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Test Bank Answer Key

Chapter 1 Introduction to the Law of Real Property

TRUE/FALSE

1. The law of real property in general is governed by the law of the state in which the owner of the real property resides.

ANS: F

2. The law of real property in general is governed by the law of the state where the real property is located.

ANS: T

3. An owner of real property usually owns all of the minerals beneath the surface of the land.

ANS: T

4. An owner of real property generally does not own the airspace above the surface of the land.

ANS: F

5. A fixture is classified as personal property.

ANS: F

6. A fixture is classified as real property.

ANS: T

7. Occupancy of land by someone without the permission of the owner is a trespass.

ANS: T

8. Since the law does not favor the free right to transfer ownership, the law will approve almost any restraint on an owner's right to transfer ownership of property.

ANS: F

9. An estate for years is the highest and best kind of estate in real property an owner can own.

ANS: F

10. A fee simple absolute estate has a potential infinite duration and unrestricted inheritability.

ANS: T

11. A fee simple on condition subsequent estate automatically expires on the happening or non-happening of the event stated in the deed of conveyance or the will creating the estate.

ANS: F

12. A life estate must always be for the life of the owner.

ANS: F

13. A life estate may be for life of a person other than the owner.

ANS: T

14. If the owner of a life estate commits waste, the life estate will terminate, even though the owner is alive.

ANS: T

15. A life estate owner must share the income generated from the life estate with the owner of the remainder interest.

ANS: F

16. Life estates are transferable during the lifetime of the owner.

ANS: T

17. Life estates are not transferable during the lifetime of the owner.

ANS: F

18. An estate limited in its duration to a fixed period of time is known as a life estate.

ANS: F

19. At common law, an estate at will could be automatically terminated.

ANS: T

20. A promise to make a gift is generally not revocable.

ANS: F

21. A promise to make a gift is generally revocable.

ANS: T

22. An estate at will is real property which passes by last will and testament.

ANS: F

23. An heir must always be a relative of the decedent.

ANS: T

24. Inheritance is the transfer of ownership of real property when a person dies with a will.

ANS: F

25. Inheritance is the passage of ownership of real property from a person who dies without a will.

ANS: T

26. The doctrine of riparian rights states that the right to use water is given to the landowner who uses the water first.

ANS: F

27. Appropriation is the doctrine which states that the right to use water is given to the landowner who uses the water first.

ANS: T

28. Appropriation is the doctrine which states that all landowners must share equally in the use of water for domestic purposes.

ANS: F

29. Riparian rights is the doctrine which states that all owners of lands must share equally in the use of water for domestic purposes.

ANS: T

30. Trade fixtures are fixtures that can easily be traded for another type of property.

ANS: F

31. Trade fixtures are items, such as shelving or counters, installed by a tenant on property to assist the tenant in the conduct of its business.

ANS: T

32. “Color of title” is evidenced by a written instrument such as a deed, court decree, or judgment.

ANS: T

33. A person cannot obtain adverse possession against property that benefits the public.

ANS: T

34. Personal property may include living things such as animals.

ANS: T

35. Personal property does not include living things such as animals.

ANS: F

36. A copyright is tangible property.

ANS: F

37. An automobile is intangible property.

ANS: F

38. A copyright is intangible property.

ANS: T

MULTIPLE CHOICE

1. Which of the following is not considered real property?

- A. Buildings
- B. Fixtures
- C. Corn
- D. Elm tree

ANS: C

2. In determining that an item is a fixture, a court will consider which of the following?
- A. The extent of the attachment of the item to the building
 - B. The intention of the parties
 - C. The character of the article in its adaptation to the real property
 - D. All of the above

ANS: D

3. The adding together of periods of adverse possession is called
- A. lapping.
 - B. tacking.
 - C. accretion.
 - D. appending.
 - E. none of the above.

ANS: B

4. The typical period that a person must possess real property in order to be an adverse possessor is
- A. 1 to 3 years.
 - B. 25 years.
 - C. 30 years.
 - D. 7 to 20 years.
 - E. none of the above.

