

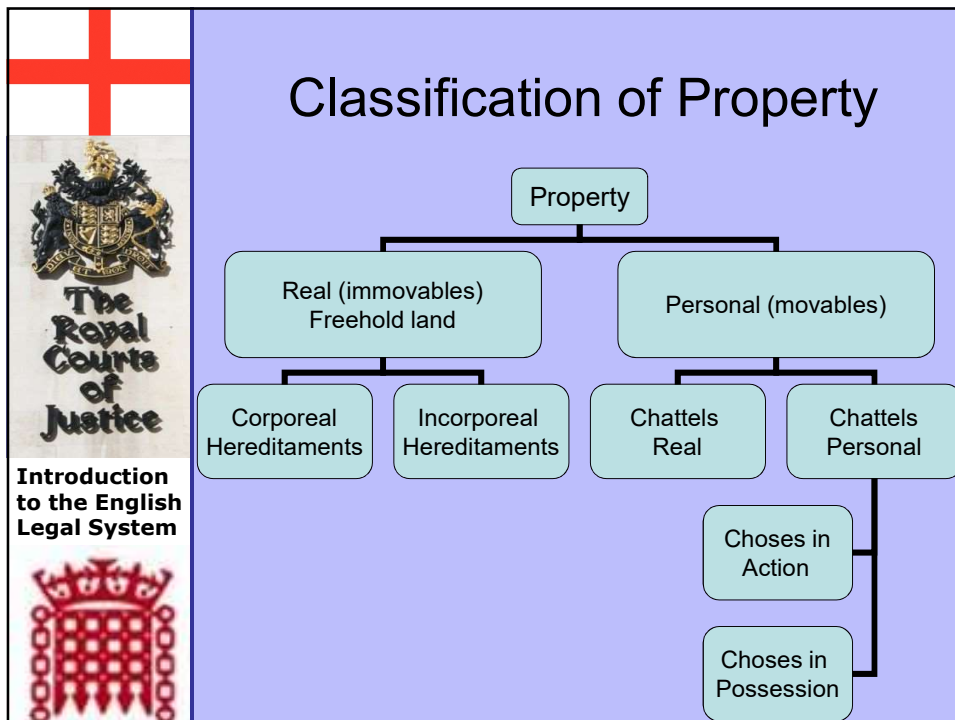
Introduction to the English Legal System



Property and Trusts




Christopher Bisping






The Royal Courts of Justice






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|   <p data-bbox="347 577 466 734">The Royal Courts of Justice</p> <p data-bbox="322 752 491 824">Introduction to the English Legal System</p>  | <h2 data-bbox="619 360 1114 416">Ownership and Land</h2> <ul data-bbox="517 477 1267 965" style="list-style-type: none"> • All land owned by the Crown since Norman Conquest (1066) • Feudal system of granting estates to noblemen, who subinfeudated land • Estates vary in quality • Rights can be granted to different persons • Land: <i>cujus est solum, ejus est usque ad coelum et ad inferos</i> |
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|   <p data-bbox="347 1505 466 1662">The Royal Courts of Justice</p> <p data-bbox="322 1680 491 1751">Introduction to the English Legal System</p>  | <h2 data-bbox="628 1288 1107 1344">Fixtures and Fittings</h2> <ul data-bbox="517 1404 1241 1780" style="list-style-type: none"> • Land includes objects attached to it (<i>quidquid plantatur solo, solo cedit</i>) • Degree of annexation test are items attached to the land? • Purpose of annexation test: for what purpose have items been attached? • Tenants fixtures |
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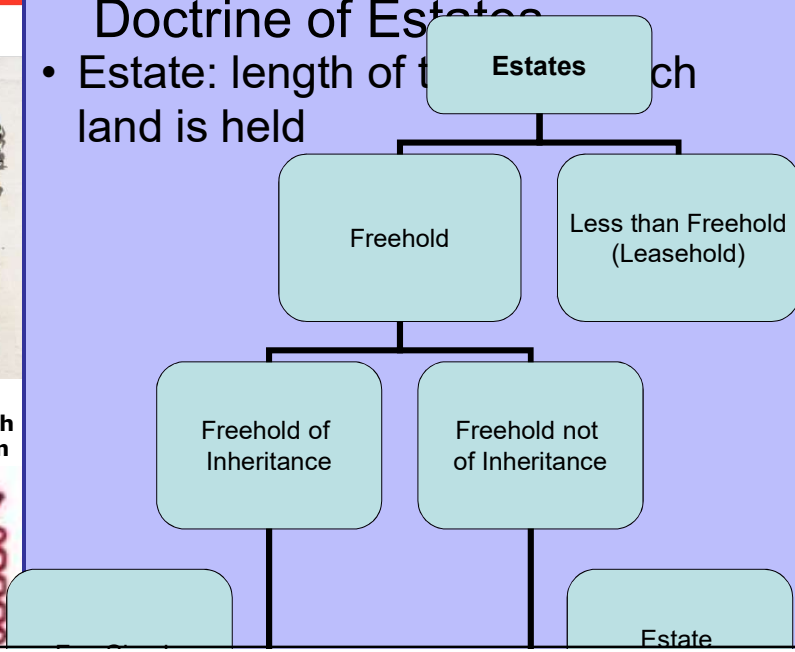
Doctrine of Tenures

