Real Estate Law 11th edition Jennings Test Bank

SKU: 9781305579910-TEST-BANK

Chapter 02 Land Interests Present and Future

TRUEFALSE

1. A fee simple absolute is a freehold estate.

(A) True

(B) False

Answer : (A)

2. Freehold means that an interest in land is inheritable.

(A) True

(B) False

Answer : (B)

3. A fee simple absolute can be conveyed by will.

(A) True

(B) False

Answer : (A)

4. Violation of a restriction in a fee simple determinable results in an automatic loss of interest.

(A) True

(B) False

Answer : (A)

5. Violation of a restriction in a fee simple subject to a condition subsequent results in an automatic loss of interest.

(A) True

(B) False

Answer : (B)

6. A fee tail (at common law) is inheritable only by lineal descendants.

(A) True

(B) False

Answer : (A)

7. In all of the states, a fee tail is treated as a fee simple absolute.

(A) True

(B) False

Answer : (B)

8. A life estate can be transferred by will.

(A) True

(B) False

Answer : (B)

9. A life estate cannot be mortgaged.

(A) True

(B) False

Answer : (B)

10. A life estate can be transferred by the holder.

(A) True

(B) False

Answer : (A)

11. A life tenant has the right of undisturbed possession of the life estate.

(A) True

(B) False

Answer : (A)

12. Creditors cannot accept a life estate as security for a loan.

(A) True

(B) False

Answer : (B)

13. Waste is an act or omission that causes permanent loss to the life estate.

(A) True

(B) False

Answer : (A)

14. A non-freehold estate is non-inheritable.

(A) True

(B) False

Answer : (A)

15. A tenancy for years is properly terminated with one rental period's notice.

(A) True

(B) False

Answer : (B)

16. A tenancy for a period and a periodic tenancy are the same interests.

(A) True

(B) False

Answer : (B)

17. A tenancy at will is created in the same manner as a periodic tenancy.

(A) True

(B) False

Answer : (B)

18. A tenancy at sufferance exists after the termination of a prior lease but before acceptance of rent by the landlord.

(A) True

(B) False

Answer : (A)

19. A tenancy at will can exist by specific agreement.

(A) True

(B) False

Answer : (A)

20. A tenancy at sufferance can continue even after the tenant pays rent.

(A) True

(B) False

Answer : (B)

21. Both the fee simple determinable and the fee simple subject to a condition subsequent are fee simple defeasible estates.

(A) True

(B) False

Answer : (A)

22. "To A for the life of B" creates a life estate in B.

(A) True

(B) False

Answer : (B)

23. "To A for life" is an example of a life estate.

(A) True

(B) False

Answer : (A)

24. "To A so long as the property is not used for a toxic waste dump" is an example of a fee simple subject to a condition subsequent.

(A) True

(B) False

Answer : (B)

25. "To A for ten years" is an example of a life estate.

(A) True

(B) False

Answer : (B)

26. Both the possibility of reverter and right of entry can be transferred inter vivos.

(A) True

(B) False

Answer : (A)

27. A possibility of reverter is a future interest that accompanies the creation of a fee simple subject to a condition subsequent.

(A) True

(B) False

Answer : (B)

28. The possibility of reverter requires some action on the part of the grantor to become a present interest.

(A) True

(B) False

Answer : (B)

29. The fee simple determinable carries with it the future interest of power of termination.

(A) True

(B) False

Answer : (B)

30. Most states have a presumption favoring a fee simple determinable language construction.

(A) True

(B) False

Answer : (B)

31. A reversion follows a fee simple determinable.

(A) True

(B) False

Answer : (B)

32. A remainder is a future interest in one other than the grantor.

(A) True

(B) False

Answer : (A)

33. A vested remainder subject to partial divestment exists when a remainder is given to a group which can expand in size.

(A) True

(B) False

Answer : (A)

34. A vested remainder subject to complete divestment is one that is created by conditional language following the grant.

