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Real Property (Quickstudy: Law)

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REAL PROPERTY

<p>ESTATES</p> <p>HISTORY</p> <p>FEDERALISM</p> <ol style="list-style-type: none"> Tenants not tied Supporters of William of Normandy Received parcels of land in exchange for providing services to king, including military and economic support <p>Subtenants</p> <ol style="list-style-type: none"> Received parcels of land from tenants-in-chief in exchange for services Feudal Relationships Parcels of land further subdivided Peasants were at bottom of feudal hierarchy Upon death and without heirs, possession of land reverted back to lord Upon death of peasant or knight, possession was forfeited to lord Seigniorial Obligations Further contribution of knight-tenants established Tenants given right to alienate land, in substance another tenant without lord's consent, with services being appreciated <p>DEFINITION OF ESTATE</p> <ol style="list-style-type: none"> Interest in land that is currently, or may become present, measured by some period of time <p>FEE SIMPLE</p> <p>COMMON LAW</p> <ol style="list-style-type: none"> Presumption of Life Estate unless words of limitation and reference to the common law REVERTS FOREVER NO RESTRAINT ON ALIENABILITY <p>MODERN TREND</p> <ol style="list-style-type: none"> Create lesser fee-simple interests over Defensible Fee <p>FEE TAIL</p> <p>COMMON LAW</p> <ol style="list-style-type: none"> To "he and the heirs of his body" Male heirs HEREDITARY Hereditary, alienable, or Grantor's descendants MODERN STATUTES DO NOT UNDERMINE Fee Simple in Common Exterminable interest in the present or become present only if Grantor dies without issue Life Estate in Grantor Fee Simple Remainder in Issue No issue inherits to Grantor <p>LIFE ESTATE</p> <p>DEFINITION GIVEN BY LIFE OF GRANTEE</p> <ol style="list-style-type: none"> Fee Simple or Fee of another Modern Law: If Decedent dies before measuring life, life estate passes to decedent's heirs <p>COMMON LAW</p> <ol style="list-style-type: none"> Authority of Husband's Life Estate Trust Wife took 1/3 Life Estate in each parcel of land; husband was seized during marriage REVERSION TO BE REGRANDED AT DEATH OF NAMED GRANTEE Reversion alienability MODERN STATUTES Danger & Curtesy abolished Life Estate, surviving spouse takes elective share - 50% of net assets Curtesy, property is divided under concept of equitable distribution 	<p>NONFREEHOLD (LEASEHOLD) ESTATES</p> <p>TENANCY AT WILL</p> <ol style="list-style-type: none"> No fixed duration Terminated at any time by agreement of both Landlord and Tenant Termination by operation of law with notice Sale of property Death of either party <p>PERIODIC TENANCY</p> <ol style="list-style-type: none"> Automatic renewal Example: Month-to-month or year-to-year Termination by notification equal to notice Notice must specify the date of termination Exception: Tenancy of 1 yr requires 6 mos. notice Modern Tenant Governed by Statute E.g., Lease for year-to-year requires 1 month notice to terminate <p>TENANCY AT SUFFERANCE</p> <ol style="list-style-type: none"> Wrongful holdover Landlord has option to evict Tenant or hold Tenant to another lease <p>TENANCY FOR YEARS</p> <ol style="list-style-type: none"> Specific period of time Automatically fixed by calendar but may be terminable upon some event Termination at end of period without necessity of notice More than one year No writing Subject to Statute of Frauds <p>LANDLORD'S RIGHTS AND DUTIES</p> <ol style="list-style-type: none"> Common Law No liability for subsequent arising conditions No duty to maintain Modern Law Assumption of specific risk generally Reasonable care required Not for contractual terms Common law negligence Duty to exercise ordinary care Dead ends Warranty promises or good repair Liability for personal injury Duty to disclose latent defects Duty not to interfere with Tenant's quiet enjoyment Duty not to prevent a nuisance Not responsible for acts of Tenants interfering with other Tenants, except where existence of legal ability has been granted <p>TENANT'S RIGHTS AND DUTIES</p> <ol style="list-style-type: none"> Entitled to possession Residence: Tenant entitled to implied Warranty of Habitability Modern trend holds liability applied in contractual terms Duty to pay rent Liability for waste Disturbance - In Detour - In Abatement Duty of reasonably good repair Liability to third parties <p>REMEDIES FOR BREACH OF IMPLIED WARRANTY OF HABITABILITY</p> <ol style="list-style-type: none"> Constructive Eviction Tenant may terminate lease, leave premises 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 