



SCHOOL OF LAW

NLLB206: PROPERTY LAW
END OF SECOND SEMESTER EXAMINATIONS

APRIL 2026

LECTURER: MR NKIWANE

DURATION: 3 HRS

GENERAL INSTRUCTIONS TO CANDIDATES

- 1. Answer any FOUR (4) Questions.**
- 2. Read All Questions carefully before attempting to answer any.**
- 3. Support your answers with relevant authority**
- 4. Write legibly.**

QUESTION ONE

- (a) Tsano is a car dealer in Mutare. He is in the business of importing cars from Japan and reselling them in Zimbabwe. Last year, his business slumped after the Zimbabwe Revenue Authority fined him heavily for falsifying his income for income tax purposes. To recapitalize his business, he tried to borrow money from his bank without success. As a desperate measure, he approached Shumba, a well-known “loan shark” in Mutare who lends money at exorbitant interest rates. Shumba agreed to lend Tsano USD 72 000.00, payable in instalments over six months, with interest. As a condition for advancing the money, Shumba insisted that Tsano surrender six of his cars as security for the loan. Tsano has been repaying the loan for the past two months as agreed. However, last week, Tsano discovered that Shumba had already sold two of the cars and was actively seeking purchasers for the remaining ones.

Explain the form of security created between Tsano and Shumba, as well as the rights and obligations between the parties. Advise Tsano of his remedies, if any, following Shumba’s actions. **[15 marks]**

- (b) Explain the rule that servitudes must be exercised *civiliter modo*. **[5 marks]**
(c) Distinguish between delivery *brevi manu* and *constitutum possessorium* and explain why these modes of delivery are viewed with suspicion whenever parties claim that they have been used to transfer ownership. **[5 marks]**

[Sub-Total: 25 marks]

QUESTION TWO

George could not believe his good fortune when he won the coveted International Business Grant in 2025. With the money he received from this grant, he went on to establish a construction company. A few months down the line, he was approached by John, a well-known land baron. John told George that he intended to develop one of his farms into a suburb and needed George’s construction company to build the houses. It was then agreed that this construction would be done in phases and that George would be paid upon completion of each phase.

George was very excited as this was the biggest project he had ever worked on. He then used some of the grant money to begin constructing the houses in phase one. He also brought in numerous workers, from builders to welders, who worked on the construction site daily. The first thing he did was to erect a wall around the entire Phase One area and have the site guarded by security.

After 12 months of work on the site, George has completed phase one of the project. However, George was recently approached by Senzo, who advised him that the land he was working on did not belong to John, but belonged to him (Senzo), who has since served him with a notice to vacate

the land within seven days. George has checked the status of the land with the deeds registry office and established that John's title had been obtained fraudulently and that the owner is indeed Senzo. In the meantime, John has disappeared and is rumoured to have fled to Russia. However, George thinks it would be unfair for him to vacate the land and lose the USD 500,000.00 he had spent on constructing the houses, as agreed with John.

Advise George and Senzo of their respective rights and liabilities, if any, in this matter.

[25 marks]

QUESTION FOUR

Larry has owned his house in Hillside, a low-density suburb, for nearly fifty years. He tells you that, several years ago, Mutare City Council began planting oak trees alongside the streets in this suburb. Larry was unhappy about the planting of trees near his house, especially oak trees. He tells you that he approached the City Council to inform them that he did not want these trees to be planted along the boundary. The Council ignored him and proceeded to plant the trees. The trees are now fully grown and have created three problems for Larry.

- Leaves falling from the trees are blocking Larry's gutters.
- Roots from the trees have extended (underground) into Larry's property, causing cracks in his house.
- Some branches of the trees have extended into Larry's property, blocking the sunshine towards his house, making it very cold.

Larry has complained to the Council about these problems several times, but the Council has either ignored his complaints or advised him that it has done nothing wrong and simply exercised its rights as a landowner.

Advise Larry on any remedy he may have against the Mutare City Council.

[25 marks]

QUESTION THREE

"So obsessed are the courts in protecting the rights of an owner that the defence of estoppel to an owner's rei vindicatory action is virtually worthless".

Evaluate the accuracy of the above statement with reference to authority.

[25 marks]

QUESTION FIVE

- (a) Peter and Jonathan have been close friends for years. Two years ago, they concluded an agreement in which Peter sold his house in Chikanga to Jonathan. Jonathan paid for the house in cash and moved in immediately. They mutually agreed not to register the transfer of the house, as that was both unnecessary and expensive. Two months ago, Peter's estate was declared insolvent, and the liquidator has written to Jonathan advising him that he is taking over the house as part of Peter's estate for the benefit of his creditors. Jonathan has approached you as a lawyer seeking your advice on his rights, if any, with respect to the house.

Advise him fully, citing relevant authority.

[15 marks]

- (b) "The distinction between movable and immovable property is not only a theoretical one, but of practical significance in so far as the law applicable to each differs substantially". Examine the validity of the above statement, citing relevant cases and examples.

[10 marks]

[Sub-Total:25 marks]

TOTAL MARKS: 100

END OF QUESTION PAPER