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4 SEM LLB (N) ToPA 3

2018

(June)

LAW

Paper : 4.3

(Transfer of Property Act)

(New Course)

Full Marks : 80

Time : Three hours

The figures in the margin indicate full marks for the questions.

1. Answer the following questions in *one* sentence : $1 \times 10 = 10$

(i) What is "Instrument" under T.P. Act ?

(ii) Give a reason why Rule against Perpetuity is not applicable to family-waqfs created by muslims.

(iii) Mention *one* essential condition required for the transfer of property for the benefit of an unborn person.

- (iv) Whether it is mandatory to register transfer of actionable claims ?
- (v) Mention *one* difference between section 41 and section 43 of the Transfer of Property Act.
- (vi) What is restrictive Covenant ?
- (vii) Write *one* difference between sale and gift.
- (viii) What do you mean by 'incumbrances' ?
- (ix) Write *one* difference between 'charge' and 'lien'.
- (x) What is the period of limitation for the revocation of gifts on the ground of fraud, coercion, misrepresentation or under influence ?

2. Solve the following : 2×5=10

- (i) 'A' leased his land to 'B' for seven years on March 1901. In May, 1901 A entered into an agreement with B for the renewal of the lease on the expiry of the term of the lease. In July, 1901, A purported to settle the same land with

C for seven years from May 1908. C sued to take possession of the land on the ground that lease to B has now expired. Describe whether C will be entitled to get possession.

(ii) A made a gift of her property to her nephew's daughter B for life and then absolutely to B's male descendents, if she had any. But, in the absence of any male child of B, to B's daughter without power of alienation and if B has no descendents male or female then to her (A's) Nephew. B died issueless. Describe the validity of the gift to B and B's daughter.

(iii) A is owner of a house. He takes a loan of Rs.10,000 from B. Thus, A is debtor and B is creditor. House is the only property through which B can recover his loan. B intends to do so but A becomes aware of B's intention and before B could take any action A sells the house to C, who knows that A is selling the house so that B can not get back his money. Describe the remedy available to B.

(iv) A who is the owner of properties X, Y and Z mortgages these properties to M and takes a loan of Rs.30,000. A then sells property X to B. Here, 'X' is one of the properties which has jointly been mortgaged to M. If M enforces the mortgage for recovery of Rs.30,000; what will be the legal right of 'B' ?

(v) 'A' has shares in 'X' which is a prosperous company and also shares in Y which is a company running in loss. A makes a gift to 'B' of all his shares in both the companies. 'B' refuses to accept the shares in company 'Y'. Can 'B' take the gift of shares in company 'X' ?

3. Explain vested interest. Distinguish between vested interest and contingent interest in a transfer of property with suitable example. When does an urban acquire vested interest on transfer for his/her benefit ?

5+5+2=12

Or

Write exhaustive notes on the following :

6+6=12

(a) Immovable Property

(b) Express notice and Constructive notice.

4. Discuss the phrase, "Property of any kind may be transferred". What are the various exceptions to the above as provided under the Transfer of Property Act ? Explain.

2+10=12

Or

Explain and make an analysis on the doctrine of election. How is compensation given to a disappointed transferee ?

8+4=12

5. Explain the conditions for the applicability of the doctrine of *lis pendens* in a civil suit ? What is the effect of the principle of *lis pendens*.

9+3=12

Or

Discuss the doctrine of part-performance stating its scope and ambit under the Transfer of Property Act. How is Indian doctrine of part performance differ from English law ? $10+2=12$

6. Define Sale. Explain the essential of valid sale. How sale differs from hire-purchase agreement ? $2+8+2=12$

Or

Discuss briefly the Rights and Liability of buyer and seller before and after sale.

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7. What is mortgage ? Discuss the procedure for effecting mortgage by conditional sale and usufructuary mortgage. Write *two* differences between English Equitable mortgage and mortgage by deposit of title-deeds. $2+8+2=12$

Or

Define lease and state its essential ingredients. What are various modes of creating leases ? Discuss the concept of "Determination of leases" as provided under the Transfer of Property Act. 4+3+5=12
