

THE UNIVERSITY OF BRITISH COLUMBIA  
PETER A. ALLARD SCHOOL OF LAW

DECEMBER EXAMINATION - 2020

LAW 231.002  
Property Law

Professor Dennis Pavlich

**EXAM PASSWORD: 4dHmY3**  
RESUME CODE: ABB123

**TOTAL MARKS: 100**

(8:50 AM PST) **PREPARATION TIME ALLOWED: 10 MINUTES**

(9:00 AM PST) **WRITING (INCLUSIVE OF READING) TIME ALLOWED: 1 HOUR AND 15 MINUTES**

**8:50-9:00 AM Preparation Time (Exam writing not permitted)** – This time is given to students to download/print your exam questions once the exam has been made available online on Canvas, to read the Exam Password on this exam coversheet, to enter the Exam Password for the exam in Exemplify, and to progress in Exemplify until you see the **STOP SIGN**, where you will **WAIT until 9:00 AM. DO NOT proceed past the STOP SIGN. DO NOT begin typing your exam answers in Exemplify until 9:00 AM!**

**9:00 AM Exam Writing Time** – At 9:00 AM, you may proceed past the **STOP SIGN** in Exemplify and begin typing your exam answers. Students are required to calculate and monitor their own time for writing exams. All exam answer uploads will be monitored to ensure that typing of answers only occurred during the allotted Exam Writing Time.

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This is an open book examination. You may access any relevant material as references only.

**If you think you have discovered an error or potential error in a question on this exam, please make a realistic assumption, set out that assumption clearly in writing for your professor, and continue answering the question. Do not email your professor or anyone else about this while the exam is in progress.**

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**ACADEMIC INTEGRITY**

Any exam answers that raise suspicion of breaking any restrictions outlined on this cover page may be subject to being processed through academic integrity software. Students typing exam answers before or after the allocated exam writing time may receive a grade penalty.

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As this exam is being written off-campus and is unsupervised, any communication whatsoever (including, but not limited to in person, telephone, e-mail, text, social media, etc.) concerning the contents of this examination with anyone (other than the Student Services staff of the Allard School of Law) is strictly prohibited.

In the event any information comes to your attention regarding a breach of these regulations (by others, or inadvertently by you), please immediately contact Student Academic Services ([studentservices@allard.ubc.ca](mailto:studentservices@allard.ubc.ca)) and make full disclosure.

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- **I'm experiencing technical difficulties DURING THE WRITING of the exam**

If you experience technical difficulties with Exemplify at the very beginning or during an exam, you may attempt to solve your problem/reboot your computer **BY YOURSELF**. You are **STRONGLY** encouraged to spend **NO MORE THAN 5 minutes** attempting to do so. You will **NOT BE GIVEN ANY EXTRA TIME** to complete the exam. **If your attempt to solve the problem is unsuccessful**, or if you choose not to make such an attempt, you **MUST** immediately **begin hand-writing** your exam answers with pen on lined paper. **You may NOT type your exam answer in word-processing software.**

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You must also upload to Canvas your hand-written exam answers into the "Exam Answer File Upload (Word Processor or Hand-written ONLY)" folder. Scan or take a picture of each page (.jpg) of your exam and put them into one folder to upload.

Your answer file should be named, and the coversheet of your answers should be titled with:  
Your Exam Code, Course Number, Name of Course, and Instructor Name  
i.e., **9999 LAW 100.001 Law of Exam Taking – Galileo**

- **I'm experiencing technical difficulties EXITING and UPLOADING the exam**

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If you have approved accommodations to type your answers using Word Processing Software, and experience difficulties uploading your exam answer file to Canvas, email your exam answer file to [studentservices@ubc.ca](mailto:studentservices@ubc.ca).

- **I fall ill in the middle of an exam, or am otherwise interrupted such that I'm unable to continue writing my exam**

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END OF COVER PAGES

THIS EXAMINATION CONSISTS OF 2 QUESTIONS.

**MARKS**

**25 Question 1. Please answer either A or B.**

**A.** Write a brief essay that explains the meaning and history of “corporeal interests in land” observing their relevance and application in the modern world of the Canadian common-law of real property;

Or

**B.** Briefly explain fragmentation of land according to space, time and interest discussing the role the division plays in the Canadian common-law of real property.

