Summer Examinations 2016

LAW301816N

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 from Section A and one from Section B.
- Both questions are equally weighted.
- Begin each question in a separate answer book; label each answer book clearly with the number of the question you are answering.
- Neither books nor notes may be taken into the examination.
- Students are permitted to remove this examination paper at the end of the examination.

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

Answer **one** question from this section.

1. Critically analyse the development of the tests for distinguishing between fixtures and fittings. To what extent is further development of the law in this area necessary?

2. Critically analyse by way of examples the effect of overriding interests in registered land. Why are they known as the crack in the mirror of registration?

End of Section A
Section B follows overleaf
Section B

Answer one question from this section.

3. Alison was the registered owner of a large area of land in a rural setting. Three years ago she sold two small plots of the land, the first to Bertie and the second to Cedric. As the area was peaceful and to preserve the value of her house which is on the part she retained, Alison imposed three covenants on each plot as follows:

- Not to keep any other animals other than small domestic pets.
- To build and maintain a fence between her land and each plot sold.
- To build no more than one house and garage on each plot.

Bertie and Cedric each built a house and garage on their plots and lived in them. Last year Bertie sold his land to David. David has recently started to keep chickens and Alison is woken early every morning by a crowing cockerel which she finds really annoying. Another neighbour has told her that David plans to start keeping pigs and she has noticed that David is busy constructing what appear to be pig pens on his land. When she spoke to him about it, he said that it was his land and he could do what he wanted and that he didn’t know anything about the covenants.

Alison has also noticed that there are holes in the fence which have not been repaired and this morning found chickens in her garden. David again has said that it is not his responsibility to maintain the fence. Alison has also spotted a planning application by Cedric to build a second house on his land. Cedric told her that he is going to build a small bungalow for his mother who wants to live close to him.

Advise Alison:

a. Whether she can make David mend the fence.
b. Whether can she stop David keeping the chickens and the pigs.
c. Whether she can stop Cedric building the bungalow.
d. How would your answer differ if Alison had sold her land to Eric?
4. This scenario has **two** linked parts. Please make sure you answer **both** parts.

   a. David and his wife Fiona are considering buying a house jointly with their son George and his wife Hattie as Fiona, although only in her 50s, has a degenerative illness and requires a lot of care. They will make equal contributions to the purchase price; David and Fiona by using the money from the sale of their old house and George and Hattie by means of a mortgage over the house which they will pay.

      i. Advise them on the options for holding the legal and beneficial title to the house and consider how to protect anyone who does not want to become a legal owner. What presumptions will be made if the transfer is silent?

   b. After much discussion and advice, they decided to buy the house in the joint names of the 4 of them and to hold as joint tenants in equity. Things go well for some time with George and Hattie paying the mortgage. However the pressure of helping to care for Fiona becomes too much and George and Hattie split up with Hattie moving out of the house. She contacts the other 3 and asks for her money from the house to fund a round the world trip. Around the same time the family are told that Fiona only has a few months to live and the strain of this causes David to die from a heart attack. David had made a will leaving everything to his daughter Jane from his first marriage. She now claims to be entitled to a share of the house but George and Fiona don’t want to sell the house.

      i. Advise them on the current legal and beneficial ownership of the house.

      ii. Advise them whether either Hattie or Jane can make them sell the house. What factors will the court take into account?

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*End of Section B*

*End of Paper*