

1)

1.

Fee Simple Subsequent Executory Interest -Conveyance of Deed

A landowner may freely convey their property to third party. A land owner may put conditions or time limits to this conveyances. Interest transfers to a third party instead of owner when the interest holder did not comply with the covenant.

Here, Olivia (O) had a house in Havenwood a fee simple absolute which subject to covenant of residential use only. While O may freely bequest her land to Linda (L) for life estate with leaving remainder to Reed (R) , these subsequent interest holders must comply with the express conditions which included in the deed. However, L did not complied with the covenant when she used the house as a florist shop.

Thus, L will lose the interest and R will get the property.

Life Estate

A landowner may convey their property to third party subject to their life time. During their life time the third party may freely transfer and use the land. However, the interest may be lost when not complied with a express conditions.

Here, as stated in the facts L acquired the title as life estate form O subject to residential purpose covenant. However since she intended to use the land as a florist shop and cutting valuable tree and privacy hedges on the lot the make room for parking, she failed to comply.

Thus, L will lose her estate.

Vested Remainder

Remainder interest vests when a interest owner dies and the conditions are met.

Here, O left her land to L for using as a resident, however L did not comply with the condition when she used it as a florist shop.

Thus interest vested to R.

Right To Reentry

When the deed expressly conditions for unique purpose of use of land, the land owner have right to reentry to property when the event occurs. However this right must be asserted by the owner of the interest.

Here, R must insert his right to reentry because O has died last year and her right to reentry vested to R as a remainder and must insert his right. Although may L argue that she did not fail to comply with the condition because there are other businesses using their lands as this argument will likely fail because she was expressly conditioned by the covenant on the deed and she is not previously using it.

Thus, the court likely issue an order for R to reentry to the land.

2.

Equitable Servitude

Equitable servitude is a covenant to do or not to do something the the land and it is valid when it is complied with all the formalities. Damages for equitable servitude is injunctions rather than money damages. Covenant must be in writing, must be touch and concern with the land, give notice to the land owners, privity is not required. Covenant will bound the subsequent future interest holders.

Here the developer of Havenwood created a covenant when conveyed each lot subject to residential purpose only. Since facts stated that deed was recorded the it suggests that the deed is in writing. Further, the restrictions touch and concern with the land because it restricts use of the land. Moreover, the future interest holders are given notice since deed is recorded.

Thus, the covenant is valid.

Express

When a covenant expressly states how to use land and the party will be affected, the party must comply with the condition.

Here, as discussed above, the developer expressly stated in the deed that the land's use is only for residential purposes.

Thus, L violated the covenant.

Implied

When covenant does not expressly states parties, the covenant must intend to create a common scheme to include everyone in the community.

Here, as discussed above, the land's use expressly stated with the parties. L may argue that the covenant failed to include everyone in the community since five other businesses are using their land's beyond the condition. However, this argument will fail since as stated above the covenant is express.

Thus, L failed to comply with covenant.

3.

Sue Linda

In a property disputes, party that has interest in the land may sue the other if the party has injury

in fact, and the harm caused by violation of the other party's conduct, and the damage is redress-able.

Here, Nancy (N) may sue because she is Linda's neighbor in the subdivision and she has interest of her land. Since there is a express covenant that the land may not be used for anything other than residential purpose and everybody must comply with it. N is complying with this restriction and L is not complying by cutting down valuable tree and privacy hedges on the lot, she has injury in fact caused by L.

Thus, Nancy may sue.

Variance of Nonconforming Use Before Zoning

A party may request continue to use their property with nonconforming with the restriction of zoning if the interest was vested before zoning.

Here, L did not have nonconforming use before zoning because she acquired the land from O when the restriction on the land was already on effect. L may argue that because all the other businesses are using she can use too but this will fail because she did not comply.

Thus, L will not be able to use her land based on this.

Variance of Nonconforming Use After Zoning

A party may request to use their land nonconforming with zoning restrictions if the party can show substantial hardship of not using it.

Here, L may argue that she has her construction permit and she did substantial spending to develop the land and there are other nonconforming uses. N will argue that it is not substantial hardship since she knew there was a covenant and she has no interest of using the land with variance. However, this argument will likely fail if L can show that she already took substantial steps.

Thus, court may let L using in variance.

Question #1 Final Word Count = 995

END OF EXAM