

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

FINAL EXAMINATION – April 2021

LAW 231 section 2  
Property Law

Dennis Pavlich

**EXAM PASSWORD: EEx5Gi**  
RESUME CODE: B10C7E

**TOTAL MARKS: 100**

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

(9:00 AM PDT) **WRITING (INCLUSIVE OF READING) TIME ALLOWED: 3 HOURS & 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.

**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.

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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**

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1. The questions are not of equal marks.
2. Discuss fully the reasons for your answers.
3. In answering the questions your legal analysis should identify what additional facts may be required or clarified in order to provide a likely outcome to the problem.
4. ANSWER ALL 3 QUESTIONS.

## **MARKS**

### **30 Question 1**

Analyze and consider the following dispositions of various interests in land. Your answer should provide full reasons for your opinion to justify the conclusions you reach. You should identify all assumptions you make. Also, where appropriate and applicable:

- Indicate who is/are the transferee(s) (“words of purchase”) and their corresponding interests in land (“words of limitation”).
- Comment fully on:
  - any vesting of interest considerations you may regard as relevant to your conclusion(s);
  - the validity of the disposition(s); and
  - its/their effect on the outcome of the grant/devise as indicated.
- Consider each of the supposed dispositions as constituted by Sid Snooks, as grantor (*inter vivos*) or testator (in a will), OR BOTH, as indicated in square brackets.

1. “To Belinda Bloggs in fee simple but if Belinda financially supports her brother Brent Bloggs while he remains addicted to opioid drugs I, Snooks want Blackacre to give/devise to my son Samuel Snooks”. [GRANT and WILL]. Would your answer differ if the limitation referenced addiction to viewing pornography?
2. To Trevor Tong for life, remainder to such of his children who are charitable according to religious rite [WILL]. On Trevor’s death he has two children one of whom is an Anglican bishop who makes small donations annually to the Society for Sick Dogs and the other who is an atheist who gives large sums of money to the cause of Donald Trump on the advice of his good friend who belongs to the Society of Wizards.
3. To Priscilla Pike and her issue, until they or any successor in title disposes of the property to a graduate of the Faculty of Law at the University of British Columbia, then to Simon Fraser University” [GRANT and WILL]. Snooks had been a student at UBC and then expelled for misconduct relating to a sexual assault on another student. He has hated UBC ever since. Consider the instruments (transfer form and will) have been personally executed by Snooks.

**MARKS****20 Question 2**

Write an essay on the Canadian common law of aboriginal title and aboriginal rights explaining the events leading up to and consequences following from this recognition in British Columbia. Explain the difference between aboriginal title and rights, and detail the reason for the distinction comparing them to interests in land derived from English property law. Your essay should also advert to the

relationship between aboriginal title and land title registration in the Province of British Columbia critiquing the law on this subject.

**50 Question 3**

Jejomar Marcos has recently moved from a town in northern B.C. to Vancouver with his nineteen-year-old son, Kevin. Jejomar quickly found work, but Kevin remained unemployed. Jejomar had recently won \$1,500,000 in a lottery and used all of it to purchase, free and clear of financial encumbrances, an estate in fee simple in Blackacre. Title to the property was registered in the Land Title Office in Jejomar's name only - with the duplicate indefeasible title remaining in the custody of the registrar. In negotiating the purchase price for the property, Jejomar had, however, accepted title to Blackacre with the reservation of an easement across the back of Blackacre in favour of his seller and now former owner, Silvia Snooks. Silvia registered her easement against Jejomar's indefeasible fee simple title to Blackacre in the Land Title Office. Silvia continued to hold a registered estate in fee simple of Yellowacre an adjoining (to Blackacre) parcel of land.

In March 2019 Silvia Snooks was out of the country on an extended vacation. At that time, in response to the constant urging of Kevin, who wanted his own place to live in, Jejomar decided to build a "lane-way cottage" in back yard of Blackacre. He did this, knowing of Silvia's registered easement after constant assurances from Kevin that Silvia had no need of the easement, had not used it once and appeared no longer to be registered as a charge holder on the indefeasible title of Blackacre. Jejomar did a search of title to the property and noticed that there was no longer an easement over the back portion of the property (formerly registered in favour of Silvia Snooks). Kevin undertook to finance and superintend the construction of the laneway house. Misrepresenting himself as Jejomar, Kevin proceeded with getting the required City approvals and

obtaining a loan secured by a mortgage on Blackacre (he had used all of the lottery money to purchase Blackacre) to finance the laneway-house, construction project from Acme Financial Services. Kevin oversaw the contractors for the project, and even did some of the work on building the structure. After the laneway house had been completed Kevin moved in and Silvia returned from her overseas stay. With horror she looked at the newly completed and fully occupied (by Kevin) laneway cottage that covered considerably the easement of way formerly registered as a charge on the indefeasible title of Blackacre. It transpires that unknown to Jejomar, Kevin had forged Silvia's signature to enable removal of the easement of way. Kevin later explained he had effected this fraud as part of his overall strategy to get a place of his own relatively free of interference from his father, but not too far from Jejomar's always generous, financial support!

Unbeknown to Silvia and Kevin, Jejomar has learned about the fraudulent behaviour of his son. To forestall further trouble, he has sold Blackacre for \$2,500,000 (the property is likely worth \$3,000,000) and completed a transfer form. His buyer, Basil Bloggs, has received the executed transfer form and personally tendered it to the Land Title Office and applied for registration. Before concluding the transaction, Jejomar informs Bloggs that though the easement with Silvia is reflected on the indefeasible title as cancelled, this may be the result of a forged application. Bloggs had made several unsuccessful attempts to contact Silvia. There is no caveat on title. Bloggs' agreement with Jejomar specifies that only with registration will his (Basil's) lawyer friend, holding the purchase price on escrow, advance the balance of the purchase price to Jejomar once registration of a free and clear fee simple title to Blackacre in the name of Basil Bloggs has occurred. At this point Basil discovers:

- there is now a formalized dispute between Silvia and Jejomar who have sought legal advice;
- recently a charge on the title of Blackacre registered as a builder's lien has occurred initiated by Lane-way Building Contractors for \$50,000;

- also very recently registered is a judgment for \$30,000 obtained against Jejomar Marcos by a creditor Chesa Yan who had only recently learned of Jejomar's windfall from the lottery. The judgment was registered after the sale to Basil Bloggs;
- Ibrahim Ahmed who later advises Basil Bloggs that he (Ibrahim) lent Jejomar \$10,000 on the security of a transfer form A which he produces and reveals to Bloggs

Advise and evaluate whether Jejomar Marcos, Basil Bloggs, Silvia Snooks (who is keen to recover her easement of way), Acme, Lane-way, Chesa Yan, Ibrahim Ahmed and the Minister of Finance are likely to succeed if the legal issues arising from the matters enumerated above are litigated. In your answer, ensure you provide full reasons and explanation using legal reasoning and analysis of the principles and rules of law in issue in the context of the stated and implied facts and assumptions you wish to make.

**\*\*\*END OF EXAMINATION\*\*\***