Examination Period 3: 2016/17

LAW301817N

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.
- Students are permitted to remove this examination paper at the end of the examination.

<table>
<thead>
<tr>
<th>No. of Pages</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td>No. of Questions</td>
<td>4</td>
</tr>
</tbody>
</table>
Section A

Answer one out of the two questions.

1. To what extent were the House of Lords correct to say that “The subjective intention of the parties cannot affect the question whether the chattel has, in law, become part of the freehold”, (per Lord Lloyd Elitestone v Morris [1997] 1 WLR 687).

How did this case change the law in this area and how has it been applied to subsequent cases?

2. “Interests should be overriding where protection against the purchasers is needed, yet it is not reasonable to expect or not sensible to require any entry on the register.” Law Com. No 158 Land Registration for the 21st Century 1988 para2.6.

Critically evaluate by reference to recent cases the extent to which this has been achieved?

End of Section A
Section B follows overleaf
Section B

Answer one out of the two questions.

3. Jackie owns a large plot of land and five years ago sold off two plots for residential development. She lives with her family in The Grange which is on the retained part of the land. The land is close to a popular tourist area and she wants to maintain its character and peaceful nature. To achieve this she imposes the following covenants on each plot:

- To contribute towards the maintenance of the shared driveway which goes over Jackie’s retained land.
- To build no more than one house and associated garage on each plot.
- To keep each house as purely residential accommodation for one family.

Jackie sold the first plot to Maria who built a house and garage on the plot. Six months ago she sold the land to Norman who has recently obtained planning permission to convert the large garage into holiday accommodation. Recently Norman started work on the conversion and yesterday Jackie saw an advert for this online saying that it was “coming soon to a peaceful and beautiful area”. She asked Norman to stop work as it was in breach of covenant and he said that as he had planning permission, she could not stop him.

Kevin bought the second plot and built a large house and garage on it. Last year he sold the land on to Lucy. Jackie has just found out that Lucy has been running a hairdressing business from her house and when she spoke to Lucy about it, she said that she had done this since she moved in. She also said that she had no plans to stop because it worked well for her and her young family. She said that she had no idea about the covenant so hadn’t agreed to it.

The driveway which serves all three properties has started to fall into disrepair and can be difficult to use in bad weather. Jackie has obtained quotes for the repair work and has asked Norman and Lucy to make an equal contribution to the costs but both have refused saying that they are not bound by the covenant.

Section B continues overleaf
Advise Jackie whether:

a. She can stop the garage being converted into holiday accommodation?

b. She can stop Lucy from running the hairdressing business from the house.

c. The covenant to contribute towards the maintenance of the shared driveway can be enforced?

In each case give detailed reasons for your answer.

Section B continues overleaf
4. Sarah, Tracey and Helen are sisters who have decided to buy a house together with Helen’s husband Ian. Sarah has been recently widowed and has children at University. Tracey has been divorced from her husband for some years and has an adult daughter, Victoria. Helen and Ian have no children. The proposal is that they should move in together to share costs and help each other out. They will fund the purchase from the sale of their existing houses and their own capital with each contributing a quarter of the purchase costs.

   a. Advise them on the options for the legal and beneficial ownership of the house. What would be the position if they didn’t deal with this in the transfer?

They decide to buy the house in the names of all 4 of them and to own it as beneficial joint tenants. However, things started to change soon after they bought the house. Ian’s business failed and a few months later he was made bankrupt as he couldn’t pay his debts.

Tracey became seriously ill and has moved in with her daughter to be cared for by her. When she left she asked the others for her share of the house as she would need it to help her daughter out. A few months later, she died and her will leaves everything to her daughter Victoria. Victoria has asked for the money as she had to stop work to care for her mother and is in a difficult position financially.

The other three are still living in the property, although Sarah is thinking of moving out to live with her new partner.

   b. Who are the current legal owners of the house and why?

   c. Who are the current beneficial owners of the house and why?

   d. Can Victoria or Ian’s trustee in bankruptcy make them sell the house?

   In each case give detailed reasons for your answer.

End of Section B
End of Paper