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Bonafide Purchaser

A bonafide purchaser of land is one who has interest in the land that they acquired by providing money and they took this interest without any notice of prior conveyances.

Here, neither Barry (B) who took conveyance to Lot B from Olivia (O) via gift and Simon who inherited Lot A upon O's death will be considered bonafide purchasers for value. Also, each took their interest with notice of each others interests since all conveyances were properly recorded.

Fee Simple Absolute

A fee simple absolute is a total and complete ownership interest in land. It is easily defeasible, divisible and alienable.

Here, O has a fee simple absolute in Greenacre and the adjoining Lots A and B included in Greenacre

1. Darla's Property interest in Lot B

O to B - Fee Simple Determinable Subject to Executory Interest (FSDE)

A gift in the interest in land is said to be given in fee simple. A fee simple determinable subject to executory interest is an interest in land as long as the conditions stipulated in the conveyance is met and that if the condition occurs or fails or occur will lead to the passage of the property to another other other than the original grantor.

Here, B has a FSDE to Lot B as long as he and his heirs, successors or assigns use the premises as a personal residence. If they stop using it for such purpose it shall go to Zach (Z) or his surviving descendants. B's interest in Lot B failed as soon as he sold Lot B to a developer for \$1M and Lot B is now subject to Z's executory interest.

Therefore, since Z's interest passed down to his only surviving decedent D, D now has a fee simple in Lot B. B no longer has any interest in Lot B and D can sue B for her interest in Lot B.

Rules Against Perpetuities (RAP)

A property must vest within 21 years of an ascertainable life in being upon the conveyance of such interest.

He the property was conveyed to B 60 years ago however, Z was still alive when this conveyance was made and his children can be ascertained during his lifetime, his

property interest in Lot B will not fail due to the RAP and therefore neither will Z's granddaughter D's interest.

Therefore, D successfully has a fee simple interest in Lot B.

2. Simon's (S) claims to maintain a right of way over Lot B to the public highway

O to S - Inheritance

An inheritance in the interest in land is said to be given in fee simple.

Here, S has a fee simple interest in Lot A upon O's death.

Dirt Road

Easement

An easement is not a ownership interest in land however a right to use the land for a certain need. An easement must be in writing. An easement that is not in writing is a mere covenant to use the land.

Here, the dirt road across Lot B is not an easement since it was not reduced to writing between O and B.

Therefore, the dirt road between Lot A and B is not an easement. However, it is a covenant to use the land.

Easement/ Conveyance by Necessity

See Rule above for easement. A easement for necessity is a right to use land on servant estate by the owner of a dominant estate due to no other means of egress.

Here, since the easement was not in writing even though there is no other means for S to access the public highway, he does not have an easement in necessity,

Therefore, S does not have an easement by necessity.

Prescriptive Easement

A prescriptive easement follows the same acquiring methods as adverse possession. It requires use that is open and notorious, adverse, hostile, and for the statutory period.

Here, S's use of the dirt road is open and notorious, since he used it throughout the time Barry was using the property. It is however unclear whether it was adverse or hostile, however since this easement was not given out right to S. it can be argued that he is using the land with the knowledge of B without his permission. Most jurisdictions, the statutory periods are for 21 ye has been using this dirt road for the past 30 years.

Therefore, S has a prescriptive easement.

Constructive eviction of Right of Way

Prescriptive easements give right to own the land of the owner if they get a judgment from a court for adverse possession and record a deed.

Here, S has not received a judgment from a court neither has he recorded a deed.

Therefore, S has no claim against the developer maintaining the right of way to the public highway.

Question #2 Final Word Count = 799

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