



CILEX Level 6 Single Subject Certificate/CILEX Level 6 Professional Higher Diploma in Law and Practice/CILEX Level 6 Graduate Fast-Track Diploma

Unit 9 – Land Law

Question paper

June 2022

Time allowed: 3 hours and 15 minutes (includes 15 minutes' reading time)

Instructions and information

- It is recommended that you take **fifteen** minutes to read through this question paper before you start answering the questions. However, if you wish to, you may start answering the questions immediately.
- There are **two** sections in this question paper — Section A and Section B. Each section has four questions.
- You must answer **four** of the eight questions — at least **one** question must be from **Section A** and at least **one** question must be from **Section B**.
- This question paper is out of 100 marks.
- The marks for each question are shown — use this as a guide as to how much time to spend on each question.
- Write in full sentences — a yes or no answer will earn no marks.
- Full reasoning must be shown in your answers.
- Statutory authorities, decided cases and examples should be used where appropriate.
- You are allowed to make notes on your scrap paper during the examination.
- You can use your own unmarked copy of the following designated statute book – ***Blackstone's Statutes on Property Law 2021-2022, 29th edition, Meryl Thomas, Oxford University Press, 2021.***
- You must comply with the CILEX Exam Regulations – Online Exams at Accredited Centres/CILEX Exam Regulations – Online Exams with Remote Invigilation.

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SECTION A

Answer at least one question from this section.

1. Critically evaluate how true it is to say that the burden of a freehold covenant cannot pass to a subsequent owner of the burdened land.

(25 marks)

2. Critically analyse the extent to which “squatter’s rights” are limited by:
 - (a) common law;

(14 marks)
 - (b) legislation.

(11 marks)

(Total: 25 marks)

3. Critically assess the various tests available to the court when determining if an object is a fixture or a fitting.

(25 marks)

4. Critically analyse, in the context of co-ownership:
 - (a) the distinction between joint tenancy and tenancy in common;

(14 marks)
 - (b) the powers of the court under section 14 of the Trusts of Land and Appointment of Trustees Act 1996 (TLATA 1996).

(11 marks)

(Total: 25 marks)

SECTION B

Answer at least one question from this section.

Question 1

Aaliyah and Brian have been married for 20 years. In June 2014, they purchased 14 Cedar Close, a large detached house in a village near Kempston. The property is registered. The house is Victorian and required significant renovation and modernisation. Aaliyah and Brian paid £450,000 for the house, financing this through a combination of the proceeds of the sale of their former property (£250,000) and a mortgage from Diamond Bank. This legal charge was created by deed and was registered on 30 August 2014.

Aaliyah and Brian also borrowed £75,000, creating a charge against the property, from Eagle Investments. This loan was evidenced in a written contract. This loan was never registered against the property.

After quickly realising that more money than they had borrowed was going to be needed for the renovations, Aaliyah and Brian borrowed a further £25,000 from Flight Bank. This charge was created by deed and was registered on 27 August 2014.

In 2018, Brian told Aaliyah that he wanted to take out a further mortgage over the property. Aaliyah was reluctant to do this, as it was already a struggle to meet the monthly repayments for the three existing mortgages. Brian told Aaliyah that he needed the money to expand his business. He continually referenced the mortgage and told Aaliyah that if she continued to refuse he would file for divorce. Aaliyah eventually reluctantly agreed to the further mortgage, which was for £50,000 with Goodwill Bank. Aaliyah and Brian jointly attended a meeting with a Goodwill Bank representative, who asked Aaliyah if she “was really sure she wanted to go ahead?”. Aaliyah said she did and the mortgage was granted in her and Brian’s joint names. In May 2018, a notice of the loan contract with Goodwill Bank was registered against the property.

Three months ago, Brian told Aaliyah that his business had failed. He also told Aaliyah that he had used the money from Goodwill Bank to buy property abroad and that he was moving to Croatia to live with Zara. Unknown to Aaliyah, Brian had been having an affair with Zara for the last five years.

Aaliyah has been unable to make repayments on any of the mortgages since Brian left three months ago. Diamond Bank has informed her that it has obtained an order for the sale of the property.

Advise Aaliyah as to:

- (a) the order in which the different mortgagees will receive payment from the sale;

(10 marks)

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- (b) whether she will be able to have the mortgage with Goodwill Bank set aside for undue influence.

