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Real Property (Quickstudy: Law)

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REAL PROPERTY

ESTATES	NONFREEHOLD (LEASEHOLD) ESTATES	READER RIGHTS
HISTORY 1. FEDERALISM a. Supporter of William of Normandy b. Received parcels of land in exchange for providing services to king, including military and economic support 2. Subsistence a. Received parcels of land from tenants-in-chief in exchange for services 3. Feudal Relationships a. Details of land further subdivided b. Peasants were at bottom of feudal hierarchy 1. Upon death and without heirs, possession of land reverts back to lord 2. Upon death of peasant or knight, possession was forfeited to lord 4. Sanctus Quis Emptus a. Further consolidation of fee-simple tenancy established 1. Tenants given right to alienate land, but subject to another tenant without lord's consent, with services being apportioned DEFINITION OF ESTATE 1. Interest in land that is currently or may become present, measured by some period of time	TENANCY AT WILL 1. No fixed duration a. Terminated at any time by agreement of both landlord and tenant 2. Requirement for creation of fee with notice a. Sale of property 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 term c. Notice must specify the date of termination d. Exception: Tenancy of 1 yr requires 6 mos. notice 2. Modern Tenant Governed by Statute a. E.g., Lease for year-to-year requires 1 month notice to terminate 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. Automatically fixed by calendar but may be terminable upon some event b. Termination at end of period without necessity of notice c. More than one year d. No writing e. Subject to Statute of Frauds LANDLORD'S RIGHTS AND DUTIES 1. Common Law a. No liability for subsequent arising conditions b. No duty to maintain 2. Modern Law a. Assumption of specific risk generally 1. Reasonable care required i. Not for contractual terms ii. Common negligence 2. Duty to exercise ordinary care a. Avoid liens b. Warn tenants of good repair c. Liability for personal injury 3. Duty to disclose latent defects a. Duty not to interfere with Tenant's quiet enjoyment b. Duty not to prevent a nuisance c. Not responsible for acts of tenants interfering with other Tenants, except where exercise of legal ability has been granted TENANT'S RIGHTS AND DUTIES 1. Entitled to possession 2. Breach of Tenant entitled to implied Warranty of Habitability a. Modern trend holds liability applied in contractual terms 3. Duty to pay rent 4. Liability for waste a. Destruction - Is Damages - Is Abatement 5. Duty of reasonably good repair a. Liability to third parties REMEDIES FOR BREACH OF IMPLIED WARRANTY OF HABITABILITY 1. Constructive Eviction 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 2. Habitability Action a. Tenant who cannot violation of Housing Code and repairs violations by action, and with his own money he is entitled to a reduction for repairing RIGHTS OF POSSESSOR LATERAL SUPPORT 1. Right to have land supported in natural state by adjacent owner a. Liability for damage to building if land would have supported in natural state 2. Right to have land supported in natural state by owners of natural under surface a. Liability for supported land would have collapsed to under surface WATER RIGHTS 1. Riparian - right of each owner to use all water needed for domestic purposes 2. Common Law - riparian is responsible use 3. Prior Appropriation (First in time, First in right) TYPES OF TENANCY JOINT 1. Right of survivorship a. Survive retains right in property no longer subject to operation of descent or descent 2. Right of survivorship provisions must derive under will or trust (features of descent or descent) a. Some jurisdictions recognize only tenants in common - where survivor's remainder is a fee simple interest in abandoned without consent 2. Jointure required a. Time, title, interest and possession b. Modern Statute 3. Jointure Statutes a. Example - Owner's intent clearly expressed in deed b. Statutory Warranties c. Tenant's fee 4. Individual's Rights a. Individual's rights subject to individual creditors b. Individual use i. No survivor c. Indefeasible of entire estate (Jointure as Common Law - some courts' construction of interest favors joint tenancy with respect to that share) d. Right of survivorship holds share as Tenant in Common with remaining joint tenants 4. Survivor's Partitions a. Marriage 1. Title Theory - Marital - Execution cannot terminate 2. Common Law - legal title conveyed to both and increased both equal of indistinguishable to receive legal title back upon payment of mortgage 3. Title Theory (majority) - fee title passes as long as contract in writing and capable of specific performance i. Bank holds security interest and not legal title b. Lease 1. Common Law - title of interest is destroyed thereby surviving joint tenancy c. Statute 1. Statute Statute - surviving joint tenant takes the whole thereby not surviving joint tenancy 2. Individual's Right - Whether surviving joint tenant takes - subject to share of 1/2 interest in whether survivor holds whole not subject to legal title 3. Equal right to possession whole subject to rights of other tenants IN TIME SUCCESSION 1. Reversion & Waste 2. Waste required a. Time, title, interest, possession and privity b. Used to refer to parties' marital relationship By the whole a. No right of partition 4. Survivorship a. Right of survivorship b. Statute c. Common law proceeding in favor of joint creditor d. Assume from individual creditors law - federal tax law may attach to property (U.S. Code) IN COMMON 1. No Right of Survivorship a. Interest passes to heirs of deceased tenant b. Changing by grant but right to possess entire property unless otherwise by agreement c. Interest in property proportionate to contribution paid for each interest 2. Partly alienable a. Subject to claims of creditors b. Modern Statute c. Partitioning of tenancy in common if conveyance fails to specify form of ownership (warranty) GENERAL WARRANTY OF HABITABILITY 1. Statute of Lease a. Continuation of fee party changes b. May be subject to common law provisions (U.S. Code, etc.) c. Account to common law for some profiles 2. Fee Tenancy - free tenancy, common law, and covered in mortgage (limited to that stated value of land) 3. Reversionary - joint principal and reversion	



Synopsis

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

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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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