

UNIVERSITY COLLEGE LONDON

University of London

EXAMINATION FOR INTERNAL STUDENTS

For the following qualifications:-

LL.B.

LL.B. Intermediate: Property I

COURSE CODE : LAWSINT2R

DATE : 27-Aug-03

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. Martin had the opportunity to buy Bevington Towers, which was a large semi-derelict house which he had been renting, for £100,000, which was about half its market value. Because of earlier financial disasters he was unable to persuade his bank to lend him the purchase price. He therefore agreed with his friend Bill that the house would be bought in Bill's name, with £100,000 lent to Bill by Bill's bank, the Bartlett Bank. Bill mortgaged the house to Bartlett Bank to secure repayment of the loan. Martin and Bill agreed that it would be simpler if the monthly mortgage payments were paid to Bartlett Bank by Bill, with Martin reimbursing him by monthly standing order payments. Although they never had specific discussions about it, Bill and Martin both assumed that Bill would transfer the title to Bevington Towers to Martin as soon as Martin was able to raise the money to pay off the Bartlett Bank loan.

Martin continued to live in the house on his own. Bill always paid the mortgage instalments promptly and Martin usually reimbursed him, but occasionally when he was short of money he was unable to do so. This continued for some years, during which time Martin carried out extensive renovation work to the house. Largely because of this work, the house is now worth £750,000. Last month Martin died leaving all his estate to his wealthy sister Serena. Serena insists that she is entitled to the whole of Bevington Towers and demands that Bill transfer the title to her in exchange for her paying him sufficient to pay off the Bartlett Bank loan.

Advise Bill.

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2. Answer (a) (b) (c) AND (d).

Tim arrives at Gatwick Airport on a flight from Sweden. A customs inspection of his baggage reveals that he is carrying two identical boxes, both of them securely sealed. Under questioning, Tim says that he was asked to carry these boxes by his girlfriend, who had told him they contained sterilised medicine samples that should not be exposed to air. The boxes are opened by customs officials, who discover that they are filled with Relabus, a Class C controlled substance.

- (a) Is Tim in possession of the Relabus?
- (b) How would your answer differ if the customs officials had found that one of the boxes had been opened on the flight, and did in fact contain samples of a sterilised medicine, but that the other (unopened) box contained Relabus?
- (c) How would your answer differ if, before the boxes were opened, Tim had revealed to his interrogators that he believed both of them were full of Relabus, but the boxes in fact contained Destoix, a Class A controlled drug?
- (d) How would your answer differ if, before the boxes were opened, Tim had revealed to his interrogators that he believed both of them were full of Destoix, but the boxes in fact contained Relabus? Should there be a difference between the law's response to this situation and to the situation in (c) above?

3. Gemma recently set up in business as an antiques dealer. When he heard about this her uncle Eric, who had just closed down his own antiques business and sold off most of his stock, telephoned her to say that she could buy his fee simple interest in his shop in Kennington for half its market value and also have his delivery van for £50 (a small fraction of its value). He also said she could have whatever stock was left in the Kennington shop, and that he was sending her the keys to the shop so that she could see what was there. Unfortunately Eric died soon after the telephone conversation took place, leaving all his estate to various charities. The day after he died Gemma received a letter from him enclosing the keys to the shop, and also saying that he wanted to give her half of his set of 100 rare commemorative gold plates which he kept at home, and half of the £20,000 balance in his bank deposit account, and that he was holding the plates and the money on trust for her until she was able to come to collect the plates from him. He also said in the letter "I'm expecting you to use the money to buy stock for the shop: if you can't use it for those purposes you'd better give it back to me so I can put it to a better use."

CONTINUED

Advise Gemma what interests, if any, she has in the Kennington shop, the delivery van, the stock in the Kennington shop, the commemorative plates and the money in Eric's bank account.

4. Walt, Dean and Walt's girlfriend Julie wanted a house to rent together whilst they were at College. They went to view a two-bedroomed house owned by Eddie which was available for £600 a week, and they decided it would do if Walt and Julie shared one of the bedrooms and Dean had the other one. Eddie discussed the terms with them when they were viewing the house. He made it clear that he was not willing to grant them a tenancy of the house, and would only be prepared to allow them to live there if each of them signed a separate licence agreement granting each one the right to live in the house in common with other people licensed by Eddie, at a licence fee of £200 a week. Walt, Dean and Julie agreed to go along to Eddie's office to sign licence agreements but just before they were due to do so Julie slipped on the ice and broke her leg and was in hospital for two months. Walt and Dean nevertheless went ahead and each signed a licence agreement incorporating all the terms Eddie had told them about. Walt and Dean immediately moved in and started paying Eddie £600 a week.

Whilst in hospital Julie transferred her affections from Walt (who never came to see her) to Dean (who did). When she finally came out of hospital she signed her licence agreement, and moved in, sharing Dean's bedroom.

Last week Walt moved out. Eddie says he is going to licence his brother Kevin to move into Walt's bedroom, but meanwhile Julie and Dean must continue to pay him £600 a week.

Advise Julie and Dean.

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PART B

5. 'Locke's theory for the justification of private property belongs to the era of empty continents and abundant resources. It has no place in the very different world of today.'

Discuss.

6. 'The person who values the entitlement to use her land in a certain manner (which, let us say, creates noise) more than her neighbour values the entitlement to use his in a competing way (requiring silence, for example) should prevail. The law of nuisance exists to ensure this in the most cost-effective way.'

Discuss whether this accurately reflects the position in English law.

7. 'Property rights are by their nature about excluding others from things of value. What would be the point of establishing property rights in something unless it was of value?'

Consider BOTH of the following in relation to this statement:

- (a) Is this statement accurate? Is it complete? AND
(b) Toxinium is a highly toxic by-product of the manufacture of certain types of paint, and has no uses of its own. It can only be made safe by being put through an expensive recycling process. Is there any point in subjecting it to someone's property rights?

8. "Property law has always treated wrongful takers of land in precisely the same way as it treats wrongful takers of goods."

Discuss whether this is an accurate description of English law, and whether it describes the law as it should be.

9. "It is highly undesirable for trustees to be given absolute power to decide who should receive a benefit under a trust. Yet as a result of the House of Lords decision in *McPhail v Doulton*, this is precisely what settlors are free to do."

Discuss.

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