

REAL PROPERTY

ESTATES

HISTORY

PERSONAL DAME.

- 1. Temports-in-Chief
- a. Supporters of William of Normandy
- b. Received parcels of land in exchange for providing services to king, including military and economic
- 2. Naphtennants
- a. Received parcels of land from tenants-in-chief in exchange for services
- 3. Feedal Relationships
- a. Parcels of land further subdivided
- b. Possessor was at bottom of feudal hisrarchy
- i. Upon death and without heirs, possession of land reverted back to lord.
- iii. Upon breach of promise or felony, possession was for feited to lord
- 4. Statute Onlia Emptores
- a. Further continuation of fee-simple hierarchy abolished. I. Tenants given right to allenate land, i.e. substitute another tenant without lond's consent, with services
- DEFINITION OF ESTATE
- Interest in land that is currently or may become possessory, measured by some period of time

FEE SIMPLE

CODMEMBOON LIAW

- I. Presumption of Life Estate unless words of limitation and inheritance to the contracy
- DURATION FOREVER
- · NO RESTRAINT ON ALIENABILITY
- MODERN TREND
- 1. Courts favor Fee-Simple Absolute over Defeasible Fee

FEE TAIL

- COMMON LAW
- 1. To "A and the Heirs of his Body" 2. Lineard Materia
- DURATION
- 1. Lasts until Owner's blood line ends
- ENRIGHTABLE
- Restricted alienability to Grantee's descendants
- MODERN STATUTES (NOT UNIFORM).
- a. Executory interest in for simple to become possessory if Gesentee dies without issue
- 2. Little Evision in Granton
- a. Fee-Simple Remainder in issue
- 3. No issue (reverts to Grantor)

LIFE ESTATE

- DUBATION FIXED BY LIFE OF GRANTEE
- 1. Par Autre Vie (Life of another
- a Modern Law: If Occupant dies before measuring life, life estate passes to Occupant's hoirs COMMON LAW
- 1. Curtanty (Husband's Life Hutane)
- 2. Dower
- a Wife took 1/2 Life Estate in each percel of realty Husband was sciend during marris
 - REVERSION TO REMAINDERMAN AT DEATH OF NAMED GRANTEE

MODERN STATUTES

- 1. Dower & Curreny abolished
- a. Upon death, surviving spouse takes elective share NOTE OF DCT MERCES
- b. Upon divorce, property is divided under principle of equitable distribu

NONFREEHOLD

[LEASEHOLD] ESTATES

- TENANCY AT WILL
- 1 Price Elizabeth disa Terminated at any time by agreement of both Landiord and Tenant
- 2. Termination by operation of law with notice
- a. Sale of property
- b. Death of either purry PERIODIC TENANCY
- a. Example: Month-to-month or year-to-year
- b. Termination by notification equal to terms i. Notice must specify the date of termination
- Il Exception: Tensory of 1 yr. required 6 mos. notice. Modern Trend: Governed by Statute
- a. (Fig., Lease for year-to-year requires I mouth notice
- TENANCY AT SUFFERANCE
- Landlord has option to evict Tenant or hold Tenant to
- TENANCY FOR YEARS
- Specific period of time a. Generally fixed by calendar but may be terminable
- Termination at end of period without necessity of notice More than one your
- a. In writing Is Subject to Statute of Frauds
- LANDLORD'S RIGHTS AND DUTIES
- a. No liability for subsequent arising conditions
- b. No duty to maintain
- 2. Modern Law
- Assumption of repairs (not universal)
 Responsible care required
- ii. Not for commercial brases.
- Common passageways
 Duty to exercise ordinary care
- Short terms
- Warrants premises in good repair
- Liable for personal injuries
- Duty not to interfere with Tenant's quiet enjoyment
- a. Duty not to permit a minance
 b. Not expossible for acts of Tenants interfering with other Tenants, except where existence of legal ability
- has been granted TENANT'S REGHTS AND DUTIES
- Entitled to possession
- Residential Tenant entitled to Implied Warranty of
- a. Modern trend holds suitability implied in commercial
- 3. Duty to pay rest 4. Liable for waste
- a Destruction b Decay c Alteration 5 Duty of reasonably good repair
- the his thring year
- REMEDIES FOR BREACH OF IMPLIED WAR-RANTY OF HABITABILITY
- Constructive Eviction
- a. Tenant may terminate lease, leave premises and not pay further rest when, through the fault of landlord, there has been a substantial interference with the use and enjoyment of tenant's leased premises Retaliatory Eviction
- Tenant who claims violation of Housing Code and reports violations to authorities, and withholds rent, cannot be evicted as a retaliation for reporting

