

May/June 2023
PVL3701
Property Law
17 May 2023
8:00-12:00 (4 Hours)
100 Marks

First examiner: Prof IM Knobel
Mr LM Kutu

Second examiner: Dr L Kiewitz

This paper consists of eleven (11) pages.

This is a closed-book examination

INSTRUCTIONS FOR A TAKE-HOME EXAM

PLEASE READ THE FOLLOWING INSTRUCTIONS CAREFULLY BEFORE ANSWERING THE EXAMINATION QUESTIONS.

1. The examination question paper counts **100 marks**.
2. It consists of **eight (8)** questions. Answer **ALL** the questions and substantiate with reference to case law and legislation where applicable. **Strictly adhere to the indication regarding the number of lines that each answer should consist of. You will be penalised if you do not adhere to this. Please do not include the questions in your submitted answers. Number correctly and chronologically.**
3. The duration of the examination is from 8:00 – 12:00 (**4 hours**). In addition to the duration of the examination indicated on the timetable, you are given **30 minutes to FINALISE the uploading of your exam file**. Your exam file must be uploaded via the myExams platform on **17 May 2023 BEFORE 12:30 (South African Standard Time)**.
4. This is a **closed-book examination**.
5. While the examination is in progress, you are not allowed to consult another person, or any source in order to assist you to answer any of the questions contained in this question paper. While the examination is in progress, you are not allowed to assist another student in answering any of the questions for this examination.
6. Your answers must be submitted online in Pdf format. No other type of submission of your examination answers will be accepted. E-mailed submissions will not be accepted for marking.
7. This examination is proctored via the Invigilator App. You are required to activate (or log in to) the Invigilator app between 7:45 and 8:30 (South African Standard Time).

**YOUR EXAM QR CODE & EXAM
ACCESS CODE**



Exam Access Code: 28fbfbce

7.1 **Please note:** If a student is found to have been outside the invigilator app for a total of

- 10 minutes during their examination session, they will be considered to have violated Unisa's examination rules and their marks will be withheld.
- 7.2 **You only have 15 minutes after the due time to submit your script on the Invigilator App.**
- 7.3 You will have **48 hours from the date of their examination to upload their invigilator results from the Invigilator App.** Failure to do so will result in students deemed not to have utilised the invigilation or proctoring tools.
- 8 The uploading of your exam file on the myExams platform must be **finalised within 30 minutes of the scheduled (timetabled) end of the exam.**
- 8.1 When ready to submit, open the Take-Home (Assignment) assessment again and click on the Add Submission button.

Submission status

Submission status	No attempt
Grading status	Not marked
Due date	Saturday, 11 June 2022, 12:00 AM
Time remaining	37 days 8 hours
Last modified	-

Submission comments

► Comments (0)

▼

Add submission

- 8.2 Note the file requirements such as:
- File size limit.
 - Number of files that can be submitted.
 - File formats allowed.
- 8.3 Check the acknowledgment checkbox and upload your answers document and then click on the Save changes button.

File submissions

☒ This submission is my own work, except where I have acknowledged the use of the works of other people.

Maximum file size: 50MB, maximum number of files: 1

Files

A Sample PD...

Accepted file types:

Document files .doc .docx .ipub .gdoc .odt .oth .ott .pdf .rtf
 PDF document .pdf
 Word 2007 document .docx
 Word document .doc

Save changes Cancel

- 8.4 Review your submission information regarding the status and click on your submission file link to check if it's correct.

Submission status

Submission status	Submitted for grading
Grading status	Not marked
Due date	Saturday, 11 June 2022, 12:00 AM
Time remaining	37 days 8 hours
Last modified	Wednesday, 4 May 2022, 3:05 PM
File submissions	
 A Sample PDF.pdf 4 May 2022, 3:05 PM	
Submission comments	
▶ Comments (0)	

- 8.5 If you need to resubmit a file, you can click on the Edit Submission button. Note: You will need to delete any existing files.

