



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 2018-2019, 26th edition, Meryl Thomas, Oxford University Press, 2018.**
- 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 analyse how a claim for adverse possession:
 - (a) differs between registered and unregistered land;
(12 marks)
 - (b) can be considered 'theft of land'.
(13 marks)**(Total: 25 marks)**

2. Critically assess to what extent the Land Registration Act 2002 has achieved its aim of a 'mirror principle'.
(25 marks)

3. Critically evaluate the approach of the courts to constructive trusts, regarding:
 - (a) qualification;
(13 marks)
 - (b) quantification.
(12 marks)**(Total: 25 marks)**

4. Critically analyse the success of the Landlord and Tenant (Covenants) Act 1995 in reforming the running of leasehold covenants.
(25 marks)

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

Question 1

In May 2013, Andy agreed a five-year lease of 14 Hyacinth Lane, Kempston, a two-bedroom residential property. At that time, the registered freehold owner of 14 Hyacinth Lane was Bjorn. The freehold has a registered title. In March 2018, Andy met with Bjorn to discuss renewing his lease, which Bjorn indicated he was happy to do on the same terms as agreed in 2013.

Four days before the expiry of the 2013 lease, Bjorn told Andy 'I don't want the fuss of being a landlord anymore', and he refused to grant Andy a new lease. Andy, afraid that he would be left homeless, pleaded with Bjorn. Bjorn told Andy that he would be willing to sell him the freehold of 14 Hyacinth Lane for £250,000. Bjorn further offered to loan Andy £150,000 towards the purchase price, secured against the property.

The terms of the loan included the following:

'5. The legal date for redemption shall be 4 May 2038 and this mortgage may not be redeemed before that date in any circumstances.'

'9. Interest will be charged at 20% above the Bank of England base rate.'

Andy agreed to these terms and signed a 'mortgage contract' with Bjorn. Bjorn did not register the mortgage, which was not made by deed.

In September 2018, struggling to pay the instalments on his mortgage with Bjorn, Andy borrowed a further £50,000 against 14 Hyacinth Lane from Cloud Bank. This mortgage was created by deed and was registered against the property.

Andy lost his job early in 2019 and has now exhausted the last of his savings. He has failed to make the last three-monthly repayments to both Bjorn and Cloud Bank.

Advise Bjorn as to his rights and remedies as mortgagor.

(25 marks)

Question 2

Farhad was originally the freehold owner of the whole of the unregistered property at 12 Commercial Road, Kempston. This property comprises a large building, subdivided into two retail units, with a car park to the rear. From the property, Farhad ran two shops, one selling food ('Food4Less') from one unit and the other sports equipment ('Sports4Less') from the other unit. Farhad and the staff and customers of both shops used the small car park (of four spaces) behind the building to park.

In 2018, Farhad decided to sell one of the retail units, as he had purchased larger premises for Sports4Less on the opposite side of the road. He retained the shop selling food as '12A' and sold the other unit as '12B' to Gillian. The two parties agreed that Gillian would be using 12B as a restaurant. Farhad also retained the entire car park behind the units as part of the freehold of 12A.

In the conveyance of 12B to Gillian, Farhad expressly reserved the right 'to display advertising on the walls of 12B which directs customers to the new premises of Sports4Less'.

Earlier this year, Gillian tore down the posters that Farhad had placed on the outside wall of 12B relating to Sports4Less. Farhad was angry about this, and about the fact that Gillian often parks in the car park, limiting the spaces available for himself and the staff and customers of Food4Less. Gillian claims she has the right to park in the car park.

Advise Farhad as to whether either of the rights discussed above:

(a) will be capable of being easements;

(15 marks)

(b) if so, whether they have been created as easements.

(10 marks)

(Total: 25 marks)

Question 3

Melissa, Nadine, Olivier, Peter and Qi all worked together as lecturers at Kempston University. They decided to buy a house together near the campus, and so in March 2017 they purchased 'The Elms', a large residential property. They each provided £80,000 towards the £400,000 purchase price. The house has a registered title and was transferred to the buyers 'as beneficial joint tenants'. The transfer was registered at the Land Registry.

In November 2017, Melissa went to Australia to give a series of guest lectures. While there, she was offered a full-time position. Melissa sent a letter by registered post, addressed to Nadine, Olivier, Peter and Qi, stating: 'I love it over here and I'm never coming back. Let me know when you sell the house and I'll tell you how to send me my share.' Olivier accidentally threw the unopened letter in the bin, along with a pile of junk mail.

In April 2018, Qi was declared bankrupt.

In September 2018, Peter died in a road traffic accident. He left a Will, leaving all of his property to his niece, Roberta.

In May 2019, Melissa contacted Nadine to offer her a job in Australia, at the same university where Melissa was working. Nadine spoke to Olivier about the possibility of him buying her share in the property. They informally agreed on a price, and Olivier said he would consult a solicitor about drawing up an agreement.

The following day, Olivier died suddenly. By his Will, he left his share in The Elms to Melissa.

Today a letter was delivered to The Elms, written by Qi's trustee in bankruptcy, Sally. In the letter, Sally states that she is looking to sell the house as soon as possible. Nadine has decided to stay in Kempston and does not want to sell the property.

Advise Nadine as to the current ownership of the property and the likelihood of sale.

(25 marks)

Turn over

Question 4

Thomas was the freehold owner of two properties in Kempston: 'Hideaway Farm', a large freehold property containing a house along with stables; and 'Gamekeeper's Cottage', a small cottage nearby.

In February 2019, Thomas agreed to sell Hideaway Farm to Ugo for a price of £1 million. No Fittings and Contents Form was completed.

In April 2019, Hideaway Farm was transferred to Ugo, who took possession. At this point, Ugo found that Thomas had removed a number of items from the property, which Ugo had presumed were included in the sale. These were:

- two large oil paintings, which had been firmly attached to the wood-panelled walls of the library – considerable damage had been done to the panelling in removing the paintings;
- a large free-standing refrigerator;
- two horses, which had been housed in the stables.

Ugo is now claiming these items from Thomas.

In early May 2019 Thomas agreed to sell Gamekeeper's Cottage to Vanya. They drew up a contract of sale, which both Thomas and Vanya signed on 25 May 2019. Yesterday, Thomas realised that the contract did not mention the price they had orally agreed, £350,000. Having been contacted by another potential buyer willing to offer £400,000, Thomas now wishes to withdraw from the sale to Vanya.

Advise Thomas whether:

- (a) he will need to return any of the items that Ugo is claiming from him;
(19 marks)
- (b) he can withdraw from the sale of Gamekeeper's Cottage to Vanya.
(6 marks)
(Total: 25 marks)

End of Examination Paper

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