(NOTE: DO **NOT** ANSWER BOTH A and B).

**75 Question 2.**

Sadie Snooks, an eighty-year-old woman, occupied a secluded home outside the municipal boundaries of Squamish in a forested area of land to which she held a registered estate in fee simple. It is legally described as “Blackacre”. The property has a wooden cottage which was built many years ago by her predecessor in title. It rests on several concrete stilts as it is constructed and positioned to sit 3 feet off the ground and also over the width of a stretch of a brook called Sweet Waters that passes through the middle of the boundaries of Blackacre. (Sweet Waters flows into a major river 3 miles away.) The house was built without municipal approval.

From the stream water is drawn through an old-fashioned hand pump that traverses the kitchen floor into the stream below. The water is used for the

personal drinking and washing needs of the house residents which, beside herself, included her nephew Basil Bloggs and also her other animal population consisting of 5 dogs, 6 cats, a pet goat and 20 chinchillas. She sold produce from the menagerie when she felt she was becoming overwhelmed with their progeny. She also grew vegetables for her personal use and, from time to time, did carpentry work for selected friends living in Squamish. She drew a small amount of water to clean and operate these implements and also small foundry equipment she used, with the help of Basil, to make metal trinkets and fandangles from time to time and sold at the weekly Saturday Flea Market held on Saturday mornings in Squamish.

The ablution and toilet facilities draw and return water from and into Sweet Waters discarding effluent directly into the brook from the overhanging floor of the cottage. Two miles downstream Raj Bains lives as the riparian owner of Greenacre. He has frequently threatened Sadie with an injunction to stop polluting Sweet Waters. She had simply ignored his requests. Frustrated he has, on a number of occasions, complained to the Provincial Natural Resources Department. They have done little other than write many letters to Sadie pointing out her non-compliance with water and boundary laws and requiring her to relocate her house. Sadie refused as she noted that over the years the river has changed course and its meandering path now has exposed a third her stilted house covering dry land which once formed a part of the river bed. Indeed, the soil on what was the previous river bed has exposed commercial-grade sand. With the active assistance of her nephew Basil, who resides in the cottage, she had planned to bag and sell the sand for playground use in the 5 in Squamish.

Nine months ago, concerned that she may soon die, she decided to engage in estate planning. She visited her Squamish solicitor, Ms. Natalie Ng who on Sadie Snooks' instruction drew up a will leaving the residue of her estate to the Vancouver Chinchilla Society as heir. Sadie then instructed Natalie drawing up

a will. She also requested Natalie to draw up a Transfer Form in which she executed the conveyance of an estate in fee simple in remainder of Blackacre to Basil who has resided with her rent free because he was her favorite nephew who had assisted her in many chores in living on Blackacre as well as attending to her banking and financial affairs. She also explained to Natalie that Basil has been very good to her shown by his support of her way of life to which he, too, clearly enjoyed. Natalie executed the transfer form giving a remainder interest in fee simple to Basil. Sadie retained for herself a life estate. Later she handed the completed transfer form to a very grateful Basil who placed it in a safe that they both used and had access to, each having possession of one of the only two keys. The duplicate indefeasible title has been kept in the safe by Sadie for many years.

A month after the visit to the Law Office of Ms. Ng, Sadie Snooks had a terrible accident. She tripped and fell over the balcony of the house into that part of Sweet Waters over which the cottage still stands. She drowned.

Shortly after the funeral, Basil takes the transfer form and duplicate indefeasible title he has withdrawn from the safe and requests Ms. Ng to take steps to have him registered as the owner in fee simple absolute of Blackacre. Meanwhile, Mr. Bains has caused the service of a writ Natalie Ng as executrix and trustee in the Estate of Sadie Snooks that seeks to enjoining all activity on Blackacre that makes use of Sweet Waters and, in the alternative, he has served summons on Basil. The Department is now also threatening legal action based on trespass and violations under the Water Sustainability Act.

You are an article clerk to Natalie Ng. She requires you to draft a memo analyzing the issues arising in this case and with full reasons of the law and analysis of the facts, indicate the likely outcome if the respective disputes between Raj, Basil and the Provincial Department were to go to trial.

**END OF EXAMINATION**