

1. Define the following concepts:

- a. Actio ad exhibendum
- b. Interdict
- c. Estoppel
- d. Rei vindication
- e. Action negatoria
- f. Condictio furtive

(20)

2. Summarise all the remedies available to an owner

Remedy	What can be claimed?	Who can claim?	Against whom can action be instituted?	What must be proved?
Rei vindication				
Interdict				
Declaratory order				

Actio negatoria				
Condictio furtiva				
Action ad exhibendum				
Action legis Aquilae				

3. Classify the above remedies by indicating which are property law remedies and which are delictual remedies. (7)
4. What must be proven by the plaintiff on a balance of probabilities if he/she wants to successfully rely on the Rei Vindicatio? (3)



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5. Discuss section 70 of Act 32/1944 and statutory limitations on evictions as restrictions/exceptions on application of the rei vindicatio. (6)
6. Estoppel is another defence which can be raised against an owner’s rei vindicatio. List and briefly discuss the requirements for a successful reliance on this defence. (8)
7. Set out the requirements for a successful application for an interdict. (3)
8. Match column A with B. (10)

A	B
X and Y are owners of Waterford. S, their son leases a portion of the farm for grazing purposes. X starts to plough on a section of their farm to which S is entitled in terms of the lease contract. S requests X to stop the ploughing on that portion of the farm. X refuses.	Actio negatoria
Declaratory order	Q is the owner of a car. T, a thief, steals the car. For a successful reliance on this remedy Q must prove that he is the owner of the car, that T intentionally alienated the car and that he was mala fide in doing so. If he can prove the above, he can claim the market value of the car at the time of the alienation.
Aquilian action -delictual claim for damages	Clifford v Farinha

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<p>On the opening (delatio) of an inheritance the heir acquires a vested right, namely a personal right, against the executor to demand delivery or transfer of the inheritance. The heir becomes owner of the assets in the inheritance only when the executor delivers or transfers the property to him or her. The question in whom ownership vests after the testator's death was left open by the Appellate Division.</p>	<p>Actio legis Aquilae</p>
<p>Quenty's Motors (Pty) Ltd v Standard Credit Corporation Ltd</p>	<p>Greenberg v Estate Greenberg (1955 (3) SA 361(A))</p>
<p>Real action aimed at protection of ownership in circumstances where third persons seek to exercise rights of a servitude holder which they do not have or where servitude holders exceed the limits of their servitudes.</p>	<p>Condictio furtiva</p>
<p>The following must be proved: (i) unlawful conduct by the defendant (ii) culpability (intent/negligence) on the part of the defendant (iii) proprietary right/interest of the plaintiff in the thing (iv) patrimonial loss by the plaintiff</p>	<p>Interdict</p>

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(v) causal connection between the patrimonial loss and the conduct of the defendant	
<p>S rents a car from a car rental agency. In terms of the lease agreement S is liable for any damage to the car. S goes on holiday and asks Z, his sister-in-law, to park the car in her garage while he is away. She agrees. One Saturday she removes the car from the garage and takes her daughter to the doctor. The car is stolen from the doctor's parking area. The car cannot be traced and the car rental agency claims the car from S. Since S is unable to return the car, he pays the car rental agency and claims the amount from Z.</p>	<p>The court held that the floor plan agreement between L and S was a simulated transaction and that the real intention was to use the cars as security for the financing that L would have obtained from S. The intention was never to transfer ownership to S. S never became the owner of the cars.</p>
<p>The <i>condictio furtiva</i> can be defined as an action which can be instituted by the owner or a person with a lawful interest in claiming the thing or its highest value since the theft from the thief or person who removed the thing with deceitful intent (</p>	<p>S gave the exclusive right to trade on a certain piece of land to Z. Z transferred this right to his son, Zz. The right was not registered in favour of Z. S sold his farm to X. X argues that Zz is not entitled to trade on that piece of land, but Zz insists that he acquired that right from his father, Z.</p>
<p>actio ad exhibendum</p>	<p>Damages can be claimed with this action from any person who through his/her unlawful conduct caused loss to an owner's thing in a culpable (intentional or negligent) manner</p>

9. Briefly mention the chief methods by which possession and holdership are terminated. (6)
10. X and Y are co-owners of the farm Waterford. They purchase certain farm implements from C, the cooperative, in terms of a credit agreement. C reserves ownership of the farm implements until the final instalment has been paid. The farm implements consist of a plough, a tractor, a harvester, spades, hoes and picks. Z, a neighbour, borrows the tractor for a month to plough her own lands. T steals the plough and gives it to his son, Tt, to use. After some intensive searching for the plough, X and Y decide to get a new one because they cannot do without a plough on the farm. Since they are getting a new plough they decide to get a new harvester and allow the neighbour, Z, to use the old one. Tt can no longer hide the tractor from the police and he sets fire to it, destroying it completely. Y dies. Identify the ways in which possession and holdership are terminated in this example. (6)