(A) True

(B) False

Answer : (A)

35. When a remainder is given to the heirs of a then-living person, the remainder is vested.

(A) True

(B) False

Answer : (B)

36. If a contingent remainder fails, the grantor holds a reversion.

(A) True

(B) False

Answer : (A)

37. Only vested remainders can be transferred.

(A) True

(B) False

Answer : (B)

38. An executory interest is a future interest in the grantor.

(A) True

(B) False

Answer : (B)

39. The Rule in Shelley's case applies to remainders given to the heirs of a life estate holder.

(A) True

(B) False

Answer : (A)

40. The Rule Against Perpetuities is applicable only to contingent remainders and executory interests.

(A) True

(B) False

Answer : (A)

41. When there is a gap between present and future interests, an executory interest is created.

(A) True

(B) False

Answer : (A)

42. The Rule Against Perpetuities is applicable to reversions.

(A) True

(B) False

Answer : (B)

43. A possibility of reverter is non-transferable.

(A) True

(B) False

Answer : (B)

44. A life estate plus a remainder equals a fee simple.

(A) True

(B) False

Answer : (A)

45. The Rule Against Perpetuities provides that a grant must vest within 21 years from the time it is made.

(A) True

(B) False

Answer : (B)

46. The Rule in Shelley's Case is applied in all states.

(A) True

(B) False

Answer : (B)

47. "To my son A for life, then if my granddaughter, Sheila, is married, to Sheila" gives Sheila a contingent remainder.

(A) True

(B) False

Answer : (A)

48. With reference to #47, Sheila's interest is void under the Rule Against Perpetuities.

(A) True

(B) False

Answer : (B)

49. "To my alma mater for use as a faculty club and if it is ever not so used, to my son" gives the son a contingent remainder.

(A) True

(B) False

Answer : (B)

50. With reference to #49, the Rule Against Perpetuities does not apply to the son's interest.

(A) True

(B) False

Answer : (A)

51. The Rule Against Perpetuities has been eliminated or changed in some states.

(A) True

(B) False

Answer : (A)

52. The Rule Against Perpetuities applies to executory interest.

(A) True

(B) False

Answer : (A)

53. "To A" creates a fee simple interest.

(A) True

(B) False

Answer : (A)

54. Many states have eliminated the fee tail.

(A) True

(B) False

Answer : (A)

55. "To A for life, then to B," gives B a vested remainder.

(A) True

(B) False

Answer : (A)

56. Most states no longer recognize freehold estates.

(A) True

(B) False

Answer : (B)

57. A fee tail is a fee simple defeasible.

(A) True

(B) False

Answer : (B)

58. Creditors can treat a fee tail as a fee simple estate.

(A) True

(B) False

Answer : (A)

59. A life estate lasts only as long as the holder is an heir of the grantor.

(A) True

(B) False

Answer : (B)

60. The rule against perpetuities applies to options.

(A) True

(B) False

Answer : (B)

61. The rule in Shelley's Case means that the present and future interests are merged when the grantor has given a life estate to himself and the remainder to his heirs.

(A) True

(B) False

Answer : (A)

62. The rule against perpetuities applies to fee simple determinable.

(A) True

(B) False

Answer : (B)

63. The rule in Shelley's Case applies to leases.

(A) True

(B) False

Answer : (B)

64. "To A for life and then to A's wife if she has not married," is an example of a contingent remainder.

(A) True

(B) False

Answer : (A)

65. If a grantor reserves the right to re-enter the property and take possession of it, then the grantor has created a fee simple.

(A) True

(B) False

Answer : (B)

MULTICHOICE

66. "To A for life" is an example of:

(A) A life estate.

(B) A life estate pur autre vie.

(C) A tenancy for years.

(D) A tenancy at will.

(E) None of the above

Answer : (A)

67. "To A so long as the premises are used for the operation of a restaurant," is an example of:

(A) A fee simple absolute.

(B) A fee simple subject to a condition subsequent.

(C) A fee simple determinable.

(D) Tenancy at will.

(E) None of the above

Answer : (C)

68. "To A and the female heirs of her body" is an example of:

(A) A fee simple subject to a condition subsequent.

(B) A fee simple determinable.

(C) A fee tail estate.

(D) A life estate.

(E) None of the above

Answer : (C)

69. Which of the following land interests is not inheritable?

(A) Life estate

(B) Fee simple absolute

(C) Fee tail

(D) None of the above

Answer : (A)

70. Which of the following estates is freehold?

(A) Fee tail

(B) Estate for years

(C) Periodic tenancy

(D) None of the above

Answer : (A)

71. "To A for one year, beginning October 1, 2012" is an example of:

(A) Periodic tenancy.

