TABLE OF CONTENTS

PREFACE	
About the Author	ii
TABLE OF CONTENTS	v
CHAPTER - I	
1:1. Laws of Sri Lanka	
1:2. Roman-Dutch Law	
1:3. Lex Aquilia and the Roman-Dutch common law of Sri Lanka	.10
1:4. The English Law	
1:5. Adoption of English law through judicial decisions	
1:6. The Personal Laws	13
CHAPTER - II Acquisition of ownership under common law	19
2:1. What ownership means	
2:2. Modes of acquiring ownership	
2:3. Extinction of ownership	21.
2:4. Presumption of title	22
2:5. Res Religiosa	
CHAPTER - III Actions under common law	28
3:1. Actio rei vindicatio and declaratory action	28
3:2. Rei vindicatio action against the crown/state	32
3:3. Subsequent acquisition of title by the vendor (Exceptio rei venditae et traditae).	35
3:4. The applicability of the doctrine in Sale and Delivery	
3:5. Exceptio rei venditae et traditae in Partition actions	42
3:6. Applicability of the doctrine exceptio rei venditae et traditae in Donations	
3:7. Rights of parties	
3:8. Vendor's defective title	
3:9. Vendor's obligation to Vendee under Roman-Dutch law	
3.10. Sale by ad quantitatem and not ad corpus	
3:11. Vendor's liability to deliver possession to Purchaser (Traditio)	
3:12. Sale of an incertum juris	
3:13. Outright Transfer and Conditional Transfer - (Pactum de retrovendendo)	
3:14. Payment of sale price within stipulated time is essential	
3:15. Is Section 92 of the Evidence Ordinance applicable?	.67
3:16. Sale of land subject to Lease or any other encumbrance	. 69
3:17. Rei vindicatio action after sale	
3:18. Agreement to Sell - Escrow	.72
3:19. Burden of proof of title to property	.74
3:20. Plaintiff must prove his title	.77
3:21. Withdrawal of action	.81
3:22. Title in a Vindicatory Action under L.D.O. Permit.	.83
3:23. Amendment of Plaint in a <i>Rei vindicatio</i> action	.85
3:24. Nomination of Successor under L.D.O.	.87
3:25. Vindicatory action and declaratory action	.95
3:26. Joinder of Causes of Action and Defendants	.98
3:27. Cause of action in a Declaratory suit 1	02

3:28. Identity and Boundaries of the Land in dispute	108
3:29. Wrong Description of the Land and Premises	112
3:30. Encroachment and Remedies	
3:31. Want of or failure of valuable consideration	
3:32. Sale or transfer of property pending action	
3:33. Priority in registration	125
CHAPTER - IV Possessory action	
4:1. What is possession?	
4:2. Dispossession	132
4:3. Possessory Actions by Priest or Trustee	133
4:4. Actual possession and constructive possession	137
4:5. Prescriptive possession	144
4:6. Derivative possession	
4:7. Prescription ordinance	
4:8. Who can bring a possessory action?	
4:9. Is Possession for a year and a day necessary?	152
4:10. Predecessor's possession can be added to plaintiff's possession	
4:11. Violent or Forcible Ouster	
4:12. Meaning of dispossession or ouster	
4:13. Exclusive possession not required	
4:14. Possession ut dominus	
4:15. Title to the property irrelevant in possessory action	
4:16. Rei vindicatio action and Possessory action	
4:17. Possessory action by a Lessee	
4:18. Possessory action against trespasser	
4:19. Possessory action by one co-owner against another co-owner	
4:20. Jus Retentionis, Compensation for improvements	167
4:21. Delivery of possession by Fiscal to a third party	167
CHAPTER - V Paulian actions	169
5:1. Two Conditions necessary for a Paulian action.	170
5:2. The facta probanda	171
5:3. What is a Debt?	172
5:4. Who is a "Creditor?"	173
5:5. Creditors of unliquidated damages	175
5:6. Legal fraud and proof thereof	177
5:7. Payment of consideration	178
5:8. Fraudulent alienation	180
5:9. Cause of action for a Paulian Action	182
5:10. Effect of the Paulian Action	183
5:11. Prescriptive Period for Paulian action	183
5:12. Conditions required for Revocation	194
5:13. Necessary Parties to a Paulian Action	107
5:14. To whom is Paulian Action available	188
CHAPTED VI Applications for which	
CHAPTER - VI Applications for restitutio in integrum	190
6:1. What is restitution?	190
6:2. History of law of restitutio in integrum in Sri Lanka	191

