal's attorney and advise him.

(100 Marks)

03. Koslanda and Beligaslanda are two adjoining lands. Rosa lived with her mother Gertie, and Gertie's brother Gregory, in the ancestral home in Koslanda. Gregory married and continued to live in the ancestral home. Rosa married and left Koslanda. A partition decree entered in 1979 awarded Koslanda to Gertie, and Beligaslanda, a bare land, jointly to Gregory and his cousin, Justin. Gregory made no claim to Koslanda in the partition action or to the surveyor but continued to live in the ancestral home in Koslanda. In 1995 Gertie transferred Koslanda to Rosa by deed no. 6214. Rosa now seeks a declaration of title and the eviction of Gregory from Koslanda. Gregory contends he has lived on Koslanda for over 70 years and has prescribed to it.

Gregory developed Beligaslanda by growing medicinal plants for export and local sale and allowed visitors to view the property for a fee. Gregory refused to acknowledge Justin as a co-owner. Justin demands a share of the large profits made by Gregory and to build a guest house for the visitors using his own funds. Gregory refuses claiming he prescribed to Beligaslanda.

Advise Rosa and Justin with reference to relevant statutory provisions and decided cases.

(100 Marks)

04. Saman, the youngest of three children in the Wickramasinghe family, received the land called 'Kosgahalanda' as a gift from his father. The gift deed was duly registered on 24 August 2005. In late September 2009, due to his gambling addiction and lack of funds, Saman sold Kosgahalanda to his friend Kamal. Despite the fact that Kamal purchased the land he did not possess it and allowed Saman to live there on a rent basis. Nanda, Saman's elder sister, desired to get the land for herself. Nanda asked Saman to sell Kosgahalanda to her to alleviate Saman's financial difficulties. Saman sold the land to Nanda on 10 June 2012 without informing that the land had been sold to Kamal. Trusting her brother Saman, Nanda did not check the land registration folio. Nanda registered this deed on 20 June 2012. When Nanda came to possess Kosgahalanda after the sale, Saman objected, claiming that Nanda had no right to Kosgahalanda because it had been sold to Kamal previously.

Nanda seeks your advice. Advise Nanda on the legal remedies available to her with reference to relevant statutory provisions and case law authorities.

(100 Marks)

05. Answer **both** (A) **and** (B)

(A) Critically analyze whether there are any defences to a possessory remedy and the rationale for such a legal position.

(B) As *ius vindicandi* or the right to vindicate is one of the attributes of *dominium*, a *rei vindicatio* action could only be instituted by a person with complete ownership. Do you agree? Support your answer with the relevant legal authorities.

(2x50= 100 Marks)

06. Critically evaluate the following scenarios citing legal authorities.

(A) Roy and Nimal are adjacent landowners. Nimal enjoys the right to a pathway through Roy's land as a way of necessity. As Nimal intends to buy a car, he is now requesting that the pathway be converted into a motorable path.

- (B) Silva enjoys the right to a pathway over Land X, which is owned by three siblings. The three siblings intend to divide the property among themselves through a partition action and they argue that the servitude enjoyed by Silva will be terminated after the partition action.
- (C) Wimal wishes to grant a servitude in favour of Sunil on his land parcel and wishes to know the procedure for doing so.
- (D) Kumari enjoys the right to draw water from a well situated in Land X. Due to her health issues, she is now claiming that she can draw the water from the well *via* a pipeline.

(4x25= 100 Marks)
