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Property I: Final Examination (January 4, 1972)

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Final Examination

PROPERTY I

Mr. Scott
Mr. Williamson

January 4, 1972

Instructions:

The examination consists of eight problems of varying weight, totaling 100 points. Each problem states the weight to be given to such problem, a suggested time limit and a maximum page limit. The suggested time limits are based solely on a proportion of the total time for the entire examination, equal to the percentage weight given to individual problems.

I. (20 minutes - 11 points - 2 pages)

A operated a swimming pool open to the public. Patrons received a basket upon payment of the fee, in which they could place their clothing to be checked with an attendant. B paid his fee and received a basket. He changed his clothes in the bathhouse, placing them in the basket. He had \$100 in cash in the pocket of his trousers. B's friend C had accompanied B to the pool, but since he wore his swimming trunks he did not obtain a basket but rather asked B if B would mind placing C's watch on top of the clothes in the basket. B willingly complied and checked the basket with the attendant receiving a numbered metal check.

When he got to the pool, B did not feel like carrying the metal tag in the water with him so he left it laying by the side of the pool. D, a professional thief, quickly picked up the check while B was diving off the high board and presented it to the attendant, obtained the basket and disappeared.

As between A, B and C, what are the rights of the parties? Discuss all issues fairly presented.

II. (50 minutes - 28 points - 1 page per part)

O died on December 1, 1971, owning seven (7) separate tracts of land, hereinafter referred to as tracts 1, 2, 3, 4, 5, 6 and 7, respectively. O's only surviving relatives were his son A and A's son B. O's will left the residue of his estate to A and made the following devises:

(Classify all interests by identifying what estate, if any, each named individual has received. Explain briefly your reasons for the conclusions you have reached.)

- (1) "I leave tract (1) to my son A and his heirs, but if A die without issue, then C and his heirs."

Question: (3 points) What is the state of the title to tract (1) on O's death?

- (2) "I leave tract (2) to C and his heirs, but if C die without children surviving him, then to D and his heirs."

Question: (3 points) (a) What is the state of the title to tract (2) following O's death? (b) What is the state of the title to tract (2) assuming that thereafter, C dies childless, survived by his wife, W?

- (3) "I leave tract(3) to D and F for their joint lives, then to the heirs of the survivor ascertained on the death of the first to die between C and D."

Question: (5 points) What is the state of the title to tract (3) on O's death?

(4) "I leave tract (4) to A for life, then to the heirs of B."

Question: (3 points) What is the state of the title to tract (4) on O's death?

(5) "I leave tract (5) to C for life, then to D and his heirs, but if D does not survive C, then to the heirs of C."

Questions: (6 points) (a) What is the state of the title to tract (5) on O's death? (b) What is the state of the title to tract (5) assuming that thereafter D dies survived by C?

(6) "I leave tract (6) to A for life, then to B for life, then to the first son of B to reach the age of 21 and his heirs."

Questions: (5 points) (a) What is the state of the title to tract (6) on O's death? (b) What is the state of the title to tract (6) assuming that thereafter B dies survived by his son, C, age 19, and A?

(7) "I leave tract (7) to D for life, then if E marries F, to E and his heirs as long as the land is used for residential purposes."

Questions: (3 points) (a) What is the state of the title to tract (7) on O's death before E marries F? (b) What is the state of the title to tract (7) after E marries F?

III. (25 minutes - 14 points - 3 pages)

In 1953, Prudential Realty Corporation conveyed two tracts of land located in Mecklenberg County, Va. and known as tract A and tract B respectively to C. J. Walker, a disgruntled law professor who wanted to "get away from it all" by starting a tobacco farm. Tract A contained approximately 10 acres and tract B, 30 acres. C. J. cleared tract A and erected thereon a farm house and other farm buildings. C. J. used the adjoining land located within tract B for plant beds for tobacco. He cut wood on tract B and used it for heating his home and curing tobacco. He cleared the necessary roads for access to the tobacco beds and for hauling wood. In 1956 many trees in Mecklenberg County became infested with bugs and C. J. and his daughter Betty removed those trees that became infected in tract B to keep them from spreading from others on the property. In 1960, C. J. granted an easement to the U.S. Government to install a pipe line under the western portion of tract B.

