



## THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

### UNIT 9 – LAND LAW\*

**Time allowed: 3 hours plus 15 minutes' reading time**

#### **Instructions to Candidates**

- You have **FIFTEEN** minutes to read through this question paper before the start of the examination.
- **It is strongly recommended that you use the reading time to read this question paper fully.** However, you may make notes on this question paper or in your answer booklet during this time, if you wish.
- **All questions carry 25 marks. Answer FOUR only of the following EIGHT questions. This question paper is divided into TWO sections. You MUST answer at least ONE question from Section A and at least ONE question from Section B.**
- Write in full sentences – a yes or no answer will earn no marks.
- **Candidates may use in the examination their own unmarked copy of the designated statute book: Blackstone's Statutes on Property Law, 2020-2021, 28<sup>th</sup> edition, Meryl Thomas, Oxford University Press, 2020.**
- Candidates must comply with the CILEx Examination Regulations.
- Full reasoning must be shown in answers. Statutory authorities, decided cases and examples should be used where appropriate.

#### **Information for Candidates**

- The mark allocation for each question and part-question is given and you are advised to take this into account in planning your work.
- Write in blue or black ink or ballpoint pen.
- Attention should be paid to clear, neat handwriting and tidy alterations.
- Complete all rough work in your answer booklet. Cross through any work you do not want marked.

**Do not turn over this page until instructed by the Invigilator.**

\* This unit is a component of the following CILEx qualifications: **LEVEL 6 CERTIFICATE IN LAW and the LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE**

**SECTION A**  
**(Answer at least one question from this section)**

1. Critically assess how true it is to say that an easement will always be implied unless there is evidence of a contrary intention.  
**(25 marks)**

2. Critically analyse:

(a) how the courts will decide who has the strongest claim to objects found in or on the land;  
**(15 marks)**

(b) how far above and below the ground a freeholder can be said to 'own' their land.  
**(10 marks)**

**[NOTE: Do NOT consider the law relating to fixtures and fittings in your answer.]**

**(Total: 25 marks)**

3. Critically assess:

(a) how true it is to say that a lease must be made for a certain term;  
**(13 marks)**

(b) how effective the introduction of authorised guarantee agreements (AGAs) has been in protecting a landlord against breach of leasehold covenants.  
**(12 marks)**

**(Total: 25 marks)**

4. Critically discuss how effectively the law on constructive trusts protects those claiming a beneficial interest.  
**(25 marks)**

**SECTION B**  
**(Answer at least one question from this section)**

**Question 1**

Aubrey Armitage Automobiles ('AAA') is a company based in Kempston, specialising in repairing cars. The company owns a plot of the land, 'the Garage', which contains the company office, garage facilities and storage for a number of vehicles.

In December 2005, AAA successfully tendered to repair an entire fleet of vehicles belonging to a local taxi company. As there was not enough space at the Garage to store all of the taxis while they were being repaired, AAA contracted with Barry's Beans ('BB'), a local agricultural company, to store some of the vehicles on a piece of freehold land adjacent to the Garage ('the Field'), owned by BB. AAA agreed with BB that AAA would pay £5,000 in exchange for a licence to use the Field for vehicle storage, with the licence scheduled to expire on 1 January 2009. The licence was duly completed.

AAA found the extra storage space provided by the Field extremely useful, and in November 2008 it contacted BB about extending the licence. However, BB replied stating that it did not wish to extend the licence, as it planned to build a canning factory on the Field, once it had obtained planning permission.

AAA continued to use the field to store vehicles, although the directors of the company instructed its staff to remove the vehicles if BB objected. BB did not do so, as it was still waiting for the planning permission for the factory. In December 2010, after a spate of vehicle thefts in the local area, AAA erected a fence around the Field, with access via a single locked gate leading to the Garage.

In 2015, AAA received a letter from a firm of solicitors acting on behalf of BB, notifying AAA that it should immediately cease to use the Field for storing vehicles. AAA ignored the letter and did not receive any further communications.

Last week, AAA was again contacted by BB's solicitors, demanding that it remove all vehicles from the Field within the next 28 days.

Advise AAA as to a claim in adverse possession, assuming that the Field is:

(a) unregistered land;

**(20 marks)**

(b) registered land.

**(5 marks)**

**(Total: 25 marks)**

## Question 2

In 2015, a derelict property in the centre of Kempston was put up for sale. The property, which had in previous times been used as a corn market, was purchased by Dika, who planned to renovate the building and open it as a pub, called 'The Corn Exchange'.

