#### ELANA BEKKER PROPERTY LAW NOTES

#### LPRO3724 Summary

#### Unit 1: Introduction to property law

#### Chapters 1 & 2 of the TB

#### Scope and content of property law:

- In wide sense → It deals with "property" all assets that form part of person's estate. Or, it deals with non-legal terminology, a person's "possessions"
  - Includes immovable assets, like a house
  - Movable assets, like a motor car
  - Immaterial property, like a patent
- Remember, private law concerns itself with legal relationships and transactions between private subjects operating on a more / less equal footing
- Public law also plays a part in LPRO > section 25 of the C provides protection for rights in property.
   LPRO must take note of C principles & their effect
- As result of developments, it became impossible to restrict LPRO to corporeal assets / things
  - "LPRO" = more appropriate than "law of things"
- Apart from rights in property, LPRO traditionally deals with relationships that don't qualify as rights at all
  - They are still NB for LPRO because of their legal implications
    - Relationships are described as unlawful control of property, to which the person in question has no right

#### Sources of the traditional property law:

- Roman-Dutch private law, so common-law.
  - Found in writings of the great RD lawyers of the 17°-18° centuries
- SA leg
  - Sectional Titles Act 95/1986
  - Security by Means of Movable Property Act 57/1993
  - Constitution
- Case law
  - o Ex Parte Geldenhuys
    - · Distinction between real rights & creditor's rights
  - Setlogelo v Setlogelo
    - Requirements of obtaining an interdict

#### Apartheid effects -> discriminatory laws must be abolished

 Section 39(2) of C → common + customary law must be interpreted + applied with due regard to spirit & objectives of C

#### Sources of modern property law:

- RD common law.
  - Must now be applied with greater care & circumspection in every case
  - Must now consider whether it will promote / frustrate the ideals of human dignity, freedom and equality set out in C
- Statutory law:
  - Apartheid was seen to be promoted through legislation (Prevention of Illegal Squatting Act of 1951)
  - New leg have to be evaluated against C backdrop

# **Summary Of American Law**

Jessica J Manson

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