(B) Tenancy for years.

(C) Fee tail.

(D) None of the above

Answer : (B)

72. A tenancy at will:

(A) Can be created by agreement.

(B) Cannot be terminated by either party at any time without paying damages.

(C) Arises after termination of an express periodic tenancy.

(D) None of the above

Answer : (D)

73. A holdover tenant is:

(A) A tenant at sufferance.

(B) A tenant at will.

(C) Under no obligation to pay rent.

(D) None of the above

Answer : (A)

74. Which of the following types of estates requires action on the part of the grantor before the estate terminates?

(A) Life estate

(B) Fee simple determinable

(C) Fee simple subject to a condition subsequent

(D) Tenancy for a period

Answer : (C)

75. "To A my beloved wife, for so long as she is in good health" is an example of:

(A) A life estate.

(B) A fee simple determinable.

(C) A fee simple subject to a condition subsequent.

(D) A fee tail.

Answer : (B)

76. W.R. Lynch and Company made a gift of land to the Phoenix Zoo using the following language: "To the Phoenix Zoo so long as the property is used for a children's petting zoo." The Zoo had a petting zoo for children on the property for five years and then began construction of an art museum. W.R. Lynch then sold the land to Marquardt Developers for a condominium project. The Phoenix Zoo has brought suit to halt construction of the project. What type of land interest did the grant from W.R. Lynch to the zoo create?

(A) Fee simple determinable

(B) Fee simple subject to a condition subsequent

(C) Fee simple absolute

(D) Tenancy at will

Answer : (A)

77. With reference to #11, who now owns the property?

(A) W.R. Lynch

(B) Marquardt

(C) The Phoenix Zoo

(D) None of the above

Answer : (B)

78. Generally, the notice required for termination of a period tenancy is:

(A) One year.

(B) One month.

(C) Six months.

(D) One rental period.

Answer : (D)

79. Which of the following is not a fee simple defeasible estate?

(A) Fee simple absolute

(B) Fee simple subject to a condition subsequent

(C) Fee simple determinable

(D) None of the above

Answer : (A)

80. "To A for the life of G" is an example of:

(A) A life estate pur autre vie.

(B) A tenancy for years.

(C) A fee simple determinable.

(D) None of the above

Answer : (A)

81. "To my daughter so long as her husband is alive" is a:

(A) Fee simple subject to a condition subsequent.

(B) Fee simple determinable.

(C) Estate for years.

(D) Periodic tenancy.

Answer : (B)

82. "To my nephew on the condition that the property is never used for a fast food franchise" is a:

(A) Fee simple determinable.

(B) Fee simple absolute.

(C) Fee simple subject to a condition subsequent.

(D) Estate for years.

Answer : (C)

83. "To my daughter provided that the property is used for her primary residence" is a:

(A) Fee simple subject to a condition subsequent.

(B) Fee simple determinable.

(C) Fee tail.

(D) Periodic tenancy.

Answer : (A)

84. "To the city of Scottsdale for 99 years" is a:

(A) Fee simple determinable.

(B) Fee simple subject to a condition subsequent.

(C) Periodic tenancy.

(D) Tenancy for years.

Answer : (D)

85. "To the University of New Mexico for the time that the land is used for an observatory" is a:

(A) Fee simple subject to a condition subsequent.

(B) Fee simple determinable.

(C) Estate for years.

(D) Life estate.

Answer : (B)

86. "To A for life, then to B, if B is married." B has:

(A) A contingent remainder.

(B) A life estate.

(C) A vested remainder.

(D) A vested remainder subject to complete divestment.

Answer : (D)

87. With reference to #21 above, the grantor:

(A) Holds a reversion.

(B) Holds nothing.

(C) Holds a possibility of reverter.

(D) None of the above

Answer : (A)

88. "To A for life, then to the heirs of A." Which of the following is applicable?

(A) Doctrine of Worthier Title

(B) Rule in Shelley's Case

(C) Rule Against Perpetuities

(D) None of the above

Answer : (B)

89. "To A in 10 years" is:

(A) An estate for years.

(B) A fee simple absolute.

