Introduction to the English Legal System

Property and Trusts
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Classification of Property

- Property
  - Real (immovables)
    - Freehold land
  - Personal (movables)
    - Corporeal Hereditaments
    - Incorporeal Hereditaments
    - Chattels
      - Chattels Personal
      - Chattels Real
      - 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

**Estate**
- **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
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