- Tenure: conditions on which land was held (in feudal system)
- Free tenures:
 - duties fixed, services rendered freely
 - Chivalry, socage, spiritual tenure
- Unfree tenures
 - Villeinage, copyhold:
 - labour and agricultural services not fixed in nature and amount
 - Commuted to payment of rent (14th cent)
- Various incidents
- Today only socage (freehold) remains, without duties



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Doctrine of Estates


- Estate: length of time which land is held




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graph TD; Estates[Estates] --> Freehold[Freehold]; Estates --> Leasehold[Less than Freehold (Leasehold)]; Freehold --> FreeholdInheritance[Freehold of Inheritance]; Freehold --> FreeholdNotInheritance[Freehold not of Inheritance];
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|   <p data-bbox="322 750 491 824">Introduction to the English Legal System</p>  | <h2 data-bbox="699 360 1040 414">Estates (cont.)</h2> <ul data-bbox="518 465 1236 974" style="list-style-type: none"> • <u>Estates in possession</u>: present right to immediate enjoyment • <u>Estates in reversion</u>: falling back to grantor • <u>Estates in remainder</u>: future rights to actual enjoyment • Rights of fee simple owner <ul data-bbox="566 801 869 974" style="list-style-type: none"> – Natural rights – right of enjoyment – Right of alienation – fish /wild animals |
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|   <p data-bbox="322 1680 491 1753">Introduction to the English Legal System</p>  | <h2 data-bbox="687 1290 1050 1344">Law and Equity</h2> <h3 data-bbox="518 1395 965 1440"><u>Rights Created by Equity</u></h3> <ul data-bbox="518 1451 1197 1720" style="list-style-type: none"> • Trust <ul data-bbox="566 1503 1197 1624" style="list-style-type: none"> – legal (nominal) title held by trustee – Equitable (substantive) title enjoyed by beneficiary • Equitable right to redeem • Restrictive covenants <h3 data-bbox="518 1736 826 1780"><u>Special remedies</u></h3> <ul data-bbox="518 1792 933 1926" style="list-style-type: none"> • Injunction • Specific performance • Rescission |
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|  <p data-bbox="319 750 494 828">Introduction to the English Legal System</p>  | <h2 data-bbox="598 347 1141 414">Law and Equity (cont.)</h2> <ul data-bbox="518 459 1220 985" style="list-style-type: none"> • legal rights <ul style="list-style-type: none"> – Rights <i>in rem</i> – Good against the world – Only rights listed in LPA 1925 s1(2) <ul style="list-style-type: none"> • e.g. mortgage or easement • Must equate to Freehold or leasehold estate • Must be granted by deed • Equitable rights <ul style="list-style-type: none"> – Rights <i>in personam</i> – Do not bind certain purchasers (equity's darling) – If requisite for legal rights is missing |
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|  <p data-bbox="319 1680 494 1758">Introduction to the English Legal System</p>  | <h2 data-bbox="686 1254 1101 1366">Equity's darling (doctrine of notice)</h2> <ul data-bbox="518 1388 1252 1892" style="list-style-type: none"> • Bona fide = good faith • Purchaser • For Value • Of a legal Estate • Without notice <ul style="list-style-type: none"> – Actual ~ – Constructive ~ – Imputed ~ • Consequences: right defeated, cannot be resurrected • Less importance after introduction of land registration system |
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Estates and Interests (since LPA 1925)

- Estate = quality of ownership
 - Fee simple absolute in possession
 - Term of years absolute
- Interest = right over somebody else's land
 - Easements, rights and privileges
 - Rentcharges
 - Charge by way of legal mortgage
 - Rights of entry




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Registered Land

- Land Registration Act 2002
- 3-part register:
 - description of land
 - name of registered proprietor
 - third party rights
- Overriding interests
 - Leases <7 years
 - Legal easements
 - Rights of persons in actual occupation






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Leases

- Estate in land defined by duration
- Landlord/grantor/lessor – tenant/grantee/lessee
- Certainty of duration
- Exclusive possession
- Different types of leases with varying degree of protection

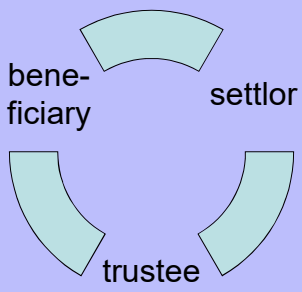






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Trusts

- Settlor creates trust, may be same person as beneficiary
- Trustee holds legal title
- Beneficiary holds equitable title



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|   <p>Introduction to the English Legal System</p>  | <h2 style="text-align: center;">Personal Property</h2> <ul style="list-style-type: none">• SoGA 1979 s 17: “property passes when the parties intend it to pass”• Mere consent sufficient• <i>Nemo dat quod non habet</i> => no good faith acquisition• Exceptions: Factors Act, Hire Purchase Act 1967• Not suitable as collateral for security for persons (Bills of Sales Act), only for companies |
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