(C) An executory interest.

(D) None of the above

Answer : (C)

90. "To A for life, then to B's children." (B is alive and has 2 children). B's children hold:

(A) An executory interest.

(B) A vested remainder subject to partial divestment.

(C) A vested remainder subject to complete divestment.

(D) A contingent remainder.

Answer : (B)

91. G leaves a life estate to A and "then to B when B reaches age 21." What interest does B hold?

(A) A remainder

(B) A reversion

(C) An executory interest

(D) An interest violative of RAP

Answer : (C)

92. G leaves all his property "to my issue living 15 years after the completion of the probate of my estate." What type of interest do the issue hold?

(A) An executory interest

(B) A vested remainder

(C) A contingent remainder

(D) None of the above

Answer : (A)

93. H leaves a life estate to A "and then to my grandson, Bob." What interest does Bob hold?

(A) A vested remainder

(B) A contingent remainder

(C) An executory interest

(D) A reversion

Answer : (A)

94. G left his property to X "so long as the property is used for school purposes." What type of interest does G hold?

(A) Fee simple determinable

(B) Possibility of reverter

(C) Right of entry/power of termination

(D) None of the above

Answer : (B)

95. With reference to #29, what type of interest does X hold?

(A) Fee simple determinable

(B) Fee simple subject to a condition subsequent

(C) Fee tail

(D) None of the above

Answer : (A)

96. Which of the following types of land interests is not subject to the Rule Against Perpetuities?

(A) Executory interest

(B) Contingent remainder

(C) Vested remainder subject to complete divestment

(D) None of the above

Answer : (C)

97. G makes the following grant, "To my daughter so long as she uses the property for charitable causes." Upon G's death, he leaves all of his property to his daughter. At G's death, G's daughter's land interest is:

(A) Fee simple absolute.

(B) Fee simple determinable.

(C) Life estate.

(D) Fee simple subject to a condition subsequent.

(E) None of the above

Answer : (A)

98. When a grantor conveys a possibility of reverter to another, the interest created is:

(A) An executory interest.

(B) A possibility of reverter.

(C) A reversion.

(D) A remainder.

(E) None of the above

Answer : (A)

99. The Doctrine of Worthier Title:

(A) Applies to interests that will vest later than 21 years after the measuring lives.

(B) Applies to life estates with remainders to the heirs of the holder.

(C) Has been abolished in the United States.

(D) None of the above

Answer : (B)

100. G grants the following, "To A for life and then to the heirs of A." The heirs of A hold what interest?

(A) A vested remainder subject to open

(B) A vested reminder

(C) An executory interest

(D) Nothing - A holds a fee simple under the Rule in Shelley's Case

Answer : (D)

101. "To my daughter so long as she lives in Montana and if she ever leaves Montana, to my son." The son holds:

(A) A possibility of reverter.

(B) A right of entry/power of termination.

(C) An executory interest.

(D) A contingent remainder.

Answer : (C)

102. "To my wife for life, then if all my children have graduated from college, to my children" (in grantor's will and grantor is deceased):

(A) Creates an executory interest in the children.

(B) Violates the Rule Against Perpetuities.

(C) Creates a possibility of reverter in the children.

(D) Creates a contingent remainder in the children.

Answer : (D)

103. "To my wife for life, then to my children" (grantor's will and grantor has died):

(A) Creates a contingent remainder in the children.

(B) Creates a vested remainder in the children.

(C) Makes the children's interest subject to the Rule Against Perpetuities.

(D) None of the above

Answer : (B)

104. The Rule Against Perpetuities applies to:

(A) Fee simple determinables.

(B) Fee tails.

(C) Contingent remainders.

(D) All of the above

Answer : (C)

105. In, "To my wife for life, then to my children," the children hold:

(A) A remainder interest.

(B) A life estate.

(C) An executory interest.

(D) A fee tail.

Answer : (A)

106. "To my husband for life, then to my children":

(A) Creates a fee simple defeasible in the husband.

(B) Creates a contingent remainder in the children.

(C) Violates the Rule Against Perpetuities.

