

LAND LAW

UNIT 3

INTRODUCTION TO REGISTERED LAND

As you should be aware by now, land registration really began in 1925 with the Land Registration Act of that year. This introduced a system of “creeping registration” with different areas of England and Wales becoming subject to registration at different times. However, we have had compulsory registration over all of England and Wales since 1990 and more titles become registered every year. Registration of title is now governed by the Land Registration Act 2002, which came into force on the 13th of October 2003, and the Land Registration Rules 2003.

Land Registry is an arm of government. Its Head Office is based in Croydon, South London, and there are 14 other district offices dotted around the country.

The main functions of Land Registry are to register titles to land for the first time, and to register transfers of titles and mortgages to land.

So let's start with compulsory first registration.

Broadly speaking, when an owner of unregistered land deals with that land in any way, the transaction triggers compulsory first registration. In other words, the owner has to apply to Land Registry to convert the unregistered title into a registered one.

The triggering events are listed in section 4 of the Land Registration Act 2002 so that tells you when a currently unregistered title must be submitted to Land Registry for conversion into a registered title. The most important triggers to know about are: a transfer of land, whether or not that is for value, so it includes a sale and a gift of land; a transfer of land as a result of a court order, for example, on divorce, and also assents. I should explain that an assent is used where the land owner has died and his or her personal representatives pass the ownership of the land to a beneficiary, either because of what the deceased said in their will or because of the intestacy rules.

Another triggering event is the grant of a legal lease for a period of over 7 years and so is the creation of a mortgage. Once the land is registered, then section 27 of the two thousand and two Act requires that subsequent dealings with a registered freehold or lease, known as “dispositions”, must be completed by registration before ownership can pass to the new owner.

In principle, third party interests over land will only affect someone dealing with that piece of registered land if the interests have been entered on the register. However, you may remember that a third party proprietary interest that has not been entered on the register may still bind the owner of registered land, if it meets the requirements of what is called “an overriding interest”. Overriding interests are controversial and we will return to them later.

The Land Registration Act of 1925 also introduced the now familiar concept of state guaranteed title. The “state guarantee of title” amounts, in summary, to the principle

Registered Land The New Law

PT Brinkman



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