

UNIVERSITY COLLEGE LONDON

University of London

EXAMINATION FOR INTERNAL STUDENTS

For the following qualifications :-

LL.B.

LL.B. Intermediate: Property I

COURSE CODE : LAWSINT2

DATE : 10-MAY-02

TIME : 10.00

TIME ALLOWED : 3 hours 15 minutes

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TURN OVER

PROPERTY I

Answer **FOUR** questions including at least one question from **PART A** and at least one question from **PART B**.

PART A

1. On return from a holiday in Norway Paul decides to erect a ski slope in his back garden, placing his neighbour Alison's courtyard in permanent shade and blocking the view from her bedroom of the Opera House, which was the only reason she had decided to buy a house in such an expensive location. Paul installs snow-making machinery, which is on 24 hours a day and, although almost silent, emits a constant hum, which reminds Alison of the sound of a dentist's drill. As Alison has a fear of dentists this puts her in a permanent state of agitation, which is made worse by the constant snow drifts that blow into her yard from Paul's garden. To add a sense of authenticity Paul lays traps to catch the many foxes that come onto his land and bleaches their fur white (so that they resemble Arctic foxes) before releasing them once more. In retaliation, Alison organises fox hunts on her land, which are so successful, due to the unique colour of the foxes, that there is soon a waiting list to join the hunt, particularly angering Paul, who is a militant anti-hunt campaigner and who is distressed at seeing "his" foxes treated in such a way.
 - (a) Advise the parties.
 - (b) How, if at all, would your advice differ if the ski slope had been a commercial venture and Alison was a courtesan who had been able to charge a higher fee amongst her opera going clientele because of the view from her bedroom?
2. Until recently the inhabitants of Planet Claire have had an almost idyllic existence and no concept of property. The low birth rate, coupled with abundant land and natural reserves, has resulted in their never having had to confront the issue of finite resources. However, in the wake of contact with Earth and the importation of Viagra, the birth rate has soared whilst the natural reserves are beginning to be depleted by trade with Earth and the environment is becoming degraded by the relocation of much heavy industry from Earth to Planet Claire.

You are asked to advise a deputation from Planet Claire who are visiting Earth to see how they might develop rules to resolve such issues.

TURN OVER

3. Last month Jeremy was looking for a house to share with his girlfriend Anna, who was then working abroad. Lester told him they could have a licence of his house expiring on 30 September 2003 for £1,000 a month, provided both Jeremy and Anna signed a declaration that they intended to occupy the house as licensees, and did not intend to have a lease of the house, and that they each signed a separate licence agreement stating that “the licensor hereby grants the licensee a personal right to occupy the house in common with one other person to be selected by the licensor, for a licence fee of £500 a month.” The declaration was duly signed and returned to Lester, Jeremy’s licence agreement was signed and dated, and he moved in to the house and made arrangements for £1,000 a month to be paid out of his account to Lester by direct debit. Anna’s licence agreement was not completed until she returned from abroad two months later and moved into the house.

Just before she was due to return, Jeremy decided to buy Anna a piano as a surprise present. The piano company agreed to deliver the piano to him in advance of payment, but stipulated that title would not pass to him until he had paid for it. The piano was delivered just before Anna arrived, and as she walked in, he opened the door of the living room to show her the piano and said: “Look, now you can play whenever you want.”

Last month Jeremy left after a furious row, and has now cancelled the direct debit payment to Lester. The piano company is demanding the return of the piano which Jeremy never paid for. Also, Lester has now told Anna that he is revoking her licence because she has allowed friends to stay in the house with her, and that she must therefore vacate the house immediately.

Advise Anna.

4. Beatrice decided to give her diamond necklace to her niece, Claron. She handed it to Claron’s father, Michael, in a sealed case and asked him to give it to Claron. He put it in his coat pocket and forgot about it, and then accidentally left his coat behind in Roberto’s restaurant after having lunch there. Oliver, one of the other customers in the restaurant, picked up the coat intending to hand it into the police and to ask them to return it to him if they could not find the true owner. However, before he could do so it was stolen from him by Jason. The police found the coat in Jason’s possession when they raided his house and before he had had the opportunity to go through the pockets of the coat and discover the jewel case. Jason was subsequently found guilty of stealing the coat, but was acquitted of stealing the necklace. Details of the trial were published in the local press, and as a result Beatrice, Claron, Michael, Roberto, and Oliver have each contacted the police claiming the necklace. Jason, however, claims that it should be returned to him.

Write a memorandum to the police (i) assessing the validity of the claim each of the claimants has to the necklace, and (ii) advising the police who it should be given to.

CONTINUED

PART B

5. “Freedom of alienation – the freedom to dispose of your property to whoever you want, whenever you want, and on whatever terms you choose – is an essential feature of any mature property holding system.”

Discuss.

6. “The courts ought to be prepared to allow novel property interests to evolve in response to changes in social and economic conditions.”

Discuss.

7. “The leading authority of *Lloyds Bank plc v. Rosset* displays the limitations of the courts’ approach to the problem of family property.”

Discuss.

8. “The rhetoric of English law is that it will not allow the creation of pure purpose trusts. The reality, however, is that purpose trusts thrive in a variety of contexts.”

Do you agree?

9. “There are no longer any convincing reasons for allowing titles to be extinguished by adverse possession.”

Discuss.

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