6:3. Object of restitution	193
6:4. The law and jurisdiction of the court	
6:5. The procedure in application for restitutio in integrum	
6:6. Grounds for restitution	
6:7. Negligence of a party or his registered attorney	205
6:8. Judge's act as arbitrator	
6:9. No restitution when alternative remedy is available	
6:10. Resitution is avalable only to parties to the action	
6:11. No Restitution against consent judgment	
CHAPTER - VII Compensation for improvements	216
7:1. Improvement should be permanent	
7:2. Jus retentionis until compensation is paid	
7:3. Bona fide and Mala fide possession	
7:4. Impensae utiles	220
7:5. Possessio civilis	220
7:6. Compensation for improvement by Usufructuary	
7:7. Right to compensation for improvements made by lessee	
7:8. Jus Retentionis	
7:9. Can a tenant claim compensation while in occupation?	
7:10. Building on another's land - Right to Jus Superficiarium	
7:11. Improvements by Co-owners	
7:12. Absence of agreement between Lessor and Lessee	
7:13. Co-owner's right and Planter's share	
7:14. Burden of Proof of mala fide Possession	
7:15. Essentials for claim for improvement and jus retentionis	
7.13. Essentials for dain for improvement and just etentionis	231
CHAPTER - VIII Servitudes	255
8:1. Classification of servitudes	
8:2. Praedial Servitude	
8:3. Personal Servitude	
8:4. Urban Servitudes	
8: 5. Rural Servitudes	261
8:6. Positive and Negative Servitudes	262
8:7. Characteristic of servitudes	263
8:8. Defence of Prescriptive title of a third party - (Jus tertii)	265
8:9. Servitude – Jus superficiarium	273
8:10. Principles of servitudes	274
8:11. Excavation by adjoining landowner - right to lateral support	282
8:12. Usufructuary's Right to dig for minerals	283
8:13. Right of way over another's land	
8:14. Deviation of the Route	285
8:15. The Track must be precise and clear	287
8:16. Right of way of necessity	288
8:17. The Role of the Judge as an Arbitrator to inspect the place	
8:18. Via vicinalis – unproclaimed public road	295
8:19. Servitude for a Cart-way	296
8:20. Servitude by prescription	297
8:21. Creation of a servitude	300

8:22. Transfer of land subject to servitude	301
8:23. Confusio of dominant and servient tenements	302
8:24. Overhanging trees and eaves of neighbour's roof	303
8:25. Alternative Route	304
8:26. Servitude among co-owners	
8:27. Right to Draw water (Aquae haustus)	308
8:28. Abandonment of right to draw water	
8:29. Right to fishing.	
8:30. Right to dry clothes on another's land	
8:31. Right to thresh paddy on another's land	
8:32. Right of Footpath	
8:33. Obstruction to Right of way	
8:34. Public Road	
8:35. Private land used as Public Road- Dedication	
8:36. Right of action relating to servitude	
8:37. Misjoinder or non-joinder of parties and causes of action	
8:38. Necessary parties to an action on servitude	
8:39. Termination of a servitude	
0.57. Tel illitation di a sei vicade ammanamentamentamentamentamentamentament	
CHAPTER - IX Inequality between value and price paid (Laesio Enormis) 221
9:1. Rescission of Sale	222
9:2. Sale by Minor	
9:3. Contractual capacity of minors	
9:4. Ratification by Minor	
9:5. Knowledge of the real value of the land	
9:6. Lease:	
9:7. Assessment of real value of the thing actually sold	
9:8. Is <i>laesio enormis</i> applicable to movable and commercial property?	
7:9. Conditional transfers and doctrine of laesio enormis	240
10. Burden of Proof.	
10. Duruen of Froot	351
'HADTED V Specific newformers	050
2HAPTER - X Specific performance	
10:2. Difference between Contract of sale and Agreement to sell	357
10:3. Discrepancy in extent of land	358
10:4. Defective title of the Vendor	359
10:5. Agreed to sell to one party but sold to a third party	360
10:6. Tender of Sale Price	364
10:7. Express Exclusion of Remedy	368
10:8. Principles governing Granting of Specific Performance	368
10:9. Contract must be Certain	370
10:11. Contract must be Fair and Just	370
10:12. Specific Performance excluded by alternative stipulations	371
10:13. Specific Performance not granted for personal services	372
10:14. Plaintiff must be ready and willing to perform	373
10:15. Party rendering himself unable to perform is not entitled to	Specific
performance	373
10:16. Section 93 of the Trusts Ordinance	374