(15 marks)

(Total: 25 marks)

Question 2

In 2017, Hallie purchased Ivy Lodge, a former gamekeeper's lodge located in the countryside. The property is registered. The property included not just the lodge itself, but an outbuilding that had been used as kennels, as well as a large garden. Hallie planned to live in the lodge and to convert the outbuilding for use in her personal training business.

Hallie converted the former kennels into a gym. However, because she had a wide range of clients she needed to keep a lot of different exercise equipment to hand. She soon found that she had insufficient space to store the extra equipment. Hallie noticed there was a large shed on the adjoining land that seemed unused. She approached Jamilda, who owned the adjoining property and asked if she could use the shed. Jamilda agreed, and they drew up a document headed "Easement Contract". The document stated that the owner of Ivy Lodge would have the indefinite right to store equipment in the shed and was signed by Jamilda.

In 2019, Hallie agreed with Kevin, who lived in the property which backed on to Hallie's garden, to grant the right for the owner of Kevin's house to take a shortcut to the main road across the garden of Ivy Lodge. They recorded their agreement in a document headed "Deed of Easement", which they both signed with Jamilda as a witness. This easement was not registered against the property.

Last month, Hallie sold Ivy Lodge to Lance. Lance had assumed he would be allowed to use Jamilda's shed for storage but Jamilda has padlocked the shed and told Lance he cannot use it. Lance is annoyed that Kevin often walks across his garden to access the main road.

Advise Lance.

(25 marks)

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Question 3

Masood and Naofumi were close friends who had known each other for many years. They had rented a house together while studying at university and had remained close ever since. In 2007, Masood asked Naofumi if he wanted to purchase a property together, as Masood could not afford to buy a house alone. Naofumi agreed and the two bought 23 Oliver Street, a three-bedroom semi-detached house in Kempston.

The purchase price was £240,000 and this was funded as follows: Masood contributed £100,000, Naofumi contributed £50,000 and the remaining £90,000 was borrowed from Pegasus Bank in the joint names of Masood and Naofumi. The property was also registered in their joint names.

Masood and Naofumi lived together at 23 Oliver Street for the next four years. Each month, for the mortgage repayment of £600, Masood contributed £400 and Naofumi contributed £200. The mortgage was fully paid off in 2021.

Masood had little interest in DIY but Naofumi was a very accomplished amateur builder and over the four years at the property he made a number of significant renovations, including installing new bathrooms and a new kitchen. Naofumi paid for these renovations out of his own money.

In 2021, Masood met Paula and they began a relationship. Last month, he told Naofumi that he wanted to sell 23 Oliver Street so that he could use his share of the proceeds to buy a property with Paula. Naofumi was open to the idea of selling, but was shocked when Masood told him how he expected to divide the proceeds. Masood said that as Naofumi had paid £50,000 and a third of the mortgage, he would give Naofumi £80,000 on sale. The property has been valued by an estate agent as being worth £300,000.

Advise Naofumi.

(25 marks)

Question 4

Renee is the fourth of her father Stephen's five children. When Renee's younger sister left home for university in 2008, Stephen announced that he was leaving his partner and he purchased a new property in which he lived alone, Tintern House.

In 2011, after losing her job in London, Renee left her rented flat and moved in with her father. As time went by and as Stephen got older, Renee increasingly took on a greater share of the housework. In 2014, Stephen was diagnosed with a progressive disorder that meant he would slowly lose mobility in his legs. At this point, Renee suggested Stephen employ a carer to look after him.

Stephen said to Renee, "I'd much rather be looked after by family" and "you know that if you help me, I'll help you when my time is up." Renee said no more about a carer and took on caring responsibilities for her father.

In 2017, Stephen's mobility had deteriorated to the point that he could no longer manage the stairs. Renee and her girlfriend Una embarked on an ambitious programme of renovations to convert part of the ground floor into a bedroom and ensuite bathroom for Stephen. Stephen was so pleased by this that he gave Renee an envelope containing a copy of the deeds to Tintern House, saying "you'll need this when the time comes."

In 2019, Una was offered a highly-paid job in Canada. She asked Renee to relocate with her, but when Renee told Stephen he told her "I can't manage without you. If you stay, the house is yours after I die." Renee reluctantly turned down Una's offer. Una decided to take the job despite this. Unfortunately, the long distance affected her relationship with Renee and they broke up a few months later.

Last month Stephen died suddenly. His will leaves Tintern House to his five children jointly.

Advise Renee as to any possible claim in proprietary estoppel.

(25 marks)

End of the examination

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