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4 SEM LLB TPA 3 (N)

2017

(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** or **two** sentences : 1×10=10

(a) Whether the Transfer of Property Act apply to transfer by operation of law.

(b) Define the term 'Immovable Property'.

- (c) Whether transfer of property includes 'Relinquishment'.
- (d) Whether the definition of 'transfer of property' applicable to a property situated in Punjab and Jammu & Kashmir.
- (e) Mention *one* exception where the provision of the Benami Transaction Act will not be applicable.
- (f) What is the meaning of the maxim, '*pendente lite nihil innovetur*'?
- (g) Who is entitled to the benefit under the Rule of Marshalling as provided under sec 56 of the Transfer of Property Act?
- (h) When is the buyer entitled to repudiate the contract of sale and claim for the refund of the earnest money (if any) with interest?

(i) What is the mode of transfer of actionable claim as per the Transfer of Property Act ?

(j) What is 'Tenant-at-sufferance' ?

2. Solve the following with appropriate provisions of law : $2 \times 5 = 10$

(a) Where 'X' takes some loan from Y by mortgaging his immovable property, the parties to the mortgage deed are X and Y. Now, if Y who lends money has no sufficient money with him and takes some money from his brother Z and gives the full amount to X, then Z would be a interested person in the mortgage deed, although he is not a party to it. Can Z act as attesting witness in this mortgage deed ?

(b) A transfer his properties to X for life who is unmarried and then to the eldest child of X absolutely. Write the validity of the transfer.

- (c) P contracts to sell Aminpur to Q. While the contract is still in force P sells Aminpur to R, who has notice of the contract. Can Q enforce the contract? If so, against whom?
- (d) A contracts to sell his price of land to B for Rs. 50,000 not knowing that there is a gold mine beneath the land. But, somehow, B has the knowledge that there is a gold mine. This fact is such which if known to A, he would never have sold the land for Rs. 50,000, because gold mine materially increases the market-value of the land. B did not disclose the fact of gold mine to A. Later on A gets information of the fact and hence he decided to rescind the contract on the ground that B has committed fraud. Describe whether B has committed any fraud.
- (e) A Mortgage his property to B. A again mortgage the some property to secure another debt to C. Here, C is a subsequent mortgagee. Can 'C' exercise right to redemption?

3. Explain the Nature and Scope of Vested Interest. How does vested interest differ from contingent interest ? 4+8=12

OR

Explain the principle underlying the "Doctrine of Notice". Distinguish between Actual Notice and Constructive Notice.

4+8=12

4. Discuss the Rule against Perpetuity with its exception. 12

OR

Explain the specific properties or interest which cannot be transferred under Transfer of Property Act. 12

5. Explain the 'Doctrine of Part-performance' with the help of a leading case. Is there any difference between English and Indian law of Part-performance ? Give reason in support of your answer. 10+2=12

OR

- (a) Discuss the law relating to Fraudulent Transfer with reference to the provision of the Transfer of Property Act.
- (b) X is the owner of a house. He takes a loan of Rs. 10,00,00 from Y. Thus, X is the debtor and Y is the creditor. House is the only property through which Y can recover his loan. Y intends to do so but X became aware of Y's intention and before Y could take any action X sells the house to Z, who knows that X is selling the house so that Y could not get back his money. What is the effect of such a sale ? Is there any legal remedy for Y ? 8+4=12

6. Define Sale ? Explain the essential elements required for completion of a valid sale. Is there any difference between contract for sale and contract of sale ?

2+8+2=12

OR

Explain the Rights and liabilities of buyer and seller before and after completion of sale.

12

7. What is Mortgage? Explain the various kinds of mortgage with suitable examples.
3+9=12

OR

Define Gift. Explain the different Modes of Transfer of Property by way of gift. When can a gift be suspended or revoked?
2+7+3=12

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