



# UNIVERSITY OF ESWATINI

FIRST SEMESTER SUPPLEMENTARY EXAMINATION PAPER,  
FEBRUARY 2020

FACULTY OF SOCIAL SCIENCES

DEPARTMENT OF LAW

COURSE CODE: LAW209

TITLE OF PAPER: LAW OF PROPERTY 1 (FULL-TIME)

TIME ALLOWED: 3 HOURS

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## Instructions

1. Answer four (4) Questions including Question 1.
2. Question One (1) is compulsory.

*Candidates may complete the front cover of their answer book when instructed by the Chief Invigilator and sign their examination attendance cards but must **NOT** write anything else until the start of the examination period is announced.*

*No electronic devices capable of storing and retrieving text, including electronic dictionaries and any form of foreign material may be used while in the examination room.*

**DO NOT turn examination paper over until instructed to do so.**

**QUESTION ONE** (Compulsory)

Wakhe has purchased a house, including certain specified furniture from Lunga. A wooden unit, which matched the solid wood panelling, had been built against a wall in the study into which two standard-sized steel cabinets fitted, separated from each other by a wooden cupboard which was part of the built in unit. The cabinet could easily be detached without in anyway disturbing the unit, or having to undo any screws and nails.

In another room, a bar unit with a wooden counter had been fixed to the floor when Wakhe first viewed the house, it had six loose stools in front of the unit. It was apparent from the design of the stools, and the material used in manufacture and decoration that they matched the unit. Neither the stools, nor the cabinets had been specified as being the subject matter of the sale in the agreement. After taking occupation of the house, Wakhe discovers that Lunga had removed the cabinets and the stools from the house. He takes issue with this and approaches your office for legal advice.

Explain to your client the principle of the law that pertain to movable and immovable things, and how the courts have formulated tests and distinguish between these two classes of things. In the legal opinion rendered to your client, explain in full which of these pieces of furniture is the principal thing, and which is the accessory. Substantiate your response, and assertions with the case law. (25 marks)

**QUESTION TWO**

Your clients are Ms. Mamba and Mr. Gama. They are formerly residents of a squatter camp situated at P & J Extension, Zone 3, Manzini District. Ms. Mamba has occupied his corrugated iron shack for six (6) weeks, whilst Mr. Gama has occupied his for a period of a year and two days. Their shacks were demolished sixteen months ago by employees of the Manzini City Council. During the turmoil their corrugated iron sheets were completely destroyed.

The Municipality had effected the demolition after several warnings were issued to the occupants of the squatter camp. The said warnings were made both in verbal and written form, and it was made known to the occupants of the shacks that their structures had been erected in contravention of the local authority's zoning and building regulations. After the demolition the municipality transformed the area into a recreational park where people can enjoy roller-blading as well as fishing in a large artificial pond that was constructed there.

During the demolition exercise, the employees of the municipality also attached and impounded the livestock, and vehicles of the inhabitants of the squatter camp.

Your clients wish to be restored into possession of their property. Advise them on the best legal course of action that they may pursue as they are presently homeless.

(25 marks)

**QUESTION THREE**

- a) Name the sources of the current law of things in order of priority. (5 marks)
- b) Discuss in detail the tests and theories utilised in the law of property to determine whether a specific right is real or personal (creditor's) right. Use decided cases, where relevant to substantiate your assertions. (20 marks)
- (Total: 25 marks)

**QUESTION FOUR**

Thoroughly examine the concept of possession. Outline its constituent parts, and explain these in light of the findings made by the Court courts in the following cases:

- S v Brick 1973 (2) SA 571 (A.D)
- Morkels Transport (Pty) Ltd v Melrose Foods (Pty) Ltd & another 1972(2) S.A. 404. (25 marks)

**QUESTION FIVE**

- a) Distinguish between unlawful holders in good faith, and unlawful holders in good faith. Give examples. (5 marks)
- b) Standard Vacuum Refinery Company operated an oil refinery on its land which is situated within the municipal area of Durban City Council. The latter, when assessing the appellants land for rating purposes, took into account the value of certain steel tanks which were part of the valuation and argued that the tanks were not buildings and therefore not part of the land. They regarded the tanks as movable things. Will standard – Vacuum Company succeed in their objection to the valuation? Substantiate your answer with relevant case law. (15 marks)
- c) Explain the legal significance or fungible and non-fungible things. Cite case law to substantiate your response. (5 marks)
- (Total: 25 marks)