In 1963, C. J. died and his daughter Betty was his sole heir and devisee. She continued to live on the farm but because of a scarcity of competent farm hands, in 1965, Betty stopped curing tobacco and took a job as a school teacher in a nearby town. In June, 1971 while on a romp through the woods with her dog Mandamus, Betty discovered that someone was clearing all the trees on the western portion of tract B. Upon inquiring further, she discovered that one William C. Peek had purchased the western portion of tract B consisting of 11 acres from a Ben Bonfile in 1959, and recently Peek had decided to turn a small profit by constructing a trailer park on the property. Betty quickly consulted her attorney who informed her that according to the records, Prudential Realty only had title to tract A in 1953 when C. J. purchased the land and that record title to tract B was in Ben Bonfile when he sold the western portion to Peek in 1959. Undaunted by this news Betty instituted an action in ejectment against Peek in the Circuit Court of Mecklenberg County. How should the Court rule? Discuss all issues fairly presented. (Virginia Code 8-5 provides that "No person shall make an entry on, or bring an action to recover, any land but within fifteen years next after the time at which the right to make such entry or bring such action shall have first accrued to himself or to some person through whom he claims.")

IV. (20 minutes - 11 points - 2 pages)

T died bequeathing a fund in trust to pay the income to his son, B, for life, then to pay the income to B's surviving children for their lives, then to pay the principal to such of T's other children as should then be living, but if any of T's other children should not be living at that time, to pay that child's share to his or her heirs. The trustee comes to you and seeks

advice as to what interests, if any, that have been created under the trust are valid. What do you advise?

V. (50 minutes - 28 points - 9 pages)

On May 14, 1960, Crown owned certain property in the city of Columbia known as No. 1426 Main Street. On such date, Crown leased the property to Ace for the purpose of conducting a motion picture theatre business. The lease was for a term of five years. The lease contained covenants on the part of the leasee, among others (1) to pay a yearly rental of \$4800, (2) not to assign without the consent of the lessor, and (3) to construct a new concession stand in the lobby of the building by June 30, 1964.

On March 12, 1964, Ace "transferred and assigned all of his right, title and interest" under the lease to Blue, Blue having taken the property "subject to all the terms and conditions contained in the lease" by and between Ace and Crown. Crown gave his written consent to the aforesaid transfer of interest.

On June 12, 1964, Crown sold to Brown all of his "right, interest and title" to the property known as No. 1426 Main Street in the City of Columbia.

Questions:

(1) (25 minutes - 14 points - 4 pages)

On June 1, 1961, Mabel was injured when part of the ceiling in the theatre collapsed. What facts would you seek to establish, as counsel for Mabel, in order to raise grounds for possible recovery against Crown? Explain fully.

(2) (5 minutes - 3 points - 1 page)

On June 10, 1964, Crown brought an action against Ace and Blue jointly for failure to pay the installment of rent due under the lease for the month of May, 1964. Under what theory or theories, if any, could Brown recover against each of the defendants? Explain fully.

(3) (10 minutes - 6 points - 2 pages)

On July 1, 1964, a new concession stand having not been installed in the lobby of the building, Brown brought an action against Blue based upon a breach of the covenant in the lease to install such concession stand. What result? Explain fully.

(4) (10 minutes - 5 points - 2 pages)

On May 15, 1965, Blue, having not vacated the premises on such date, was notified by Brown that he was electing to treat Blue as a tenant for a term of one additional year. Blue, however, moved out on May 31, 1965. Brown allowed the premises to remain vacant until May 14, 1966, at which time he brought suit against Blue and Ace jointly for \$4800. What result against each defendant? Explain fully.

VI. (15 minutes - 8 points - 1 page)

Jolen Franklen, a struggling law student, was employed by the law school as an assistant librarian. While engaged in moving a pile of old law books, one of the books fell to the floor and a \$20 bill dropped out from between its pages. This book had been donated to the law school some thirty years before and stored among other obsolete books in the basement. The donor was unknown. Subsequently on the same day, Joe, the janitor for the law building was sweeping up the debris in the basement where these old books had been stored when he also came across a \$20 bill among the papers on the basement floor. Can John and Joe retain this money as against the law school? Discuss all issues fairly presented.