10:18. Enforcement of order for Specific Performance	375
10:19. Specific Performance not granted where Damages are adequate Remedy	
CHAPTER - XI The law of prescription	
11:1. Historical background	379
11:2. Is the Prescription Ordinance Exhaustive?	
11:3. Scope of the Prescription Ordinance	381
11:4. Acquisition of ownership by Prescription	
11:5. Prescription among co-owners	
11:6. Possession by a Licensee	
11:7. Presumption of Ouster	
11:8. What is Adverse Possession?	
11:9. Proof of Starting point of prescriptive possession	
11.10. Possession under jus retentionis	403
11:11. Amicable Partition and Prescription	
11:12. Possession by <i>Thattumaru</i> system among co-owners	
11:13. Prescriptive title by a stranger	
11:14. Prescription in Rei vindicatio action	410
11:15. Disabilities with reference to claims for land	
11:16. Computation of ten years	416
11:17. Right to build on common land	
11:18. Prior registration and prescription	419
11:19. Prescription for Possessory Action	421
11:20. Possession for a year and a day	
11:21. Mortgage or debt or Bond and Notarial Lease	
11:22. Contract of sale, Agreement to sell and Specific Performance	
11:23. Partnership Deeds, Contracts, Promissory Notes, Bills of Exchange, etc	
11:24. Action to recover goods, rent, money lent etc. on unwritten security	
11:25. Action to recover part- payment	
11:26. Recovery of balance purchase money	443
11:27. Goods sold, shop bill, book debt, or work and labour done	445
11:28. Cases in respect of loss, injury or damages	
11:29. Any other action not hereinbefore provided for	
11:30. Claim in Reconvention is not allowed if the action is barred	
11:31. Disabilities with reference to claims for land	
11:32. Prescription against the State	
11:33. Actions falling within two or more Sections of the Ordinance	
11:34. Time Bar in Special Laws	461
11:35. Notice of Action in Particular cases	462
11:36. Exemption of Time bar should be averred in the Plaint	464
11:37. Prescription (special provisions) Act No. 5 of 2016	466
11:38. Other Statutory Periods of Prescription	467
11:39. Running of time	467
11:40. Time does not Date from time of Damage	469
11:41. Time Runs Continuously	470
CHAPTER - XII Prescripton among co-owners and presumption of ouster	471
12:1. Adverse possession	473
12:2. Exclusive Possession	478

12:3. Presumption of Ouster	479
12:4. Rights of Co-owners	481
12.5 Additional circumstances	483
12:6. Right to Plantations etc	488
CHAPTER - XIII Law of partition	489
13:1. Common Ownership	490
13:2. Adverse possession and ouster	491
13:3. Amicable Partition	
13:4. Possession of land for a long time and Prescriptive Title	499
13:5. Possession after institution of the action.	503
13:6. Building on common land	504
CHAPTER - XIV Institution of a partition action	507
14:1. Jurisdiction of Court	507
14:2. Necessary Parties to the Action	
14:3. Filing of the Plaint.	
14:4. Procedure upon acceptance of the Plaint	
14:5. Registration of <i>Lis pendens</i> and Declaration	
14:6. Returning, Rejecting or Dismissal of the Plaint	
14:7. Larger land as the Corpus than what is described in the Plaint	516
14:8. Memorandum of Nomination of Legal Representatives	518
14:9. Withdrawal of Nominees	
14:10. Substitution of heirs	
14:11. Service of Summons and Publication	
14:12. Notice of the Action.	
14:13. Identification of the Corpus	
14:14. Commission for Preliminary Survey	
14:15. Discrepancy in the extent of the Corpus	
14:16. Exclusion of land which falls outside the Corpus	
14:17. Statement of Claim	
14:18. Failure to file Statement of Claim	
14:19 Addition of Parties.	
14:20. Intervention of a party in default	
14:21. Intervention by a person who is not a party	
14:22. List of documents.	539
14:23. Trial	
14:24. Framing of Issues/Points of Contest	
14:25. Investigation of title	542
14:26. Evidence at the Trial	546
14:27. Defendants as witness for Plaintiff	540
14:28. Prescriptive title	540
14:29. Proof of Pedigree	552
14:30. Compensation for Improvements and Owelty	555
14:31. Interlocutory decree and allotment of shares	555 557
14:32. Scheme of partition	33/ EE0
14:33. Right of way in the scheme	339 644
14:34. Settlement and compromise	304 525
14:35. Finality of judgment and decree.	503 567
TITOUR TITOUR JUNE JUNE TO LOCALISM COMMON C	30/