Submission status

Submission status	Submitted for grading
Grading status	Not marked
Due date	Saturday, 11 June 2022, 12:00 AM
Time remaining	37 days 8 hours
Last modified	Wednesday, 4 May 2022, 3:05 PM
File submissions	
 A Sample PDF.pdf 4 May 2022, 3:05 PM	
Submission comments	
▶ Comments (0)	



[Edit submission](#)
[Remove submission](#)

- 8.6 Use proper PDF conversion software to create the final file for upload. Free PDF conversion software is available on the Internet.
- 8.7 Add your student number and the module code in the file name. That will assist you to select the correct document to upload during submission.
- 8.8 You are advised to preview your submission (answer script) to ensure legibility and that the correct answer script file has been uploaded.
- 9 The cover page for your take-home exam must include your name, student number and the module code.
- 10 It is preferred that your exam is typed. Your submission on the myExams platform on Moodle must be made in the form of **one PDF** document. Only the last file uploaded and submitted will be marked.
- 10.1 The exam answer file that you submit must not be password protected or uploaded as

- a “read only” file.
- 10.2 Your examination answer file will not be marked if:
 - 10.2.1 you send your examination answer file via email.
 - 10.2.2 you submit the incorrect examination answer file. A mark of 0% will be awarded.
 - 10.2.3 you submit your exam answer file on an unofficial examination.
 - 10.2.4 you submit your examination answer file in the incorrect file format.
 - 10.2.5 you submit a password-protected document.
 - 10.2.6 you submit your examination answer file late
 - 10.2.7 you submit your answer file from a registered student account that is not your own.
 - 10.3 The mark awarded for an illegible examination answer file submission will be your final mark. You will not be allowed to resubmit after the scheduled closing date and time of the exam.
 - 10.4 Listening to audio (music) and utilising audio-to-text software has been strictly prohibited during your examination session, unless use of the software is related to a student’s assistive device which has been declared. Listening to music, utilising such software and/or failing to declare the software is a transgression of Unisa’s examination rules and the student’s marks will be withheld.
 - 11 You must complete the online declaration of own work when submitting.
 - 11.1 By ticking the Honesty Declaration, you confirm that you have read (i) the University’s [Policy on Copyright Infringement and Plagiarism](#) and the [Student Disciplinary Code](#), which are both available on myUnisa: www.unisa.ac.za/unisarules, and (ii) the information relating to student values and plagiarism that is found at <https://www.unisa.ac.za/sites/myunisa/default/Study-@-Unisa/Student-values-and-rules>.
 - 11.2 Students suspected of dishonest conduct during the examinations will be subjected to disciplinary processes. Students may not communicate with other students, or request assistance from other students during examinations. Plagiarism is a violation of academic integrity, and students who do plagiarise or copy verbatim from published work will be in violation of the Policy on Academic Integrity and the Student Disciplinary Code and may be referred to disciplinary hearing. Unisa has a zero tolerance for plagiarism and/or any other forms of academic dishonesty.
 - 11.3 The use of Artificial Intelligence software (ChatGPT, etc) and online sources (Course Material) during your online examination session is strictly prohibited.
 - 11.4 Unless a student is exempted because of disability or incarceration, students who have not utilised invigilation or proctoring tools will be deemed to have transgressed Unisa’s examination rules and will have their marks withheld.

PLEASE NOTE:

If you experience challenges with the Invigilator app, please send a WhatsApp **message** to the technical helpdesk on 073 505 8273. Do not contact the lecturers.

For all other exam-related challenges, you may contact the SCSC on 080 000 1870 or e-mail Examenquiries@unisa.ac.za or refer to [Get-Help](#) for the list of additional contact numbers.

Answer **all** the questions below. **Motivate** your answers with reference to the most relevant legislation and case law. **Do not consult your prescribed sources**. This is a **closed-book exam**.

