



Tutorial Pack: Land Law

Introduction

The activities contained within this document are designed to be worked on both independently and as part of tutorials.

All articles and cases referred to in this pack may be found towards the end of the pack or by following the links provided.

Week 1

Activity 1

Rose has always wanted to own a house with a little bit of land so that she could grow vegetables and fruit, and keep chickens. She goes to view a farmhouse with five acres of land with beautiful views across a valley. Inside the house she particularly likes the magnificent Victorian replaces and is impressed by the large cooking range in the kitchen. She takes a particular fancy to the curtains and ornate curtain rails which blend so nicely with the character of the house. Outside, she is impressed with the orchard – the apple, pear and plum trees are adorned with fruit. One of the outhouses has been converted into an excellent garage workshop complete with inspection pit and benches covered in tools. The back garden is full of vegetables. An ornamental fish pond is stocked full of oriental fish and in other parts of the garden stand statues and various other bits of garden art.

The property has been owned by the same couple since 1992 when they inherited it from a rich relation. During her visit she noticed that a neighbouring farmer was using the lower field to access his land and regularly drove his tractor across it. The couple explained that they had “an understanding” with him about that. In another field ran a very small river and Rose noticed someone fishing in it. “Oh, that’s old Edward”, they explained, “he often does a bit of fishing there and brings us some fish from time to time.”

Rose is very impressed with the property and makes the couple an offer which they accept.

- a) Explain to Rose, with reasons, the items mentioned above that will be sold with the land and those which will need to be negotiated separately.
- b) Rose is aware that there will be no binding contract until exchange of contracts. Advise her about the requirements of s2 Law of Property (Miscellaneous Provisions) Act 1989.
- c) After exchange of contracts, Rose will acquire equitable rights over the property and, on completion and registration, she will acquire legal rights. Explain the distinction between legal and equitable rights.

Activity 2

What is meant by “registered land”? Explain what information may be found at the Land Registry.

Activity 3

What are the four main legal interests under s1 (2) LPA 1925?

Activity 4

Give the meaning of the phrase 'fee simple absolute in possession'.

Activity 5

To what extent does a landowner have rights in the airspace above his land?

Week 2

Activity 1

Jack and his best friend, Boris, want to go to Lincoln University. Jack's father, Donald, is shocked by the amount of rent wanted by the university for his son's accommodation. He contacts Boris father, Harvey, to ask if he would consider buying a property together. Not only would it be a short-term investment but would avoid rent having to be paid by each son. Harvey is enthusiastic but wants some legal advice first.

Is there a suitable legal mechanism to allow them to purchase the property together?

How would you safeguard the interests of each party in the purchase?

Activity 2

Under what circumstances would the burden of a restrictive covenant over freehold land bind the purchaser in equity?

Activity 3

Bert is annoyed with Matthew, his next door neighbour. Matthew is a radio amateur and has erected a huge mast in his garden. It looks unsightly and Bert has complained bitterly about it. He is worried that it will put off prospective purchasers and has been advised by another neighbour to check for any covenants on the land. Furthermore, Matthew often uses the path at the bottom of Bert's garden as a "short-cut" to the back alleyway. He has always done it for as long as Bert can remember but now he wants to stop him to get his own back on Matthew for erecting the mast.

Explain to Bert about restrictive covenants and how he goes about checking for one and enforcing it in registered land. Use case law to illustrate your answer.

What can Bert do about Matthew using the path at the bottom of his garden?

Week 3

Activity 1

Nausheen is about to purchase her first house with the aid of a mortgage from Watford Bank. She understands that there are different types of mortgage available and is rather concerned about what would happen if she was unable to continue to pay the monthly instalments.

What are the three types of mortgage most commonly used?

The property Nausheen proposes to purchase is registered at the Land Registry. How will her legal mortgage be created?

Nausheen has read something about a "right to redeem". What does this mean? What would happen if there was a restriction by the mortgagee on the right to redeem the mortgage?

If Nausheen were to default on her mortgage repayments, what remedies might be available to Watford Bank?

Activity 2

Bernard is the registered proprietor of three properties: Nos. 1, 2 and 3 High Street, Little Bourton. Bernard lives at No. 1; No. 2 High Street is a shop which Bernard leased to Bob for a 10-year term in 2009; and No. 3 is leased to a student, Lotty, on a six-month lease. Bernard has been approached by Belinda to purchase No. 3 but he is reluctant to sell.

No. 4 High Street has recently come up for sale and Bernard has been considering purchasing it in order to add to his portfolio of properties. The current registered proprietor of No. 4 is Frank, but his wife Mildred lives at the house and contributed to the purchase of the property when they bought it in 1975. Mildred is reluctant to move.

Identify whether Bob's lease is substantively registrable.

If Belinda were to purchase No. 3 High Street, would she take the property subject to Lotty's lease? Explain your answer.

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