

ANSWER STUDY UNIT 10

🌻 Question (no number) pg 223-224

Answer:

(a) X and Y have co-ownership of the farm Waterford and of their car. Co-ownership (1) is a real right (1) over their own (1) things.

(b) C has reserved ownership of the farm implements. Reservation of ownership (1) is a real right (1) over their own (1) things.

(Please take note: Reservation of ownership is a specific form of ownership to secure a debt. On insolvency it is converted in to a tacit hypothec – a specific form of real security – see SU 11 under tacit mortgages pg 288.)

(c) L has a mortgage bond over X and Y's farm. A mortgage bond (1) is a limited (1) real right over another (1) person's thing.

(Please take note: A mortgage bond is a real security right over another person's immovable thing – see SU 11 under express or conventional mortgages pg 275-278.)


(d) M has a right of habitation over the old homestead. A right of habitation (1) is a limited (1/2) real (1/2) right over another (1) person's thing.

(Please take note: A right of habitation is a personal servitude over another person's thing. It is a limited real right and NOT a personal right – see SU 10 pg 241-246.)

(e) S has a right of way to drive over his grandparents' (Q and R's) farm, *Pulang*. A right of way (1) is a limited (1/2) real (1/2) right over another (1) person's thing.

(Please take note: A right of way can be a personal servitude if it is granted to a person in his/her personal capacity or a land (praedial servitude) if it is granted in the capacity as owner of the dominant tenement)

ANTWOORD STUDIE-EENHEID 10

 Vraag (geen nommer) bl 223

Antwoord:

(a) X en Y het mede-eiendomsreg van die plaas, Waterval, en van hulle motor. Mede-eiendomsreg (1) is 'n saaklike reg (1) oor hul eie (1) sake.

(b) K behou eiendomsreg voor van die plaasimplimente. Eiendomsvoorbehoud (1) is 'n saaklike reg (1) oor hul eie (1) sake.

(Neem asseblief kennis: Eiendomsvoorbehoud is 'n spesifieke vorm van eiendomsreg om 'n skuld te verseker wat by insolvensie in 'n stilswyende hipoteek omgeskakel word – sien SE 11 onder stilswyende hipoteke bl 291.)

(c) L het 'n verbandreg oor X en Y se plaas. 'n Verbandreg (1) is 'n beperkte (1) saaklike reg oor 'n ander (1) persoon se saak.

(Neem asseblief kennis: Verbandreg is 'n saaklike sekerheidsreg oor 'n ander persoon se onroerende saak – sien SE 11 onder bedonge verbande bl 278-281.)

(d) M het 'n bewoningsreg oor die ou opstal. 'n Bewoningsreg (1) is 'n beperkte (1/2) saaklike (1/2) reg oor 'n ander (1) persoon se saak.

(Neem asseblief kennis: 'n Bewoningsreg is 'n persoonlike serwituut op 'n ander se saak. Dit is 'n beperkte saaklike reg en NIE 'n persoonlike reg NIE – sien SE 10 bl 241-246.)

(e) S het 'n reg van weg oor sy grootouers (Q en R) se plaas *Pulang*. 'n Reg van weg (1) is 'n beperkte (1/2) saaklike (1/2) reg oor 'n ander (1) persoon se saak.

(Neem asseblief kennis: 'n Reg van weg kan 'n persoonlike serwituut wees as dit 'n persoon in sy/haar persoonlike hoedanigheid toekom. Dit kan ook 'n saaklike serwituut (erfdiensbaarheid) wees as dit 'n persoon in sy/haar persoonlike hoedanigheid as eienaar van die heersende erf toekom.)