RIGHTS OF POSSESSOR

- LATERAL SUPPORT
- Right to have land supported in natural state by adja-
- a. Liability for damage to building if land would have
- SUBJECTIVE SUPPORT
- Right to have land supported in natural state by owners of interest under surface
- a. Liability for damages if land would have collapsed

- 1. Riesarian right of each owner to use all water needed for domestic purposes
- a. Commercial limited to reasonable use:
- 2. Prior Appropriation (First in time, first in right)

TYPES OF TENANCY

- | Right of Survivorship
- a. Survivor retains right in property no longer subject. to interpal of doceased co-tenant
- i. Right of survivor takes precedence over devise under will or over creditors of deceased co-tenant
- b. Some jurisdictions recognize only tenants in common where survivors remainder in whole cannot be destroyed without consent.
- 2. Califica inequired:
- Time, title, interest and possession
 Modern Statutes
- i. Unities + Owner's intent clearly expressed in Dood.
- 3. Levoluntary Severance
- i. Individual's rights subject to individual creditors.
- by Podicial sale
- c. Disturbance of unities creates Tenants in Common i. Joint tenant's conveyance of interest severs joint
- tensency with respect to that shar (a) Recipient of conveyance holds share as Tenant in Common with remaining joint tenants
- Voluntary Partition

- i. Title Theory (Minority) = Execution causes severance (a) Common Law: Legal title conveyed to bank and
- borrower kept equity of redemption to receive legal title back upon payment of mortgage ii. Lien Theory (Majority) = No title passes as long as contract in writing and capable of specific per-
- (a) Bunk holds security interest and not legal title
- i. Common Law: Unity of interest is destroyed, there-
- by severing joint tenancy
 ii. Modern Stantaux: Surviving joint tenant takes the
 whole, thereby not severing joint tenant takes the
 whole, thereby not severing joint tenancy
 (a) Jurisdictional Split: Whether surviving joint
 tenance takes subject to lease on 'j' interest or
 whether survivor holds whole not subject to lease. 5. Equal right to possess whole subject to rights of other

BY THE ENTIRETY

- Historiaand & Wife
- 2. Unities required
- a. Time, title, interest, possession and person b. Doed must refer to parties' marital relationship
- 3. Bly the whole
- a. No right of partition
- 4 Severance a. Right of fearwivership.
- b. Dissurce
- e. Execution proceeding in favor of joint creditor 5. Impoune from individual creditors but federal tax lies may attach to property (U.S. v. Craft) IN COMMON
- 1. No Right of Survivorship.
- a. Interest passes to beirs of deceased tenant
- 2. Ownership by part but right to possess entire prop-
- erty unless restricted by agreement a. Interest in property proportionate to consideration
- poid by each tense
- 3. Freely alternable
- 4. Subject to claims of creditors 5. Modern Statutes
- fails to specify form of concurrent ownership GENERAL RULES OF ACCOUNTABILITY
- 1. Statute of Amee
- Contribution of 3rd party charges
 May deduct reasonable exponses (Taxes, Unlinies, etc.)
 Account to co-tenants for rents/profits
- Life Tenant pays taxes, assessments, and interest on mortgage (limited to fair market value of rest)
- 4. Remainderman pays principal and insurance

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The Real Estate Training Team

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