ANS: D

5. In addition to adverse possession being adverse, it must also be
- A. public.
 - B. peaceful.
 - C. exclusive.
 - D. continuous.
 - E. all of the above.

ANS: E

6. A deed which conveys property to an owner “so long as the land is used for an avocado farm” creates an estate known as
- A. fee simple on condition subsequent.
 - B. estate for years.
 - C. estate at will.
 - D. fee simple determinable.

ANS: D

7. Henry transfers property to Susan for the life of Tom, then to Kevin. On the death of Susan, the property owner is
- A. Tom.
 - B. Kevin.
 - C. Susan's heirs.
 - D. Henry.
 - E. none of the above.

ANS: C

8. Henry transfers a life estate to Susan with the remainder to Tom. Tom dies before Susan. On Susan's death, the property owner is
- A. Aaron.
 - B. Susan's heirs.
 - C. Tom's heirs.
 - D. Henry's heirs.

ANS: C

9. Generally the following system(s) of law governs the law of real property:
- A. Federal law
 - B. Law of the state of the owner's residence
 - C. Law of the state in which the real property is located
 - D. None of the above
 - E. All of the above

ANS: C

10. Which of the following items would not be classified as personal property?
- A. Automobile
 - B. Wheat
 - C. Fixture
 - D. Stock certificate

ANS: C

11. Failure by an owner of a life estate to adequately maintain the property subject to the life estate is known as
- A. descent.
 - B. waste.
 - C. devise.
 - D. none of the above.

ANS: B

12. Which of the following is/are considered an act/acts of possession?

- A. Enclosure
- B. Cultivation
- C. Occupancy
- D. Construction of improvements
- E. All of the above

ANS: E

13. The conveyance of real property in a will is referred to as

- A. inheritance.
- B. estate at will.
- C. devise.
- D. gift.

ANS: C

14. Aaron conveys to Bill an estate of property for 20 years and, upon the expiration of the 20 years, to Carol. Carol's estate in the property would be

- A. estate for 20 years.
- B. estate at will.
- C. remainder in fee simple.
- D. successor estate for years.

ANS: C

15. The main method(s) of acquiring ownership to real property is/are

- A. inheritance.
- B. gift.
- C. sale.
- D. devise.
- E. all of the above.

ANS: E

16. The doctrine which states that the use of water belongs to the landowner who uses the water first is known as:

- A. perpetuity.
- B. riparian rights.
- C. the natural flow of water doctrine.
- D. appropriation.

ANS: D

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17. For purposes of adverse possession under color of title, most states consider which of the following instruments as evidence of color of title?
- A. A recorded deed
 - B. An unrecorded deed
 - C. A court decree
 - D. A judgment
 - E. All of the above
- ANS: E**

SHORT ANSWER QUESTIONS

1. John is in possession of property adjacent to his home. He does not have a deed to the property, but has enclosed it with a fence and has planted a garden on it for the past 20 years. The property is owned by the city and is part of a large park. Does John own the property by adverse possession?

ANS: This is an adverse possession question. Even though John has everything that might give him ownership of the property, he will not own the property by adverse possession. The property was part of a park owned by the city. A person cannot obtain ownership of public property by adverse possession.

2. Mary owns a life estate in her home. She no longer wishes to live there, and her good friend Bess wants to buy the home. Can Mary sell her life estate to Bess? If so, for how long will Bess own the home?

ANS: A life estate is transferable, and therefore Mary can sell her home to Bess. Bess will own a life estate in the home for the lifetime of Mary, meaning that Bess will own the home until Mary's death.

3. Jessica owns property at the bottom of a hill. After a heavy rain, her property is flooded. Jessica builds a dam to protect her property, but the dam causes her neighbor's property up the hill to flood. Can the neighbor sue Jessica for damages? Explain.

ANS: This question involves surface water and a property owner's liability to others for such water. The general rule is that a property owner cannot alter the natural flow of surface water. Jessica's construction of the dam altered the flow and caused her neighbor's property to flood as the water backed up against the dam. The neighbor can sue Jessica for the trespass and nuisance of the water caused by the dam and can recover the cost of the damage caused by the water. The neighbor may even get a court order to require Jessica to remove the dam.