

THE UNIVERSITY OF PAPUA NEW GUINEA



WAIGANI CAMPUS

SCHOOL OF LAW

**NON CITIZENS LAWYERS BAR ENTRANCE EXAMINATION
IN COLLABORATION WITH THE PAPUA NEW GUINEA LAW
SOCIETY**

Name: _____

Candidate Number: _____

Date of Examination: _____

UNIVERSITY OF PAPUA NEW GUINEA
SCHOOL OF LAW

Land Law of Papua New Guinea

Land law assessment designed for non-citizen Lawyers undertaking bar entrance examination for admission as a lawyer of the National Court of Papua New Guinea.

INSTRUCTION

1. **The examination time is 3 hours with 30 minutes allocated for reading.**
2. Candidates are reminded that **Plagiarism** and **cheating** will attract a zero mark and candidates will be referred to the Executive Dean and the PNG Law Society for further action.
3. The assessment is marked out of a total score of 100

QUESTION ONE

In the following question you are required to analyse and discuss the importance of policy impacting on customary land in Papua New Guinea.

- (a) "Explain the principle "*cujus est solum egus est usque ad coelom et ad inferos*" and its application to alienated land and unalienated land in Papua New Guinea in the 21st century." (25 Marks)
- (b) What is the main thrust for the government of PNG following the passing of the *Land Registration (Amendment) Act, 2009* and *Incorporated Land Group (Amendment) Act 2009*? (25 Marks)

QUESTION TWO

The Facts

Duadua tribe comprises 3 major customary land groups of villages within the Masalai Local Level Government (LLG) area of Den District in the Orosambo Province. Delaware (PNG) Limited (a foreign investor company) landed heavy logging machinery, equipment and set up a site operations office and commenced clearing forest areas for a major oil palm project. The clearance of the forest included damage to village house, gardens and other food crops with substantial damage to the river and surrounding areas. The villagers are taken by surprise about the activities of the company and are unable to stop the company as it has hired policemen to protect its equipment and personnel.

Delaware in partnership with *Eda Agri Development Limited* (a local landowner company) informed Duadua tribe that they have procured majority consent of the tribe to develop the oil palm project on their land. The customary landowners object to that claim and state that they have not been consulted and even if any formal arrangement was made, they have not consented to the development of oil palm on their land. Conservation Environment Protection Authority (CEPA) has also issued Environment Permit for waste disposal and Forest Clearance Authority (FCA) to clear 35,000 hectares of land to develop an oil palm estate.

Duadua tribe are concerned that the Incorporated Land Group process has been abused and claim that Eda Agri Development Limited does not represent the majority interest of all 3 villages because its shareholding structure has 3 shareholder who are not members of the tribe. Dispute and fights have occurred between the villagers as it has discovered that a small number of villagers having no authority of the clan leaders submitted ILG forms and with forged signatures which was processed and certificate issued by the Registrar of Incorporated Land Groups.

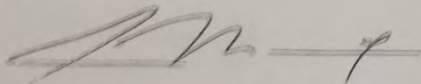
They are concerned they have not been involved in the ILG process and will not receive any benefit from the project because there is no benefit sharing agreement, and that if they were involved there is much more to be done in relation to resolving land boundary disputes which is ongoing.

Assessment Task

Advise the majority clan landowners on their rights in relation to the;

- (1) Current process and requirements for recognition of land group registration and dealings with objections to the application for registration of customary land.
- (2) The implication of the issuance of Forest Clearance Authority and the Environment Permit where a breach occurs and its implication on the investor company.

(50 Marks)



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Senior Lecturer
27th March, 2019

NOTE: Please return Exam Questions when you finish