Summer Examinations 2015

LAW301815N

Module Title: Land Law
Level: Six
Time Allowed: One hour and forty minutes

Instructions to students:

- Enter your student number not your name on all answer books.
- Answer two questions: one question from Section A and one question from Section B.
- All questions are equally weighted.
- Begin each answer in a separate answer book; label each answer book clearly with the number of the question you are answering.

No. of Pages: 4
No. of Questions: 4
Section A

Answer one question from Section A.

1. “The fundamental objective of the Bill is that, under the system of electronic dealing with land that it seeks to create, the register should be a complete and accurate reflection of the state of the title of the land at any given time, so that it is possible to investigate title to land on line, with the absolute minimum of additional enquiries and inspections”

Law Commission Report No 271 "Land Registration for the 21st Century” para 1.5 2001

Evaluate the effect of overriding interests on these aims.

2. To what extent does the law protect the interests of a borrower in arrears with his mortgage payments when the lender exercises his rights to possession of the property?

Do not discuss issues relating to undue influence.

__________________________________________

End of Section A
Section B follows overleaf
Section B

Answer one question from Section B.

3. Anne and Bert own Home Farm which consists of farm buildings and agricultural land, together with a large house and a Paddock where they keep their horses. Home Farm and the Paddock are at the bottom of the drive which leads to the road. At the top of the drive and close to the entrance to the main road is the house where they live. Anne and Bert use the drive to access Home Farm and the Paddock. Last year they decided to retire. They sold Home Farm to Chris, who was their farm manager but kept ownership of the house, paddock and the drive as it leads to the Paddock where they keep their horses. The drive is in a poor state of repair and can be difficult to use in bad weather.

There is a second entrance to Home Farm which is down a narrow lane and is not suitable for vehicles making deliveries and collections to and from Home Farm. Anne and Bert did not really use this much.

There was no reference to access in the transfer to Chris. Anne and Bert have told Chris that they don’t want the delivery vehicles using the drive any longer as they are too noisy. Also, Chris and his family who work on the farm sometimes park on the drive to free up space in the farmyard. This can make it difficult for Anne and Bert to access the Paddock. Chris says that no one is doing anything different from when Anne and Bert owned Home Farm.

Bert is adamant that they no longer have permission to park on the drive or for delivery vehicles to use the drive. Bert points out that they could widen the lane so that delivery vehicles could use it. However, that would involve knocking down some of the farm buildings which Chris does not want to do.

Advise Chris:

a) Whether he has an easement for the vehicles to use the drive to access Home Farm

b) Whether he and his family have an easement to park their cars on the drive

c) Whether he can be required to widen the second access and knock down some of the farm buildings to do so

d) Whether he can repair the drive.

Section B continues overleaf
4. This question is in **2 parts**. Please make sure you **answer both**:

**Part 1**

Polly died recently and left an estate which included tenanted farmland which is registered at the Land Registry. Her will left everything to her 6 grandchildren, all of whom are married with children.

The grandchildren wish to retain the farmland as it provides a good income each year and is subject to a long lease.

Advise them on the following:

a) How the legal title will be held and how and why those who are not legal owners should protect their interest in the farmland

b) How they should hold the beneficial title, setting out the presumptions that will apply if the transfer is silent, and the advantages and disadvantages of each option.

**Part 2**

Polly also owned a house, The Laurels, with her sister Sally. The Laurels was registered at the Land Registry with absolute title in their joint names. The original transfer, a copy of which is found in Polly’s papers, shows that the house was owned as joint tenants at law and in equity. Also in Polly’s papers is a letter from Sally last year saying that she wanted the house to be sold as her husband had died and she needed the money. Polly did not do anything about it as she became unwell shortly afterwards.

Sally now claims to be the sole owner of the house. The grandchildren say they are entitled to Polly’s share under her will.

Advise her:

a) On the current legal ownership of the house

b) On the current beneficial ownership of the house.

c) If she is not the sole beneficial owner of the house, what problems might arise if she wanted the house to be sold and the other beneficial owners did not. How might these be resolved?