

Property II - Midterm

October 5, 2015

3:40-5:10

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Instructions:

You will have ninety minutes to complete the midterm examination. There is one essay question, with a 1,000-word limit. Anything you write past 1,000 words will not be read. Please use the word-count feature to check the length of each answer. If you hand-write the exam, please do a manual word count.

The exam is completely open-book. You can use anything you wish, so long as that it was printed *before* the distribution of this exam. Obtaining any new information from anyone or anything *after* the exam is prohibited.

Please don't turn the page until the proctor signals that the exam has begun.

Good luck!

Instructions:

You are a law clerk for Chief Justice Rafiki of the Supreme Court of Prideland. Prideland adheres to all common law property rules, as articulated in the Restatement (First) of Property. There is a ten-year period for adverse possession, and the common law rules for tolling apply. You are asked to write a memorandum of no more than 1,000 words addressing five claims that affects the entire property circle of life.

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Mufasa, the King of Prideland, tells his five-year old son Simba, “Everything the light touches is our kingdom.” Simba looks out, and says, “you mean Lightacre?” Mufasa, answers, “Yes, when I die, you will own Lightacre.” Simba replies, “but what about that shadowy place, Darkacre?” Mufasa warns his son, “That’s beyond our borders. You must never go there, Simba.” Mufasa then gives Simba a signed general warranty deed for Lightacre that reads, “at my death, you will receive a good and merchantable title to Lightacre.” Simba immediately records the deed on January 1, 2000.

Scar—who is Simba’s uncle, and Mufasa’s brother—is jealous of the prince, so he hatches a diabolical plan. Scar offers to sell Darkacre to Simba. Simba asks Scar, “my father said Darkacre is dangerous. Is it?” Scar grins, and says “Of course not, it is perfectly safe.” Scar gives Simba a general warranty deed for Darkacre, which Simba promptly records.

Mufasa learns that Simba was in Darkacre, and immediately goes to retrieve him. But, Mufasa fell right into Scar’s trap. Scar, who knew that the wildebeests stampede through Darkacre every day at sunset, intended to lure Mufasa and his son to their own death. Shortly after Mufasa arrived, the wildebeest stampede began. Mufasa bravely saved Simba’s life by pushing him atop a cliff, but the King was killed by the stampede. Mufasa had no will. Simba and Scar were his only heirs.

Scar finds the lying King’s body, but cannot find Simba’s. He incorrectly assumes that both are dead. On January 2, 2000, Scar announces that as the only living heir of Mufasa, he has inherited the ownership of Lightacre.

However, Simba was not killed—he managed to escape. Simba settles in Bugacare along with his new friend Pumba. Pumba, who suffered from serious gastrointestinal issues, had a problem with flatulence. Pumba consistently emitted noxious gases that were so unbearable, that Simba couldn’t breathe. He found his aroma lacked a certain appeal, he could clear the savannah after every meal. Despite the odor, Simba was afraid of going back to Lightacre, so he remained on Bugacare for fifteen years. Simba was blissfully unaware of what was going on back home.

Fifteen years later, on January 2, 2015, Simba returns to Lightacre, and sees Scar in charge of the land. Simba looks up in the sky, and sees the ghost of his father Mufasa in the clouds. Mufasa explains that all of his ancestors live in the night’s sky over Lightacre, and are watching over him. Simba, afraid of ghost, curses his father for selling him a haunted piece of land.

Scar and Simba file several suits in the original jurisdiction of the Supreme Court of Prideland. You are a law clerk for Chief Justice Rafiki, who asks you to prepare a memorandum of no more than 1,000 words addressing five separate claims pending before the Court.

1. Scar sues Simba and claims he acquired Lightacre through adverse possession. Should Scar's claims succeed?
2. Simba counterclaims, and sues Scar, asserting that he owns Lightacre through the general warranty deed Mufasa gave him. Should Simba's counterclaim succeed?
3. Simba sues Scar for a violation of the general warranty deed for Darkacare, claiming the daily wildebeest stampedes constituted a defect. Should Simba's claim succeed?
4. Simba sues the executor of Mufasa's estate for a violation of the general warranty deed for Lightacre, claiming that the haunted sky above Lightacare constituted a defect. (For this question, presume that the deed from Mufasa to Simba for Lightacre was valid).
5. Simba sues Pumba, claiming that his non-stop emissions of noxious gasses constitutes a nuisance. Is there a nuisance? If so, what is the appropriate remedy?