Dika purchased the property for £700,000. He paid £100,000 from his own savings towards the purchase, with the remaining £600,000 provided by a mortgage from Kempston Bank. The mortgage was created by deed and registered against the title to the property. Under the terms of the mortgage, Dika had 20 years to repay the capital advanced plus interest. Kempston Bank also told Dika that it wished to include a clause that tied Dika into purchasing his beer and cider from Kempston Brewery, a local business which the Bank partially owned. Dika decided to accept this term, as the interest rate offered was lower than by any other provider, and the clause would only bind him for the first five years of the mortgage.

The Corn Exchange opened for business in 2017 and at first was very successful. However, in early 2020, Dika's highly successful chef left for a job in London and the quality of the food served declined considerably. The number of customers has steadily declined, not helped by a more general downturn in the local economy. Dika has failed to make any of the last four repayments due on the mortgage.

As part of the renovations to the building, Dika had purchased some very rare tapestries, dating from the seventeenth century, around the time the building would have been in use as a corn market. These tapestries were then hung from the walls in the main bar area.

Kempston Bank has heard that, last week, Dika removed the tapestries from the pub, along with two large free-standing fridge-freezers from the kitchen and a number of light fittings.

Advise Kempston Bank as to:

- (a) whether the clause relating to the purchase of beer and cider is likely to be considered valid;  
**(9 marks)**
- (b) its rights and remedies as mortgagee in view of Dika's failure to make repayments;  
**(8 marks)**
- (c) whether the items removed by Dika are fixtures that should remain with the mortgaged property.  
**(8 marks)**

**(Total: 25 marks)**

### Question 3

Mary was the owner of a large farm on the outskirts of Kempston. In 2016, Mary decided to sell off some of her farmland to raise money. Mary divided her plot into two parts: she retained 'The Farmhouse', where she continued to live, but sold 'The Old Barn' to Nigella. Nigella told Mary that she planned to convert The Old Barn into an art gallery.

The conveyance of The Old Barn to Nigella stated:

'Nigella, her heirs and assigns covenant for the benefit of Mary, her heirs and assigns:

- 1) Not to use The Old Barn as a dwelling or for overnight accommodation;
- 2) To hold events after 6pm only with the consent of the owner of The Farmhouse;
- 3) To provide the owner of The Farmhouse with one original painting every year.'

All three covenants are correctly registered against the registered title to The Old Barn.

In 2018, Nigella decided to leave the art world and she sold The Old Barn to Percy, who has continued to run the art gallery from it.

In 2019, Mary died and her estate was put up for sale. Last month, The Farmhouse was purchased by Riku. While researching the area, Riku noticed that Percy has been advertising The Old Barn as overnight accommodation online. Riku went to talk to Percy about this and about the original painting, which he had not yet been provided with. Percy told Riku: 'I'm far too busy planning for our 24-hour Fifth Anniversary Party Spectacular to talk about this'.

Advise Riku in respect of each of the covenants.

**(25 marks)**

#### **Question 4**

Teresa was the owner of Valley Farm, a large property comprising a six-bedroom farmhouse and 20 acres of farmland. Teresa had four children, three of whom already lived away from the farm. Her youngest son, Wallace, completed his university degree in 2016.

Teresa was keen to have more help at the farm, as she was suffering from health issues. When Wallace completed his degree, Teresa suggested that he should return to live at Valley Farm and help to work the land. When Wallace appeared reluctant, Teresa said: 'If you come back, you know I'll make it worth your while. I won't leave you penniless.' Wallace was increasingly concerned by his mother's ill health, and so decided that he should accept her offer.

Wallace worked on the farm from 2016 onwards, living in the farmhouse with Teresa. He did not pay any rent, although he did contribute to some household bills. Teresa paid Wallace an annual salary of £16,000. As Teresa's health continued to decline, Wallace took on an increasing amount of work on the farm.

In 2018, Teresa met with her solicitor to discuss making a Will. A draft Will was drawn up, with Wallace's knowledge, whereby Teresa's considerable savings (worth around £1 million) were to be left to her other three children, while Wallace would be bequeathed Valley Farm. However, the Will was never formalised and so had no legal effect.

In 2019, Wallace was offered a job running a nearby farm, with a salary of £30,000. Teresa said to Wallace: 'You know that Valley Farm is your future. I'd hate to think you weren't involved here anymore.' Wallace decided to reject the job offer.

Last month, Teresa died. Wallace was shocked to learn that she had made a Will last July, which split all of her assets equally, meaning that Wallace had only a quarter share in Valley Farm along with his three siblings. The farm is currently valued at £2 million.

Advise Wallace as to any claim he may have in proprietary estoppel.

**(25 marks)**

**End of Examination Paper**