

ANSWERS STUDY UNIT 11

 Question 1 pg 262

Answer:


The answer to this question is on pages 142-143 of the Study Guide in the Study Unit dealing with the transfer of ownership. The questions are substantially the same.

The grounds on which the trustee can oppose X and Y's claim are the following:

- X and Y did not acquire ownership
- that the thing does not exist and is not identifiable
- the defendant is not in control

The only relevant defence for this question is that X and Y did not become owners in terms of *constitutum possessorium*.

Please study the entire section on pages 139-143 very carefully.

 T steals Q's car. T takes the car to Highway Motors, which undertook to:

- (i) install a new crankshaft
- (ii) install a device to improve the petrol consumption
- (iii) replace the upholstery with leather upholstery


In terms of their agreement, T was to pay R 2600-00, R 2000-00 and R 3000-00 respectively for the above services. On passing the garage, Q sees his car and institutes the *rei vindicatio* against the owner of Highway Motors, Z, who was *bona fide* all the time, and who was under the impression that T was the owner of the car, relies on his lien and alleges that he is entitled to keep the car until the full R 7600-00 has been paid for his services.

Discuss Z's legal position. (15)

Answer:

The answer to this question appears on pages 20-22 of the Study Guide. Please read this entire section regarding the answering of examination questions on pages 19-23 of the Study Guide carefully.

ANTWOORDE STUDIE-EENHEID 10

 Vraag 1 bl 264-265

Antwoord:

Die antwoord op hierdie vraag is op bladsye 142-143 van die Studiegids in die Studie-eenheid wat oor die oordrag van eiendomsreg handel. Die vrae is wesenlik dieselfde.

Die gronde waarop die trustee X en Y se eis kan teenstaan is die volgende:

- X en Y het nie eiendomsreg verkry nie
- dat die saak nie bestaan en identifiseerbaar is nie
- dat die verweerder nie in beheer is nie

Die enigste relevante verweer in hierdie vraag is dat X en Y nie eienaars geword het ingevolge *constitutum possessorium* nie.

Bestudeer asseblief die hele gedeelte op bladsye 139-143 deeglik.



T steel Q se motor. T neem dit na Hoofweg Motors, wat onderneem om:

- (i) 'n nuwe kruk-as te installeer
- (ii) 'n toestel te installeer wat petrolverbruik sal verbeter
- (iii) die bekleedsel met leerbekleedsel te vervang

Ingevolge hulle ooreenkoms sal T onderskeidelik aan Hoofweg Motors R 2600-00, R 2000-00 en R 3000-00 betaal vir hierdie drie take. Toe Q by die motorhawe verbyry, sien hy sy motor, en hy stel toe die *rei vindicatio* in teen Z, die eenaar van Hoofweg motors. Z, wat die healtyd *bona fide* was en gedink het T is die eenaar van die motor, beroep hom op sy retensiereg en voer aan dat hy daarop geregtig is om die motor te hou totdat die volle R 7600-00 vir sy dienste betaal is.

Bespreek Z se regsposisie.

(15)

Antwoord:

Die antwoord op hierdie vraag verskyn op bladsye 20-22 van die Studiegids. Lees asseblief hierdie hele afdeling op bladsye 19-23 van die Studiegids deeglik.