




Introduction to the English Legal System

Property and Trusts

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Classification of Property

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graph TD; Property --> Real["Real (immovables)  
Freehold land"]; Property --> Personal["Personal (movables)"]; Real --> Corporeal["Corporeal Hereditaments"]; Real --> Incorporeal["Incorporeal Hereditaments"]; Personal --> ChattelsReal["Chattels Real"]; Personal --> ChattelsPersonal["Chattels Personal"]; ChattelsPersonal --> ChosesInAction["Choses in Action"]; ChattelsPersonal --> ChosesInPossession["Choses in Possession"];
```

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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*

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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



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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
      A[Estates] --> B[Freehold]
      A --> C[Less than Freehold (Leasehold)]
      B --> D[Freehold of Inheritance]
      B --> E[Freehold not of Inheritance]
      D --> F[ ]
      E --> G[ ]
      F --- H[Estate]
      G --- H
  
```



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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



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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



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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

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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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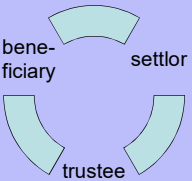
Leases

- 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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graph TD; beneficiary --- settlor; settlor --- trustee; trustee --- beneficiary;
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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
