

UNIVERSITY COLLEGE LONDON

University of London

EXAMINATION FOR INTERNAL STUDENTS

For The Following Qualification:–

LL.B.

LL.B. Intermediate: Property I

COURSE CODE : LAWSINT2

DATE : 05-MAY-06

TIME : 10.00

TIME ALLOWED : 3 Hours 15 Minutes

PROPERTY I

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

PART A

1. Whilst sitting on the bus, Arlene noticed a diamond ring wedged into the gap between two seats. She quickly pulled it out and stuffed it into her jacket pocket, hoping no one had seen her.

When she got off the bus she went into a bar to meet a friend. When she left the bar a few hours later she left her jacket (with the ring still in the pocket) behind by mistake. The barman Barry came across the jacket the following morning when he was cleaning up and decided to keep it for himself. However, the bar owner Clifford saw Barry slip the jacket into his bag and called the police.

Barry had not had chance to go through the pockets of the jacket before he put it in his bag, so he did not know about the ring. However, he was arrested and charged with, and subsequently convicted of, theft of the jacket. The police now hold the jacket and the ring.

Discuss **both** (a) **and** (b):

- (a) Who has a title to the ring?
 - (b) Who, apart from the true owner, has the best title to it?
2. Julius has just died leaving £500,000 to the Dean of Bentham College Law School, on the following terms:
 - (a) To hold £200,000 (Trust Fund A) on trust to promote mootings amongst Bentham College law students, and
 - (b) To hold £300,000 (Trust Fund B) on trust to pay the income in any year for the next twenty-one years to such one or more of the best law students in London as the Dean thinks fit, and after twenty-one years, to divide the money equally between the most worthy of those who are Bentham College law students at that time.

Advise the Dean as to the validity of **both** Trust Funds A **and** B.

TURN OVER

3. Sovereignty over the Island of Fantasia has just been acquired by the United States of Amerinia (USA), whose laws are in all relevant ways identical to those of England. The USA is interested in the rich fish stocks in the seas surrounding the Island, and in constructing a military base on it.

The Fantasians, who have lived on the Island for thousands of years, have used the plain area at the centre of the Island since time immemorial to conduct ceremonial wrestling matches in honour of their ancestors. The USA government wishes to build the military base on this plain. The government has also allocated exclusive fishing rights around the Island to a company owned by the vice-president of the USA. This company intends to sell the fish at a profit to the Fantasians as well as on mainland USA. The Fantasians protest that they have always fished in the seas around the Island. They are also unhappy about the government's decision to sell some of the land currently occupied by one of their villages to property developers.

Advise the Fantasians, drawing on English, Australian and Canadian law if and as appropriate.

4. Angela and Betsy are neighbours. Last year, they entered into an agreement pursuant to which Angela, in return for a payment of £1,000 per annum, would allow Betsy to come on to her balcony to watch the cricket matches being played in the stadium next to Angela's house. Angela also promised, in return for another £1,000 per annum, to maintain in good repair the mural drawn on that side of her house which faces Betsy's house. Finally, Angela promised, in return for £1,000 per annum, not to use any washing machines in her house. Betsy is particularly sensitive to the noise of washing machines, which she finds painful.

Angela has now sold her house to Cathy. Advise Cathy on whether she is bound to adhere to each of the three elements of the agreement between Angela and Betsy.

CONTINUED

PART B

5. “As a consequence of the decision of the House of Lords in *McPhail v Doulton* [[1971] AC 424 it is possible for a settlor to create a trust where there is no-one who has both the power and the incentive to control the actions of the trustees.”

Consider how far this is correct, and if it is, whether it matters.

6. Why does the law insist that formal requirements must be satisfied in order to carry out some property transactions but not others?
7. “Communal property can never co-exist with private property without resulting in ‘tragedy’. State ownership is the only coherent means of property ownership.”

Discuss.

8. Where there is no express agreement as to how the beneficial ownership of a house is to be shared between a co-habiting couple, “direct contributions to the purchase price by the partner who is not the legal owner, whether initially or by payment of mortgage instalments, will readily justify the inference necessary to the creation of a constructive trust. But... it is at least extremely doubtful that anything else will do” (per Lord Bridge *Lloyds Bank v Rosset*).

Is the formulation suggested by Lord Bridge a failure to recognise the reality of financial contributions to the joint lives of the co-habitants?

9. “The extinction of the paper owner’s title by adverse possession is not a deprivation of possession nor a confiscatory measure for which the payment of compensation would be appropriate: it is simply a logical and pragmatic consequence of the barring of his right to bring an action after the expiration of the limitation period.”

Discuss.

END OF PAPER