



EXAMINATIONS OF DECEMBER 2004

CODE AND NAME OF COURSE: LA22A (LAW 2210) - REAL PROPERTY I

DATE AND TIME:

DURATION: 2 HOURS

INSTRUCTIONS TO CANDIDATES: This paper has 3 pages and 6 questions.

Answer **THREE** (3) questions. AT LEAST ONE (1) from **EACH** SECTION. Answers may be confined to the law of any jurisdiction in the Commonwealth Caribbean unless the context indicates otherwise.

SECTION A

1. **ANSWER BOTH (a) AND (b)**

- (a) Explain and illustrate the meaning of the expression "the four unities" in co-ownership and the effect of the presence or absence of such unities.
- (b) "*Jus accrescendi* is looked upon as odious in equity".

Discuss.

2. "The common law of real property of the Commonwealth Caribbean reflects the view that English real property cannot be held in absolute ownership but only for an estate and various kinds of tenures or estates in land. Under the Roman-Dutch and the Civil law, immovable property can be held in absolute ownership and, in fact, this is the only form of ownership recognized.

Discuss.

3. The three main kinds of freehold estates are practically the same. They have the same attributes and it is mere pedantry to attempt to distinguish one from the other.

Do you agree with this statement?

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SECTION B

4. Adam and his wife Eve purchase Bigacre as joint tenants, with a view to developing it as a housing estate after the construction of a proposed new road running parallel to it. In the meantime, they think of using it to grow vegetables or for sugarcane cultivation. They also own Eden, their matrimonial home, as joint tenants. In 1985, Eve leaves for New York, where she has since been working to support their children. Mary thereafter starts to live with Adam as man and wife.

In 1986, Mary and Adam begin to cultivate a 2000 square foot strip of Bigacre with vegetable crops. Mary is assured by Adam that Bigacre belongs to him exclusively.

Eve returns from New York in 1989 for the Crop Over Festival and finds Mary living with her husband, Adam, in Eden, their matrimonial home. Mary is evicted by Eve from Eden after a violent confrontation. Eve goes back to New York after three weeks, taking with her all her possessions from Eden, except her wedding ring which she leaves behind in Eden.

In 1999, Mary is wooed back and returns to live with Adam in Eden. She continues cultivating vegetable crops on Bigacre.

In 2002, Mary and Adam begin to grow sugarcane on an outlying portion of about 18,000 square feet of Bigacre, which is later enclosed in order to protect it from intruders.

Eve does not come back from New York until the 2004 Crop Over Festival. On this visit in 2004, Eve does not have access to Eden, because Adam and Mary have changed the lock for the gate and all the keys for the house in January, 2004.

Eve threatens legal action against Adam and Mary.

Advise the parties. Assume for the purposes of this question that the limitation period is 12 years.

5. Consider the estates conferred on the grantees and devisees by a fee simple holder in each of the following dispositions in the respective States:
- (i) a devise of 17 Mason Street, Bridgetown, Barbados, "to my wife Lucy, and should she sell the said 17 Mason Street she must give my grandchildren, Sam and David, a quarter of the proceeds, and that in the event of the death of my wife Lucy before the said 17 Mason Street is sold, the said property, 17 Mason Street, shall go to my grandchildren, Sam and David."

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- (ii) a devise of 20 Haven Avenue, Roseau, Dominica, "to my grandsons, Thomas and Gray, during the term of their natural life. After their death I give the said freehold to the lawful male issue of the eldest and then to the lawful male issue of the next brother according to seniority in tail."
 - (iii) an *inter vivos* grant of land in Belize City, Belize, "to Peter absolutely forever."
 - (iv) an *inter vivos* grant of land in St. George's, Grenada, "to Eugene in tail."
6. Before Max takes a ten-year lease of a property, he is shown around the premises by Nat, the owner. He admires Nat's "Music Room", which is a wooden house, built with a unique architectural design. The house is constructed in sections that can be taken down and relocated. At the back of the house there is a satellite dish and in the store room, gardening implements. The living room was fitted with oak paneling and a large wall-mounted fish tank. The other walls were beautifully decorated with pictures of Bob Marley. There is a big dressing mirror in one of the bedrooms and an air-conditioner fitted in the master bedroom. After execution of the lease, which was silent on the status of these items, Max goes into possession only to find that the above named items have been removed from the premises by Nat.

Advise Max as to whether he is entitled to have all or any of these items returned.

Would your answer be different if all the items belong to Nat's previous tenant?

END OF PAPER