(D) None of the above

Answer : (D)

107. Which of the following have not been changed by statute in many states?

(A) Rule in Shelley's Case

(B) Rule Against Perpetuities

(C) Automatic termination of fee simple determinables

(D) All of the above have been changed by state laws

Answer : (D)

108. The grant, "To my husband for life, then to the Osborn Observatory provided that the observatory has a governing board in place," creates which future interest?

(A) Reversion

(B) Contingent remainder

(C) Fee simple subject to a condition subsequent

(D) A remainder that violates the rule against perpetuities

Answer : (B)

109. What are saving clauses?

(A) Clauses in grants that provide for heirs to take a reverter

(B) Clauses in grants that eliminate fee tails

(C) Clauses in grants that limit remainders

(D) Clauses in grants that require interpretations that do not violate the rule against perpetuities

Answer : (D)

110. Which of the following interests allows a grantor to control the use of the land given with language in the grant?

(A) Life estate

(B) Fee simple determinable

(C) The Rule in Shelley's Case

(D) None of the above

Answer : (B)

111. "To A on the condition that the easement be maintained and should the easement not be

maintained, the property shall go to the Mesa Public School District for use as an athletic field." A has:

(A) A life estate.

(B) An estate for years.

(C) A fee simple subject to a condition subsequent.

(D) A fee simple determinable.

Answer : (C)

112. With reference to #46, the Mesa Public School District has:

(A) A life estate.

(B) An estate for years.

(C) A springing executory interest.

(D) A vested remainder.

(E) None of the above

Answer : (E)

113. "To my niece, Sally, on the condition that liquor never be served on the premises, and should liquor ever be served, I reserve the right to re-enter and take possession of and title to the property." Sally holds the interest of:

(A) A life estate.

(B) An estate for years.

(C) A fee simple subject to a condition subsequent.

(D) A fee simple determinable.

Answer : (C)

114. With reference to #48, the grantor holds the interest of:

(A) A life estate.

(B) An estate for years.

(C) A springing executory interest.

(D) A power of termination.

Answer : (D)

115. R.C. Willey is the sole heir of J.D. Willey. In his will, Willey made the following grant to Toledo College, "To Toledo College, my alma mater, so long as the property is used for a library for the students." Toledo College did build a library on the property in 1988. However, because of increased enrollment, Toledo College needs a larger library and has acquired land on the south side of the campus for purposes of constructing a new and larger library. Toledo has converted the building on the Willey property into a student tutoring center. R.C. Willey wants to know his rights. Which of the following best describes R.C.'s rights in the property?

(A) Because the interest is a fee simple determinable and the use restrictions have been violated, title reverts back to J.D. Willey's heirs or to R.C.

(B) Because the interest is a fee simple subject to a condition subsequent, R.C. has the right to bring action to have title to the property quieted in his name.

(C) Because Toledo College's interest in the land has existed for so long, R.C. has lost any rights he might have in it.

(D) The use of the property for a tutoring center is close enough and not conduct that results in the College's loss of title.

Answer : (A)

116. Who said, "There is no knowing how estates will go when once they come to be entailed"?

(A) Shelley, in The Rule in Shelley's Case

(B) Jane Austen

(C) Dumpor, in the Rule in Dumpor's Case

(D) William the Conqueror

Answer : (B)

117. Which of the following is covered by the Rule Against Perpetuities?

(A) Options

(B) Vested interests

(C) Contingent remainders

(D) Possibility of reverter

(E) Both c and d

Answer : (C)

118. Which future interest accompanies the creation of a life estate?

(A) The possibility of reverter

(B) Right of entry/power of termination

(C) DOWT

(D) Remainder

Answer : (D)

119. "To my wife if she survives me. If my wife does not survive me, then to my daughters." What type of estate is created in the daughters?

(A) Fee simple determinable

(B) A life estate

(C) A fee simple subject to a condition precedent

(D) A fee tail female

(E) None of the above

Answer : (E)

120. "To A so long as she does not allow the construction of wind turbines on the property,"' is an example of:

(A) A fee simple determinable.

(B) A fee simple subject to a condition precedent.

(C) An executor interest.

(D) A fee tail.

(E) None of the above

Answer : (A)

121. "To my husband for life, then to my niece, Rebecca, for life, and then to my heirs." The husband holds:

(A) A fee simple determinable.

(B) A life estate.

(C) A contingent remainder.

(D) A possibility of reverter.

