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1. Andrew's Distribution of Havenwood

Interest held by Andrew

Fee Simple Absolute

Fee Simple Absolute is a perpetual interest in land.

Here, Andrew owned a four acre parcel of wooded land called Havenwood. There is no one else that is named an owner to Havenwood, nor are there any restrictions, conditions or executory interests on the land, so Andrew owns the land in fee simple absolute.

Andrew has a fee simple absolute interest in Havenwood.

Elmo's Interest

Fee Simple Absolute

Where a fee simple absolute interest is transferred to a grantee without a condition or restraint the grantee's interest is fee simple absolute.

Here, Andrew, a widower with three adult children (Bobby, Carol and Dylan). In 1988, Andrew by written deed validly conveyed the north half of Havenwood to his brother Elmo. Since Elmo was the one to whom the north half of Havenwood was transferred, he is the grantee. The interest was validly and in writing to meet the statute of frauds requirements. Elmo is the only grantee named to the north half of Havenwood, so he is the sole grantee to the fee simple absolute of the north of Havenwood in 1988.

In 1988, Elmo has a fee simple absolute in half north of Havenwood.

Adverse Possession

Adverse possession is met where there is a hostile occupying of land, which gives the rightful owner notice against his right to the land; the occupancy is open and notorious putting the public on notice that the land is occupied and used as a rightful owner would have; there is actual occupation of the land; and the occupancy is continuous to meet the statutory period. At common law the time for occupancy to be taken adversely is 20 years.

Hostile:

Here, in 1990 without permission from anyone, including Elmo, Bobby cut down some trees and prepared a number of campsites on the north half of Havenwood. Bobby also rented the campsites on the property as though he is the rightful owner. This is an hostile occupation of land because Bobby is using Elmo's land as he is the rightful owner.

Bobby has met hostile requirement.

Open and Notorious

When Bobby cut down the trees on Elmo's land and prepared a number of campsites, he acted open and notorious.

Actual: Bobby actually occupied one of the campsites himself and rented the others. He actually possessed the land.

Continuous: Since 1990 until 2018, Elmo has not taken the land from Bobby.

Bobby has gained the north half of Havenwood by adverse possession.

Elmo has no share in the interest of the north half of Havenwood.

Fred's interest

Type of Leasehold

Joint Tenancy with right of Survivorship-Dylan

This tenancy is held by partners in land where the interest was passed by same title at same time in the same instrument for the tenants to have same possession to the property.

Here, in 1989, Andrew in valid will made Bobby, Carol, and Dylan joint tenants with right of survivorship.

Initially Dylan and Bobby shared the interest equally with Bobby and Carol.

Joint tenants in Common-Fred

An interest as Joint tenancy with right of survivorship may be severed during transfer during

lifetime of the joint tenant to living grantee. The grantor needs no permission of the cotenants.

Here, In 2017, Dylan asked Bobby about the land and Bobby told him it was none of his business, that he has improved the land, and as the youngest it will be his in the end. Dylan by written deed conveyed his interest in Havenwood to Fred.

Since Dylan transferred his interest to Fred while he was alive and Fred was alive, the joint tenancy is severed with Dylan's interest passing to Fred as a tenant in common.

Fred's interest in Havenwood is a tenant in common with Bobby and Carol.

Ouster of cotenant- Dylan

Joint tenant may be ousted if their attempt to claim their joint interest or tenant in common interest is prevented by a cotenant.

Here, when Dylan attempted to ask about his interest in Havenwood, Bobby told him it is none of his business, that he has improved the land and the land will be his in the end. Since Dylan has been ousted, he may not have any interest to convey to Fred.

Carol's Interest

Joint Tenancy with right of Survivorship

This tenancy is held by partners in land where the interest was passed by same title at same time in the same instrument for the tenants to have same possession to the property.

Here, in 1989, Andrew in valid will made Bobby, Carol, and Dylan joint tenants with right of survivorship.

Severance of Joint tenancy- Invalid

For joint tenancy to be severed, the interest has to be transferred to a grantee.

Here, Carol did not transfer the joint interest to another person. She attempted to transfer the joint tenancy from herself to herself as tenant in common. This is an invalid transfer.

Carol remain joint tenant with Bobby.

Carol has a joint tenancy with right of survivorship in Haven wood.

Sam's Interest

Where joint tenant leaves his interest by will, the interest is transferred as such.

Here, in 2018, Bobby died leaving a valid will giving Sam, his son his entire interest.

Sam was conveyed Bobby's joint tenancy in Havenwood.

Adverse Possession- Privity

An adverse possessor may transfer his adverse possession interest to another in privity with him.

Here, since Sam is Bobby's son, there is privity. Since Sam continued renting the campsite and paying taxes, keeping profits and using campsite for himself as Bobby did, the adverse possession interest will continue to run with Sam to meet the 20 year requirement.

As a result, Sam has the joint interest with Carol, can satisfy adverse possession against Elmo.

2. Cotenants rights- Contribution

Cotenants have a right to any interest made on a property from third parties.

Here, Sam acquired rental fees from the campsites that were rented. Since they were for payments on Haywood from third parties,

Sam will have to share the profits equally with Carol and Fred.

Contribution

The cotenants are liable for contribution for taxes paid by a cotenant on partition of the land.

If the land is partitioned, then Carol and Fred will have to reimburse Sam for his tax payments.

Question #3 Final Word Count = 1040

END OF EXAM