Question 1

Mr Nkosi, a retired attorney, rents a residential property in Sandton. Mr Nkosi's neighbours, the Van Vuurens, own the house next to the house that he is occupying. The Van Vuurens have three sons (Jan, Piet and Koos) who are Unisa students. Jan is a law student and often discusses his Unisa law modules with Mr Nkosi. Jan, Piet and Koos enjoy spending time in the garden with their friends. They also regularly braai over the weekends. Their parents often go away for long periods and leave their sons at home. During these periods the three sons are very noisy. Mr Nkosi approaches Jan, Piet and Koos's parents to discuss the matter. The parents are very embarrassed to hear about the behaviour of their three sons. They thank Mr Nkosi for informing them. They also apologise for the behaviour of their children. Although the Van Vuurens have a good relationship with Mr Nkosi, Mrs Van Vuuren is concerned that Mr Nkosi (being a retired attorney) might institute legal action against them. Jan informs Mrs Van Vuuren that Mr Nkosi could institute legal action against them.

Unsure about the way forward, Mr Van Vuuren suggests that Jan, the law student, should be involved in solving the matter. Piet and Koos who are both studying psychology do not understand why their neighbour is complaining. They feel that since they live in a house that belongs to their parents, they should be able to do as they please. Piet and Koos also feel that Mr Nkosi is not always the perfect neighbour since his grandchildren once kicked a rugby ball over the boundary wall and broke a window. Jan, on the other hand, is currently registered for the Property law module at Unisa and is excited to explain to his two brothers and his parents how to approach the situation. He approaches you to discuss some of the questions. Against this background, advise Jan and answer the following questions:

- 1.1 Evaluate the opinion of Piet and Koos, namely that they should be allowed to do as they please since the house belongs to their parents. [5]
[Your answer should not exceed 10 lines.]
- 1.2 What legal action can Mr Nkosi institute against the Van Vuurens? Will he succeed and what will the general approach of a court be in a situation such as this? [8]

[Your answer should not exceed 16 lines.]

- 1.3 Jan, Piet and Koos decide to change their behaviour and apologise to Mr Nkosi. Mr Nkosi is overjoyed because he wants to buy the property that he is currently renting. Mr Nkosi contacted the owners, and they are willing to sell the property. He invites Jan over to discuss how he could acquire ownership of the property. Jan explains that since Mr Nkosi is already in control of the house, the short-handed method of delivery would apply. Mr Nkosi asks Jan to discuss this advice with his friends. Evaluate Jan's advice to Mr Nkosi and fully explain how Mr Nkosi will become the owner of the property. (8)

[Your answer should not exceed 16 lines.]

Question 1 total: [21]

Question 2

Karen owns a hotel, "Ubuhle", in Cape Town. She bought three new fridges for the kitchen from Cheap Deal Wholesale, in terms of a credit agreement. Cheap Deal Wholesale reserved ownership of the fridges until the final instalment has been paid. Karen also owes SA Bank R 500 000. The debt is secured in terms of a mortgage registered over the hotel. A guest of the hotel, Marianne, accidentally packed a towel that looked like her own, in her suitcase, thinking that it is hers before she leaves the hotel. One of Ubuhle's chefs, Ronald, asked Karen whether he could rent one of the small rooms in the hotel for a period of six months. Karen agreed and they sign a lease agreement. Ronald also wanted to borrow R 5000 from Karen. They agreed that Ronald would pledge his cell phone as security. Karen paid the agreed amount into Ronald's bank account, but Ronald and Karen agreed that it won't make sense for him to give the cell phone to her. Karen told Ronald that she trusted him and believe that he would repay the R 5000.