14:36. Setting aside of interlocutory and/or final decree	573
14:37. Registration of Interlocutory decree, Final Decree etc	578
14:38. Delivery or restoration of Possession of the Land allotted	578
14:39. Sale or alienation of Shares Pending action	
14:40. Dismissal or continuation of a Partition action	
14:41. Res Judicata	
14:42. Contempt of court – Section - 53	587
14:43. Special cases – Sections - 54, 55, & 56	588
14:44. Costs in partition action – Sections 57 to 65	588
14:45. Non-Prosecution of Partition action	589
14:46. APPEALS	
1110.101	
CHAPTER - XV Landlord and tenant	594
15:1. Estoppel	
15:2. Operation of the Rent Act	595
15:3. Restriction on increase of Rent	603
15:4. Standard Rent:	603
15:5. Permitted increase	
15:6. Authorised Rent	
15:7. Prohibition of Excessive advance etc	
15:8. Sub-letting	
15:9. Protection of sub-tenant	
15:10. 1. Is a boarder or lodger a sub-tenant of a tenant?	
15:10.2. Position of a lodger or Servant as Tenant	610
15:11. Using Residential Premises for other purposes	612
15:12. Discontinuation or Withholding of amenities to Tenant	613
15:13. Using force on the Tenant to eject him	614
15:14. Demolition of building over 40 years old	614
15:15. Payment of Rent	
15:16. Money paid in advance may be set-off for rent	617
15:17. Tenant disputing landlord's title	618
15:18. 1. Notice to Quit or Notice of Termination	620
15:18.2. Validity of the Notice to Quit	621
15:18.3. When tenant becomes not entitled to Notice to Quit	624
15:19. Action for ejectment of the Tenant.	625
15:19.1. Reasonable requirement - S. 22(1)(b)	629
15:19.2. Premises let to an employee of the Landlord	627
15:19.3. Deterioration, Repair or Alteration of the premises	
15:19.4. Using the premises for illegal purposes	
15:19.5. Single house owner	
15:19.6. Ejectment of tenant from a Part of the Premises	
15:19.7 Firstment of tenant from unaccupied promises	642
15:19.7. Ejectment of tenant from unoccupied premises	042
15:21 Continuous of tonon group of death of Tonon Constitution	040
15:21. Continuance of tenancy upon death of Tenant - Succession	
15:22. Wife's right to remain in the premises	648
15:23. Death of the Landlord	651
15:24. Partnership as Tenant	651
15:25. Rent Register	653
13.20. Itelit Dualu aliu Dualu Ul Keylew	654

15:27. Effect of Partition Decree in relation to tenancy	655
15:28. 1. Protection of the Tenant	658
15:28.2. Protection of the Sub-tenant	660
15:29. Termination of Tenancy upon Destruction of the Premises	661
15:30. Abandonment of Tenancy	
CHAPTER-XVI Change of ownership and attornment	665
16:1. Change of Ownership	
16:2. Attornment	
16:3. Denial of Tenancy and Notice to Quit	
16:4. A Tenant, who refuses to Attorn is a Trespasser	
CHAPTER - XVII Lease	675
17:1. Lease at Will (Informal Lease) - or Monthly Tenancy	
17:2.1. Notice to quit	
17:2.2. Notice to quit should be reasonable	679
17:2.3. Waiver	
17:3. Lease of immovable property	681
17:4. What is leased? Business or Business Premises	681
17:5. Obligations of the Lessor	
17:6. Obligations on the part of the Lessee	
17:7. Forfeiture or Cancellation of Lease	
17:8. Repudiation	
17:9. Does a Lease terminate upon death of parties?	
17:10. Compensation for Improvements effected by lessee	
17:11. Destruction of the subject matter	693
17:12. Assignment of Lease	
17:13. Lease by Provincial Council	
17:14. Lease by Minor	694
17:15. Sale of Leased property	696
7:16. Rights of a Lessee	697
CHAPTER - XVIII Leave and licence	699
18:1. Licensee	
18:2. Attornment	
18:3. Estoppel	702
18:4. Prospective Purchaser's occupation	703
CHAPTER - XIX Obligations	707
19:1. What is Obligation?	707
19:2. Classification of Obligations	711
19:3. Letting and Hiring	712
19:4. Contracts	715
19: 5. Offer and Acceptance	717
Appendix	
TABLE OF CASES	722