

**UNIVERSITY OF FORT HARE**  
**FACULTY OF LAW**  
**(East London)**

**LAW OF PROPERTY – LPP 313E**

**SUPPLEMENTARY EXAMINATIONS**

**JUNE/JULY 2023**

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**Time: 3 hours**  
**Subject: Law of Property**  
**Marks: 100**

**This paper consists of 3 pages including the cover page**

**Internal Examiners**

**Dr SS Bidie**  
**Dr T Shumba**

**INSTRUCTIONS**

**Answer ALL questions**

### QUESTION ONE

Write a note in which you critically discuss the three judgements written by Froneman J, Moseneke DCJ and Madlanga J in *Shoprite Checkers (Pty) Limited v Member of the Executive Council for Economic Development, Environmental Affairs and Tourism, Eastern Cape and Others 2015 (6) SA 125 (CC); 2015 (9) BCLR 1052 (CC)*.

In the course of your answer you must pay particular attention to the judges' interpretations of section 25 of the Constitution of the Republic of South Africa, 1996, and:

1. what constitutes "property",
2. what constitutes "deprivation of property", and
3. what constitutes "arbitrary deprivation of property".

[25]

### QUESTION TWO

1. Define fully each of the following concepts:

- (a) Appropriation;
- (b) Manufacturing;
- (c) Accession;
- (d) Building; and
- (e) Planting and sowing.

[25]

### QUESTION THREE

Read the following scenario and answer the question below:

There is a windmill on the farm of X and Y, which they no longer use. S (their son) purchases it from them. His father takes him to the windmill and shows it to him. He says:

- "Here is the windmill. You must come and dismantle it and take it away".

S undertakes to come back to dismantle the windmill as soon as he has the time. S becomes insolvent and the curator of the insolvent estate claims that the windmill is part of the insolvent estate. X and Y deny this and argue that the windmill is still part of their land.

- (i) Do you think X and Y will be successful with their defensive argument?
- (ii) Fully substantiate your answer explaining all the elements the scenario brings to bear (e.g. is this a contract? if so, what form of contract and what are its requirements for it to be fulfilled?).

[25]

#### QUESTION FOUR

The judgment in *University of Fort Hare v Wavelength 74 (Pty) Ltd* (University of Fort Hare) is of interest as it highlights some of the practical problems the requirement that the movable must be possessed openly gives rise to, and because cases dealing with the acquisition of movables by acquisitive prescription are not particularly common.<sup>1</sup>

1. Critically comment on the original acquisition of ownership in South Africa law of property through acquisitive prescription as was discussed in the judgment. **[25]**

**END**

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<sup>1</sup> Freedman DW "The Unholy Three: Acquisition of ownership of movables by prescription – An assessment of *University of Fort Hare v Wavelength 25 (Pty) Ltd*" 2016 (79) *THRHR* 412–428.