



UNIVERSITY OF PETROLEUM AND ENERGY STUDIES

End Semester Examination, December 2017

Program: BBA, LLB (Hons.) Corporate Laws/ B.Com, LL.B (Hons) Taxation Laws/ BA. LLB (Hons.) Energy Laws B. TECH. (ET), LL.B. (Hons.) IPR Semester – V / IX
Subject (Course): Property Law Including Transfer of Property And Easement Act

Course Code : LLBL 402
No. of page/s: 03

Max. Marks:100
Duration : 3 Hours

Section A (10 Marks: 5x2)

(Attempt all questions. Each questions carry equal marks)
General Question- subject matter

Explain:

- Q.N0.1 The difference between Mortgage by conditional sale and English Mortgage.
- Q.N0.2 Universal Donee
- Q.N0.3 Difference between charge and mortgage
- Q.N0.4 Actionable Claim with examples/illustrations
- Q.No.5 Any two modes of termination of Lease Agreement.

Section B (20 marks)- Conceptual Question

(Attempt any two. Each questions carry equal marks)

Q. N0.6 according to sec 6(c) of the Transfer of Property Act, 1882 'An easement cannot be transferred apart from dominant heritage'.

In reference to the above statement, explain the concept and essential requirements of a valid easement.

Q. N0.7 Explain the essential conditions relating to validity of a gift.

Q.No.8 Distinguish between a vested and contingent interest. Discuss whether an interest is vested or contingent in the following cases: -

a) A property is transferred to R under a trust deed subject to two conditions – (i) the discharge of settlor's debts, and (ii) the death of the settlor himself.

b) A property is transferred to A for life and after his death to B.

Section C (20 marks)- Analytical question

(Attempt all questions. Each questions carry equal marks)

Q. N0.9. A entered into a written contract with B to purchase B's house for Rs.5 lakhs. A gave Rs. 3 lakhs/- to B as advance and took possession of only one portion of the house as B promised to hand over the possession of the remaining portion after his son's wedding which was to take place after 3 days. After the wedding, B did not give possession of the remaining portion of the house to A. Thereupon A filed a suit for possession under S 53A of TPA.

Decide the essential requisites provided under section 53-A of TPA and differentiate under English and Indian Law

Q. N0.10 Define Sale and Agreement of Sale. Also, state the rights and duties of Seller before and after sale in brief.

Section D (50 marks)

(Attempt all questions. All questions carry equal marks)

- Application Based Question

Read the case "*Case / problem*" and answer the following questions:

Q.No.11 'A' mortgaged his house to his tenant ('B') who was having the possession of the house and took a loan of Rs 80 lakh .The mortgage deed provided that mortgagor was not entitled to redeem the property for initial 20 years and the right of redemption would arise only after that period. However mortgagor had to redeem the property after 20 years from the date of execution of mortgage but before 30 years, failing which the property would be deemed to be sold to mortgagee and mortgagee in that case would become the owner of the property and there will be no requirement of a separate sale deed. In case mortgagor is able to repay within stipulated time period than 'B' will remain in possession as his tenant till the time he desires.

However mortgagor repaid the money within 20 years but the mortgagee refused to return possession, stating that in this duration right of redemption did not exist, as per the agreement.

- (i) Discuss the validity of the above agreement & decide the case in light of the legal provisions and case laws.
 - (ii) Explain the concept of 'once a mortgage always a mortgage'.
 - (iii) What are the different kinds of mortgages under Transfer of Property Act. Which kind of mortgage is beneficial from the point of view of Mortgagor
- [20 Marks]

Q.NO 12. Distinguish between a Lease and a License and decide whether the following would constitute a lease or a license:

‘A’ grants a right to ‘B’ to use the roof of his house for putting an advertisement hoarding. The use of the roof could not be changed at the discretion of B, but could be done only after consultation with A. (15marks)

Q.NO.13. ‘A’ instituted a suit for with respect to an immoveable property regarding legal title over it against ‘B’ in an incompetent court and meanwhile ‘B’ executed a sale deed in respect of the same property subsequent thereto, but before the plaint was presented in a proper court. ‘A’, contended that the transfer of property by sale was hit by the rule of Lis Pendens.

Decide whether it will be hit by Doctrine of lis pendens or not with the help of relevant provisions and case laws also explain Doctrine of lis pendens in detail? (15 Marks)

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SECTION A (5x2 =10 Marks)

Answer the following questions.

- Q.NO.1 What do you understand by marshalling? Explain with illustration.
Q.NO. 2 What is actionable claim? Give certain instances of actionable claim.
Q.NO. 3 Explain the concept of Universal Donee
Q.NO. 4 Mention any two modes of termination of leases
Q.NO. 5 Differentiate between Charge and Mortgage

SECTION B [Attempt any 2] (10 x 2 = 20 Marks)

Q.NO. 6 Explain the concept of gift under TPA. Can a gift be revoked once given? Explain with the help of relevant provisions & case laws

Q.NO.7 What are easementary rights? Differentiate between Dominant and Servient heritages with the help of examples.

Q.NO. 8 Conditions or directions may be imposed by the transferor on the transferee to secure better enjoyment of his own property. Explain the kinds of positive and negative covenants under TPA with the help of relevant provisions and case laws.

SECTION C (10 x 2 =20 Marks)

Q.NO. 9 “Doctrine of Part Performance” is available only as a defence. Explain with the help of case laws and state the effect of 2001 amendment in the Registration Act.

Q.NO. 10 Differentiate between Sale and Hire purchase agreement. Enumerate rights and liabilities of buyer and seller before and after completion of sale.

SECTION- D

Q.NO. 11 'A' mortgages his house to B subject to the condition stipulated in the mortgaged deed itself that he would not redeem the property for a period of 10 years. After 10 years, he could redeem the property only within a period of one year failing which he would lose the right to redeem the property forever. However, if he redeems the property within the stipulated time, B would have a right to stay in house as a tenant for a period of 25 years. [20 Marks]

- (a) Discuss the validity of these conditions in the light of Sec. 60 of TPA, 1882 with the help of relevant provisions and case laws. Partial redemption whether it is permissible or not?
- (b) Explain different kinds of Mortgages under Transfer of Property Act. Which mortgage is most suitable from the point of view of Mortgagor?

Q.NO. 12 'A' files a suit against 'B' for possession of property. But the plaint is returned by the court after preliminary finding that the court does not have pecuniary jurisdiction. Before 'A' could file the same before the proper court 'B' sold the property to 'C'. 'C' claims himself to be bonafine purchaser without notice of any such suit. Whether the sale deed is hit by lis-pendens? Explain the circumstances for applicability of lis-pendens along with exceptions, if any. [15 Marks]

Q.NO. 13 'A' had created a lease in favour of 'B'. 'B' further created an agreement with 'C' for lease and licence for running a petrol pump, service station and for sale of motor spare parts. 'B' was not empowered under the agreement to create sub tenancy of the interest that he had in the property without consent of 'A'. In the deed it was specifically mentioned that licence is granted for the purpose of use, occupation, enjoyment and working of the petrol pump station and that 'B' was empowered to revoke the licence in event of a breach of any condition. Decide the status of C and also clarify the test laid down by Supreme Court in number of cases for determining distinctions between lease and licence. [15 Marks]