

CLA 1501.

OCTOBER/NOVEMBER 2017.

EXAM MEMO.

SECTION A.

Question 1.

- (a) The two methods through which an original right of ownership may be established are Occupation and Prescription. With occupation it refers to seizure of property that belongs to no one, with the intention to keep it, for example catching a wild bird. However it is important to note that a person cannot become the owner of property belonging to someone else. Occupation is regarded as an Original method of acquiring ownership because the new owner does not obtain the right of ownership from another, but establishes an original right of ownership. With Prescription a person can become the owner of the property if he/she has possessed it openly as if he/she were its owner for an uninterrupted period of 30 years. However careful consideration must given with regards to legal certainty. Prescription is an original method of acquiring ownership because the possessor does not obtain the previous owners ownership, but establishes an original right of ownership after the original owner has lost ownership.
- (b) The circumstances under which an offer may fall away are through ;
- 1) Expiry of offer – if the offer clearly states that it is valid for a certain period of time, offer falls away if it has not been affected within that period
  - 2) Revocation – offeror withdraws offer but must inform offerree & do so before they accept
  - 3) Rejection – of offer and if offerree rejects offer they can not change their mind & try to accept
  - 4) Counter-offer – if offeree does not accept the offer exactly as it was But made a counter offer, offeree by implication rejects the offer and the Offer is extinguished as the counter offer is the new offer.
  - 5) Death – of either party before acceptance of the offer.
- (c) (i) 3 years.

- (ii) The 5 ways in which a personal right may be terminated is through:
- discharge.
  - Rescission and cancellation.
  - agreement.
  - merger (confusion).
  - set off.

(d) (i) Legal capacity is the capacity to acquire and to bear rights and duties which legal subjects have i.e. natural and juristic persons.

(II) Capacity to act is the capacity to perform juristic acts, participate in legal transactions and conclude valid contracts also only natural persons have this capacity

(e) The consequences of the marriage of the parties John and Sandy in community of property are that the separate assets and liabilities of John and Sandy are consolidated that is joined to form one common joint estate. The joint estate acquires the profits and bears the losses which arise during the marriage. Therefore John's debt in other now also Sandy's debt as it falls under one estate. , if John pays Sandy the money will go back to the joint account of the married couple.

#### Question 2.

- (a) True.
- (b) False.

#### Question 3.

- (a) – 3 2
- (b) – 3 3
- (c) – 3 4
- (d) – 3 1

#### SECTION B

Q 1. 1.

Q 2. 1.

Q3. 3.

Q4. 4.

Q5. 3.

Q6. 2.

Q7. 2.

Q8. 2.

Q9. 3.

Q10. 1.

Q11. 4.

Q12. 4.

Q13. 1.

Q14. 1.

Q15. 4.

Q16. 4.

Q17. 2.

Q18. 3.

Q19. 1

Q20. 1.