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4 SEM LLB ToPA 3 (N)

2016

(June)

LAW

(Transfer of Property Act)

Paper : 4·3

(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 *single* sentence. : 1×10=10
- (a) Does the Transfer of Property Act cover transfer through will ?
- (b) Can a party to a transaction be the attesting witness ?

(c) Why spes-successionis is non-transferable under the Transfer of Property Act, 1882 ?

(d) What is the maximum remoteness of vesting a property under the Transfer of Property Act ?

(e) Who is an ostensible owner ?

(f) 'A' is the owner of an eight-anna share, and 'B' & 'C' each the owner of four-anna share, in mauza Sultanpur. 'A' transfers two-anna share in the mauza to 'D', without specifying from whose share the transfer is made.

Find out the share that have to be transferred from A, B & C to D's share as per Transfer of Property Act.

(g) Does a contract of sale create any interest in or charge on the subject matter of sale ?

- (h) What constitutes consideration in an exchange ?
- (i) 'A' mortgages his property to 'B'. Can A grant lease of the same property to 'C' ?
- (j) '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'. Does the gift is valid under the T.P. Act ?

2. Give your comments on the following with special reference to the provisions of Transfer of Property Act. 2×5=10

- (a) Beneficial interest in movable property is a transferable property.

- (b) There is a partition of a joint family property between A, B, C & D in which they agree that if any one of them leave no issue, he will have no right to sell his share and leave it for the other share holders. A sells his share and after sometime dies issueless. Write validity of this sale.
- (c) Transfer by an ostensible owner cannot be challenged even by the real owner.
- (d) A sells his land to B for Rs. 60 and the possession of the same also delivered immediately. A again sells the same land to C for Rs. 200 by a Registered Sale Deed. Write the validity of each transfer.
- (e) A contracted to purchase a piece of land, but sale in his favour is yet to be completed. Later on A made a gift of piece of land to B. Does this gift is valid ?

3. What are the requisites of a valid transfer ?
What are different properties that cannot be transferred ?

5+7=12

Or

Define attestation ? What is the object of attestation ? What are the essential conditions to constitute a valid attestation ?
Who can attest an instrument ?

3+3+4+2=12

4. Discuss the rule against perpetuity as provided in the T.P. Act with exceptions.

8+4=12

Or

Briefly discuss the doctrine of election with exceptions.

6+6=12

5. Explain the constituent elements of the doctrine of 'Lis Pendens'. State the validity of the transfer in the following —

A brings a suit for declaration of title to land against B. The suit is dismissed for default. A day after, an application for revival was filed. On the next day B sells the land to C.

8+4=12

Or

- a) Explain benami transaction with exceptions.
- b) Discuss the law relating to the fraudulent transfer with reference to the provision of Sec. 53 of the T.P. Act.

6+6=12

6. Define sale. What are the rights and liabilities of a seller before and after completion of sale ?

3+9=12

Or

Write short notes on :

12

- a) Contract for sale
- b) Doctrine of Marshalling.

7. Briefly explain the following —

- a) “Once a Mortgage always a Mortgage”.
- b) “Once a Mortgage always a subrogation”.

6+6=12

Or

What is lease ? What are the rights and liabilities of Lessor and Lessee ?

3+9=12