Unfortunately, Ronald and Karen had a serious misunderstanding, and their relationship was affected negatively. Ronald took a few days leave. Karen, who was still very upset, changed the lock of Ronald's room and put his belongings in a storeroom. Ronald returned from leave and discovered that his room was locked. He was furious and set Karen's car on fire and broke into the storeroom as well as the room that he rented from Karen. In the process, he damaged the locks and the doors

of both rooms. He also kicked the one fridge that Karen bought from Cheap Deal Wholesale and in the process damaged it badly. Karen called the security company that was responsible for the security of the hotel. Ronald, who is still upset asks his friend, Mike (a law student), to advise him about his options. Ronald's friend advises him to institute the *rei vindicatio* against Karen to claim back his belongings and the control that he had over the rented room. Against this background answer the following questions:

- 2.1 Briefly explain which persons in the above set of facts can be described as "lawful holders". In your answer specifically refer to the relevant things of which they are lawful holders. (2)

[Your answer should not exceed 4 lines.]

- 2.2 Briefly explain who holds a limited real right(s) in the above set of facts. In your answer specifically refer to the relevant thing(s) over which these right(s) exist. (3)

[Your answer should not exceed 6 lines.]

- 2.3 Briefly describe Marianne's real relationship with the towel in her suitcase. In your answer, refer to the mental element. (2)

[Your answer should not exceed 4 lines.]

- 2.4 How would you have described Marianne's real relationship with the towel if she stole the towel? In your answer refer to the mental element. (2)

[Your answer should not exceed 4 lines.]

- 2.5 Briefly explain who holds a personal right against Karen. (4)

[Your answer should not exceed 8 lines.]

- 2.6 Which remedies are available to Karen regarding:

- (i) her car,
- (ii) the damaged locks of the room that Ronald rented and the doors of the storeroom,
- (iii) as well as the damaged fridge?

Identify the most relevant remedy in each instance and briefly discuss Karen's chances of success in each instance. (12)

[Your answer should not exceed 20 lines.]

- 2.7 Fully advise Karen about the validity of the pledge agreement with Ronald and explain how she will be able to claim the R 5000 from Ronald. [7]

[Your answer should not exceed 16 lines.]

- 2.8 Evaluate the correctness of Mike's advice to Ronald regarding Ronald's belongings and his control over the rented room. (5)

[Your answer should not exceed 10 lines.]

Question 2 total: [37]

Question 3

Lungusile and Thuli were in a romantic relationship. The parties decided to live together and agreed to purchase a house in an upmarket suburban area. They moved into their house on 1 December 2020. Lungusile and Thuli are joint registered owners in undivided half shares of the property. Their relationship eventually broke down, and Thuli vacated the property in April 2021. Lungusile resides at the property and wishes to terminate the joint ownership of the property. Thuli refuses to terminate the joint ownership.

- 3.1 Identify the type of co-ownership that Lungusile and Thuli have over the property. Motivate your answer. (2)

[Your answer should not exceed 4 lines.]

- 3.2 Thuli decides to sell the house. Is she entitled to do so? Substantiate your answer. (2)

[Your answer should not exceed 4 lines.]

- 3.3 Lungusile and Thuli's relationship has broken down irretrievably and they cannot decide how to terminate their joint ownership. Advise them on their legal position. (2)

[Your answer should not exceed 4 lines.]

Question 3 total: [6]

Question 4

Jo-Ann and Peter occupy a farm close to Hlohlolwane in the Free State Province. The farm used to belong to them but was expropriated by the state in 2022. Jo-Ann and Peter struggle financially and do not have the means to buy another farm. Although their attorney, Dima (who practices in Bloemfontein), advised them to move, they decided to remain on the farm. They argue that the farm still belongs to them since the transfer of ownership to the state has not taken place yet.

