

**THE OPEN UNIVERSITY OF SRI LANKA**  
**FACULTY OF HUMANITIES AND SOCIAL SCIENCES**  
**DEPARTMENT OF LEGAL STUDIES**  
**LL.B DEGREE PROGRAMME- LEVEL 05**  
**FINAL EXAMINATION-2020/2021 (ONLINE)**  
**LAND LAW-LLU5810/LWU3312**  
**DURATION: 03 HOURS**



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Date: 06<sup>th</sup> September 2021

Time: 9.30 am- 12.30 pm

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Total number of questions: 05

**Number of questions to be answered: 04**

Candidates will be penalized for illegible handwriting.

1. In 2003, Neville mortgaged the land called Udakumbura to Jayasena and this mortgage was due at the end of 2006. Jayasena took possession of Udakumbura as a security. Neville died in 2005 and all his properties including Udakumbura were inherited by his wife, Kanthi, and 10-year-old son. After the death of her husband, Kanthi left for a job in Kuwait, leaving her son in the care of her parents. Kanthi returned to Sri Lanka in 2009 but did not visit Udakumbura. Since 2003, Jayasena has been continuously cultivating Udakumbura. In 2010, Kanthi's brother tried to settle the mortgage, but Jayasena refused to accept the money, saying that the release of the mortgage should be done by Kanthi. In 2011, Kanthi's brother used thugs to threaten Jayasena with death if Udakumbura was not returned within two weeks. Fearing this, Jayasena moved to his uncle's house and avoided cultivating Udakumbura for three seasons. Even after the threats, neither Kanthi nor her brother took action to cultivate or possess Udakumbura. In late 2012, Jayasena returned and settled in Udakumbura and cultivated it again. After Kanthi returned to Sri Lanka in 2015, she requested Jayasena to release the land from the mortgage, but he refused to return the land. Kanthi filed a case to secure the ownership of the land

for herself and her child. Jayasena stated in the court that he had the right to the entire land under prescription.

Assume that you are the judge who hears this case in 2021. You are required to write down your decision with relevant authorities.

(25 Marks)

2. Discuss the following situations citing relevant case law.

- (I) Nihal has been using a 6 feet road via Sunimal's land to access the main road for over 20 years. Recently Nihal purchased a car and as he is unable to drive the car via the existing road way, he is searching the possibilities of expanding the existing 6 feet road to a 10 feet road.
- (II) Gayan's house consists of a boundary wall and he wants to put up scaffolding on his neighbor Riyaz's land to renovate the boundary wall.
- (III) Kamal has been using a 6 feet wide road over Chamal's land to access the main road for over 15 years. Kamal and his family went to Australia for 3 years for his postgraduate studies. When Kamal returned to Sri Lanka, he observed that Chamal has constructed a temporary building blocking the road which provided the only access to Kamal's house.
- (IV) Sirisena owns a house in Hikkaduwa close to the beach and he has been enjoying a beautiful view of the sea for a period of 25 years, across the bare land of the neighbor Perera. Sirisena also uses a foot path over Perera's land to reach the beach. Perera recently indicates his intention to construct a multi-storey hotel on his land and Sirisena fears that this construction would block his sea view, ventilation, sunlight, and access to the beach.
- (V) Priyal inherited a bare land from his parents and no any right of way has been given for this land-locked parcel of land by the registered deed.

(25 Marks)

3. In 2014, Nimal, the owner of a 150 perch land in Kurunegala, leased his land to a carpenter named Prasanna for 03 years. There existed a coffee plantation in a part of the land at the time of the lease. There was also a verbal agreement between Nimal and Prasanna that the lease period could be extended if necessary. After leasing this land, Prasanna constructed a building with a sheet roof mounted on iron pillars to carry on his carpentry work. A small part of the front of the building was set aside as a shop, and Prasanna covered it with glass. In addition, an artistic carved wooden structure was mounted on a cement wall near the gate of the land.

Prasanna's wife Nilanthi, a cultivator, further expanded the existing coffee plantation on the land and in 2015 started an orchid plantation on a part of the land. A water sprinkler system and a tiled water tank were also constructed on the land to obtain water for cultivation. By the year 2016, the neighbours started blaming Nimal for being too noisy in Prasanna's carpentry workshop and causing harm to the environment. In 2017, Nimal, distressed by frequent complaints from neighbors, asked Prasanna to vacate the land as soon as the lease period was over. Although Prasanna requested that the land be leased to him for another three years, Nimal did not agree to the request and asked Prasanna to leave the land. Then, Prasanna demanded compensation for the improvements and cultivations they had made, but Nimal refused to pay compensation and stated that the improvements have become part and parcel of the land. Prasanna refuses to leave the land until he was compensated for all the improvements.

- (I) Discuss the rights and responsibilities of the parties, focusing only on the relevant concepts of land law. (15 Marks)
- (II) Assume that Nimal evicted Prasanna from the land in 2016 due to complaints from neighbors. In such a situation, describe the remedy available for Prasanna under the Land Law of the country. (10 Marks)

4. Answer both Part A and Part B

Part A

Since the law recognizes that “a co-owner is entitled to an undivided share of every inch of the soil” the general principles of land law always apply differently towards co-owners.

Do you agree with the above statement?

Critically evaluate the above statement by selecting **only two** areas of land law. Your answer should be supported with the relevant case law. (17 Marks)

Part B - Discuss the following situations citing relevant case law.

(I) Shantha obtained a mortgage of Rs. 3 million from Silva in 2018 by subjecting a land he had not yet inherited properly. The land was inherited to Shantha after the death of his parents in 2020. Silva was looking into the possibility of going to a mortgage case for not paying the mortgage properly at the end of the mortgage period.

(04 Marks)

(II) Prasad started a textile business in 2015 by mortgaging his land to the Bank of Ceylon and obtaining Rs. 6 million subjects to a duly registered mortgage deed. The mortgage payment period was 6 years and his business collapsed due to his illness. Prasad was unable to pay the mortgage properly at the end of 6 years. The Bank of Ceylon was looking for an easy way to recover this money.

(04 Marks)

5. (I) “The Registration of Documents Ordinance No 23 of 1927, provides **full** protection to persons who duly register their deeds with due diligence and interest in their rights.”

Do you agree with the above statement?

Explain your answer critically with the relevant statutory provisions and case law.

(15 Marks)

- (II) Do you think that the Registration of Title Act No 21 of 1998 has cured all the defects in the system of registration of documents or are there any further recommendations that you would propose to strengthen the Registration of Title Act No 21 of 1998? Explain and give reasons for your answer.

(10 Marks)

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