Habitability Implied Tenant who cannot violation of Housing Code and repairs violations by landlord, and within his reasonable means be protected as a residential for repairing <p>RIGHTS OF POSSESSOR</p> <p>LATERAL SUPPORT</p> <ol style="list-style-type: none"> Right to have land supported in natural state by adjacent owners Liability for damage to building if land would have supported in natural state <p>SEMI-ENCLAVE PROPERTY</p> <ol style="list-style-type: none"> Right to have land supported in natural state by owners of natural under surface Liability for supported land would have collapsed in absence of lateral support 	<p>LANDER RIGHTS</p> <ol style="list-style-type: none"> Reserve right of such interest to use all water needed for domestic purposes Common Law: Reserved to riparian land Prior Appropriation (First in time, First in right) <p>TYPES OF TENANCY</p> <p>RIGHT</p> <ol style="list-style-type: none"> Right of Non-Interference Reserve certain rights to property no longer subject to interest of dominant parcel Right of extreme adverse possession may derive under will or even absence of dominant or tenant Some jurisdictions recognize only tenants in common, where survivor's remainder is a fee simple interest in dominant parcel without consent Quiet enjoyment Time, title, interest and possession Modern Statutes Example: Owner's intent clearly expressed in deed Residual Rights Individual's fee Individual's rights subject to individual creditors Individual use No warranty Disturbance of quiet enjoyment: Disturbance in Common Some courts's construction of interest adverse joint tenancy with respect to that share Requirement of survivorship holds share in Tenant in Common with surviving joint tenants <p>WARRANTY</p> <ol style="list-style-type: none"> Title Warranty (Warranty - Eviction clause contract) Common Law: Legal title conveyed to both and increased both equity of redemption to receive legal title back upon payment of mortgage Equity Theory (Warranty): fee title issues as long as contract in writing and capable of specific performance Bank holds security interest and not legal title Lease Common Law: Unity of interest is destroyed thereby severing joint tenancy Modern Statutes: Surviving joint tenant takes the whole thereby not severing joint tenancy Intentional Split: Whether surviving joint tenant takes subject to share or 1/2 interest as whether survivor holds whole not subject to legal title Equal right to possession whole subject to rights of other tenants <p>IN TIME ENERGY</p> <p>Residual & With</p> <ol style="list-style-type: none"> Quiet enjoyment Time, title, interest, possession and privity Third party to parties' marital relationship By the whole No right of partition Survivorship Right of survivorship Division Common law proceeding in favor of joint creditor Assume from individual creditors law: Federal tax law may attach to property (U.S. Code) <p>IN COMMON</p> <ol style="list-style-type: none"> No Right of Survivorship Survivor passes to heirs of deceased tenant Overriding by grant but right to possess entire property unless otherwise by agreement Interest in property proportionate to contribution paid for each interest Partly alienable Subject to claims of creditors Modern Statutes Presumption of tenancy in common if conveyance fails to specify form of concurrent ownership <p>GENERAL RULES OF CO-TENANCY</p> <p>Statute of Anne</p> <ol style="list-style-type: none"> Continuation of fee party changes May be divided remainder to present Tenant, Children, etc. Account to co-tenants for rents/profit Life Tenant: rents, improvements, and interest on mortgage (limited to fair market value of land) Marital deduction - joint principal and beneficiary
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Synopsis

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

Book Information

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Customer Reviews

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.

Somewhat helpful. You're better off writing your own outline.

Don't depend on these for your finals, but they are a great last minute tool the morning of a final for a quick refresher.

Coming from continental law, this has been a great resource to grasp the differences and similarities

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

Essential points for study and for reinforcement of what makes Real Property versus Criminal Law.

Great and quick reference for this student. Info accurate and matches textbook

Great amount of information packed in one small reference area.

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