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Real Property (Quickstudy: Law)

 REAL PROPERTY		
ESTATES HISTORY FEUDALISM 1. Tenants-in-lieu a. Supporter or in-lieu of lordship b. Recipient parcels of land in exchange for providing services to lord, including military and economic support 2. Subinfeudation a. Recipient parcels of land from tenants-in-lieu in exchange for services 3. Feudal Relationships a. Parity of land further subdivided b. Possession was at bottom of feudal hierarchy 1. Upon death and without heirs, possession of land reverted back to lord c. Upon death of possessor or tenant, possession was forfeited to lord 4. Modern Quia Emptio a. Further continuation of two-stage tenancy abolished b. Tenants given right to alienate land, in substance possible tenant without heir's consent, with various being appropriate DEFINITION OF ESTATE 1. Interest in land that is currently or may become possessory, measured by some period of time FREE SIMPLE 1. Possession of life estate unless words of limitation and inheritance in the conveyance 2. DURATION FOREVER 3. NO RESTRICTION ON ALIENABILITY MODERN TREND 1. Courts favor free simple structure over life estate free	NONFREEHOLD (LEASEHOLD) ESTATES TENANCY AT WILL 1. No fixed duration a. Terminated at any time by agreement of both landlord and tenant 2. Requirement for operation of law with notice a. Rule of privity b. Death of either party PERIODIC TENANCY 1. Automatic renewal a. Example: Month-to-month or year-to-year b. Termination by notification equal to notice c. Notice must specify the date of termination d. Common: Tenancy of 1 yr requires 6 mos. notice 2. Modern Trend: Governed by statute a. E.g., 1 year for year-to-year requires 1-month notice TENANCY AT SUFFERANCE 1. Wrongful holdover 2. Landlord has option to evict Tenant or hold Tenant to another lease TENANCY FOR YEARS 1. Specific period of time a. Usually fixed by calendar but may be terminable upon some event b. Termination at end of period without necessity of notice 2. More than one year a. No writing b. Subject to Statute of Frauds LANDLORD'S RIGHTS AND DUTIES 1. Covenants a. No liability for subsequent arising conditions b. No duty to maintain 2. Modern Law a. Assumption of repair (not necessarily) 1. Reasonable care required 2. Use for commercial purpose b. Common privity 1. Duty to exercise ordinary care 2. Quiet title 3. Warranty procedures in good repair 4. Liability for personal injuries 5. Duty not to interfere with Tenant's quiet enjoyment a. Duty not to pursue a nuisance b. Not responsible for acts of tenants (unless with other tenants, except where exercise of legal ability has been granted) TENANT'S RIGHTS AND DUTIES 1. Entitled to possession 2. Reasonable Tenant entitled to Applied Warranty of Habitability a. Modern trend holds liability applied to commercial leases 3. Duty to pay rent 4. Liability for waste a. Destruction - In Duty - a. Abandonment b. Duty of reasonably good repair c. Liability to third parties REMEDIES FOR BREACH OF IMPLIED WARRANTY OF HABITABILITY 1. Contractual Exclusion a. Tenant may terminate lease, lease provisions and not pay further rent when, through the fault of landlord, there has been a substantial interference with the use and enjoyment of tenant's leased premises b. Tenant who claims violation of Housing Code and requests relocation to alternative, and landlord has not acted as a violation for the reporting RIGHTS OF POSSESSOR 3. GENERAL SUPPORT 1. Right to have land supported in natural state by adjacent owners a. Liability for damage to building if land would have collapsed in natural state 2. Right to have land supported in natural state by owners of interest under surface a. Liability for underground land would have collapsed in natural state	WATER RIGHTS 1. Negative right of each owner to use all water needed for domestic purposes a. Common law limited to reasonable use 2. Prior Appropriation (First in time, first in right) TYPES OF TENANCY 1. Joint a. Right of survivorship b. Surviving tenant right to property no longer subject to interest of deceased co-tenant c. Right of survivorship precludes one tenant from will or estate distribution of deceased co-tenant d. Some jurisdictions recognize only tenants in common, where survivor's remainder is whole cannot be distributed without consent 2. Severalty a. Tenants in common and joint tenants b. Modern Trend 1. Courts - Courts' intent clearly expressed in deed 3. Joint Tenants a. Covenants 1. Individual's rights subject to individual creditors 2. Individual will 3. No survivorship 4. Effectiveness of joint tenancy depends on Covenants 5. Joint tenant's co-ownership of interest subject to joint tenancy with respect to that share 6. Right of survivorship in this share as Tenant in common with surviving joint tenants 4. Severalty Partition a. Marriage 1. Title Transfer (Marriage) - Partitioning creates separate title 2. Common Law: Legal title conveyed to both and becomes joint title of both parties to receive legal title back upon payment of mortgage 3. Joint Tenancy (Marriage) - The title passes as long as contract in writing and capable of specific performance 4. Joint title holds security interest and not legal title 5. Joint title a. Common Law: Unity of interest is destroyed, thereby creating joint tenancy b. Modern Trend: Surviving joint tenant takes the whole, thereby ending joint tenancy 6. Individual title: Whether surviving joint tenant takes subject to loan or "joint" interest or whether surviving joint tenant subject to loan 7. Equal right to possess whole subject to rights of other owners 8. JOINT TENANCY 9. Husband & Wife 1. Joint tenancy a. Joint, with, interest, possession and present b. Joint must "to be parties" marital relationship c. No other title d. No right of partition 10. Severalty a. Right of survivorship b. Tenancy 1. Creation proceeding in form of joint creditors 2. Interest from individual creditors for federal tax law may attach to property (U.S. v. Craft) 11. Joint Tenancy a. No Right of Survivorship 1. Interest passes to heirs of deceased tenant 2. Ownership by joint tenancy right to possess entire property unless restricted by agreement a. Interest in property proportionate to consideration paid for each share 3. Privity of estate 4. Subject to claims of creditors 5. Modern Trend a. Presumption of tenancy in common if conveyance fails to specify form of co-ownership 12. CO-OWNERSHIP OF REAL PROPERTY a. Contribution of all parties changes b. Contribution to co-ownership for mortgage 1. Life Tenant - pays taxes, assessments, and interest on mortgage (limited to fair market value of land) 2. Remainderman - pays principal and interest



Synopsis

Designed for tackling theÂ bar exam; the quintessential need-to-know info for law students.

Book Information

Series: Quickstudy: Law

Pamphlet: 4 pages

Publisher: QuickStudy; Lam Crds edition (May 11, 2004)

Language: English

ISBN-10: 1572228342

ISBN-13: 978-1572228344

Product Dimensions: 8.5 x 11 x 0.1 inches

Shipping Weight: 0.3 ounces (View shipping rates and policies)

Average Customer Review: 4.3 out of 5 stars 30 customer reviews

Best Sellers Rank: #31,402 in Books (See Top 100 in Books) #4 inÂ Books > Law > Business > Property

Customer Reviews

It works perfectly and great service!

no comment

Nice review of the law.

While most of the quickstudy laminates are useful, there are simply too many topics in Property Law to cover and this chart gives only the barest of details on any of the topics. It will NOT help you if you are attempting to memorize concepts for a law school exam or the bar exam.

Easy to use reference.

Great for a quick refresher.

I'm studying for the bar. This is a great way to refresh before tackling practice exams and essays?

Great amount of information packed in one small reference area.

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