Introduction to the English Legal System

Property and Trusts

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Classification of Property

- Property
  - Real (immovables)
    - Freehold land
  - Personal (movables)
    - Chattels Real
    - Chattels Personal
    - Choses in Action
    - Choses in Possession
### Ownership and Land

- 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: *cujus est solum, ejus est usque ad coelum et ad inferos*

### Fixtures and Fittings

- Land includes objects attached to it (*quidquid plantatur solo, solo cedit*)
- Degree of annexation test: are items attached to the land?
- Purpose of annexation test: for what purpose have items been attached?
- Tenants fixtures
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

Doctrine of Estates

- Estate: length of time for which land is held
  - Freehold
  - Less than Freehold (Leasehold)
    - Freehold of Inheritance
    - Freehold not of Inheritance

### Estates (cont.)

- **Estates in possession**: present right to immediate enjoyment
- **Estates in reversion**: falling back to grantor
- **Estates in remainder**: future rights to actual enjoyment
- **Rights of fee simple owner**
  - Natural rights
  - Right of enjoyment
  - Right of alienation
  - Fish / wild animals

### Law and Equity

#### Rights Created by Equity

- **Trust**
  - Legal (nominal) title held by trustee
  - Equitable (substantive) title enjoyed by beneficiary
- **Equitable right to redeem**
- **Restrictive covenants**

#### Special remedies

- Injunction
- Specific performance
- Rescission
Law and Equity (cont.)

- **legal rights**
  - Rights *in rem*
  - Good against the world
  - Only rights listed in LPA 1925 s1(2)
    - e.g. mortgage or easement
    - Must equate to Freehold or leasehold estate
    - Must be granted by deed

- **Equitable rights**
  - Rights *in personam*
  - Do not bind certain purchasers (equity’s darling)
  - If requisite for legal rights is missing

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**Equity’s darling**

(doctrine of notice)

- Bona fide = good faith
- Purchaser
- For Value
- Of a legal Estate
- Without notice
  - Actual ~
  - Constructive ~
  - Imputed ~

- Consequences: right defeated, cannot be resurrected
- Less importance after introduction of land registration system
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

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
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

Trusts

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

- SoGA 1979 s 17: “property passes when the parties intend it to pass”
- Mere consent sufficient
- *Nemo dat quod non habet* => 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