One morning while Jo-Ann and Peter were consulting with Dima virtually, one of their teenage daughters, Lea, asked whether she can ask Dima a favour. She wants Dima to help her to get hold of a new trendy energy drink called “Base” which is only available at Chess supermarkets. Since there is no Chess supermarket in Hlohlolwane, she asks Dima to buy a few of the energy drinks. A friend of Lea, Mary, who lives in Bloemfontein will be visiting Lea on the farm in Hlohlolwane over the coming weekend and will bring the Base energy drinks with her. Lea is worried that the Base energy drinks will sell out fast. Dima, who finds the discussion very entertaining, tells Lea that she already bought dozens of the energy drinks but that she does not like the taste and that Lea can get all her Base energy drinks that she has left. Mary collects the energy drinks at Dima’s office. Dima takes a selfie with Mary holding the Base drinks, they video call Lea and Mary promises to bring the Base drinks over the weekend. Against this background answer the following questions:

- 4.1 Fully advise Jo-Ann and Peter about their legal position regarding the farm. In your answer specifically focus on whether they are still owners of the farm and the validity of their argument regarding registration. (3)

[Your answer should not exceed 6 lines.]

- 4.2 Mary arrives on the farm and hands the energy drinks to Lea. How did Lea become the owner of the Base drinks? Fully motivate your answer. (7)

[Your answer should not exceed 14 lines.]

Question 4 total: [10]

Question 5

Malti was an owner of a plot of land which was used for farming. The farm could only be accessed by means of a road over Ebrahim’s property. Even though there was an

alternative longer gravel road that provides access to the nearest town, Malti was a servitude holder of a right of way over Ebrahim's property in her personal capacity as owner of the dominant tenement. A servitude was registered against the title deeds of Malti's property, in other words, the dominant tenement, and over Ebrahim's property, the servient tenement.

The right of way leading to Malti's properties was accessible from the public street and as a result, a security risk was created because the properties were exposed to the presence of undesirable persons. Therefore, Malti requested the owner of the servient tenement for permission to erect a temporary gate across the right of way. Ebrahim refused to authorise the installation of a security gate. As a result of the safety risk to her on the farm, Malti decides to sell her property to Imran. Imran is in the process of purchasing the property. The property is not yet registered in his name. Ebrahim is aware of Imran's prospective purchase of Malti's property.

5.1 Identify the type of servitude that Malti has. Substantiate your answer. (2)

[Your answer should not exceed 4 lines.]

5.2 Is Ebrahim entitled to refuse Malti the right to install a safety gate on the right of way if authorising the installation is a reasonable thing to do? (3)

[Your answer should not exceed 6 lines.]

5.3 Imran wants to use the right of way that belongs to Ebrahim. However, Ebrahim refuses. Imran alleges that Ebrahim had knowledge about his purchase of Malti's property. As a result, he alleges that Ebrahim should grant him the right to use the servitude of right of way.

Is Ebrahim legally obliged to grant Imran the servitude of right of way? (5)

[Your answer should not exceed 10 lines.]

Question 5 total: [10]

Question 6

Agri-Cosmo Investment bought a farm from Virat and Nadia. Virat and Nadia are leasing a cottage on the farmstead to Nelly and Themba. The lease agreement expires on 30 June 2024. Agri-Cosmo Investment is of the view that it is not bound by the lease agreement between Virat and Nadia and Nelly and Themba for a cottage on the

farmstead. Is the view correct? Substantiate your answer.

(6)

[Your answer should not exceed 12 lines.]

Question 6 total: [6]

Question 7

In 2020, while Harry and Nicole were on their Christmas holiday in Cape Town, a few families unlawfully occupied a portion of their farm, “Everglades”. Harry and Nicole do not like the idea that those families are unlawfully part of their farm because they are planning to develop an upmarket residential township on it. Briefly discuss how Harry and Nicole can go about removing the families that are unlawfully occupying a portion of Everglades.

(5)

[Your answer should not exceed 10 lines.]

Question 7 total: [5]

Question 8

The title deed of the farm, Everglades, belonging to Harry and Nicole prohibits the establishment of a township development because part of the farm is protected by environmental conservation legislation. Briefly discuss how this condition affects Harry and Nicole’s ownership over Everglades.

(5)

[Your answer should not exceed 10 lines.]

Question 8 total: [5]

TOTAL: [100]