Answer : (B)

122. With respect to #56, Rebecca holds:

(A) A fee simple determinable.

(B) An estate in violation of the Rule Against perpetuities.

(C) A life estate.

(D) A fee simple.

Answer : (C)

123. With respect to #56, the heirs hold:

(A) A contingent remainder.

(B) A life estate.

(C) A fee simple determinable.

(D) An interest governed by the Rule in Shelly's Case.

Answer : (D)

124. Which of the following is correct with regard to the interest that follows in a grantor after a fee simple determinable?

(A) Right of reversion

(B) Right of re-entry or power of termination

(C) Life estate

(D) Remainder

Answer : (A)

125. To my husband for life, then when my youngest child reaches age 21, to my children in equal shares. What interest do the children hold?

(A) Life estate

(B) Executory interest

(C) Fee simple defeasible

(D) Fee simple determinable

Answer : (B)

ESSAY

126. Classify the following grants. a. "To the Phoenix Zoo for the time that the property is used for a children's petting zoo."
b. "To my lovely children, Evan and Willard."
c. "To my wife for the lives of my children."
d. "To my niece on the condition that she never use the property for commercial purposes."

Graders Info :

a. Fee simple determinable b. Fee simple to two people
c. Life estate pur autre vie
d. Fee simple subject to a condition subsequent

127. Discuss the three elements necessary for an economically efficient system of property rights.

Graders Info :

Universality Exclusivity
Transferability

128. Discuss the differences and similarities between a life estate and a fee simple absolute.

Graders Info :

Life estate - transferable non-inheritable
use restrictions
freehold
Fee simple - transferable
inheritable
no use restrictions
freehold

129. Discuss the differences in the creation and operation of the fee simple determinable and fee simple subject to a condition subsequent.

Graders Info :

Determinable: uses language such as "while", "so long as", or "for the time". Upon violation of restriction, the estate terminates automatically and reverts to grantor. Condition subsequent: uses

language such as "provided", "on the condition that", "if and only if", or "but". Upon violation of restriction, interest terminates only if grantor reenters the property and makes a claim for violation of the restriction.

130. Jim and Tammy Barker donated land to the Daniel Boone University with the following language: "To the trustees of Daniel Boone University on the condition that the University remain affiliated with the TV Evangelists Ministry, Inc." Jim and Tammy passed away and left all their property to their son, Jimmy, Jr. Shortly after their death, Daniel Boone University severed its ties with TV Evangelists. When Jimmy, Jr. learned of the severance, he sold the property to Hall Associates, a commercial real estate firm. Hall now wishes to develop the property and Daniel Boone University claims it still has title and has brought a quiet title action. Discuss the series of conveyances and determine who has title to the property.

Graders Info :

The original conveyance was a fee simple subject to a condition subsequent. When Daniel Boone ceased its affiliation, Jimmy Jr. had the right to enter the property and retake title, but his interest did not arise automatically and therefore his conveyance to Hall was premature. Presently Daniel Boone still has title but Jimmy Jr. can assert his rights by claiming the violation of the use restriction.

131. Floyd Larkin made the following grant: "To my niece, Flora, for so long as she maintains the ranch on this property." Flora leased the property to General Motors for a test track and no longer maintained the ranch. Floyd's widow and sole heir sold the land to the Beef & Cattle Company. Beef & Cattle evicted GM and GM filed suit. Who is the rightful owner and possessor of the property?

Graders Info :

Flora was given a fee simple determinable interest which automatically terminated and reverted back to the grantor, Floyd, when she leased the premises to GM and ceased operating the ranch. Therefore Floyd held the interest and with his death it passed to his heir, his widow. His widow had fee simple title and had the authority to sell the land to Beef & Cattle. Beef & Cattle could evict GM.

132. The following testamentary grant is made: "To my wife for life, remainder to my children when all have graduated from college." Discuss what interests have been created and any applicable rules.

Graders Info :

a. Wife - life estate b. Children - executory interest
c. RAP applies
d. Children are lives in being at time of grant and there can be no more children, so their interest will vest within the RAP period

133. Discuss the differences between the possibility of reverter and the right of entry/power of termination.

Graders Info :

a. Fee simple determinable vs. fee simple subject to a condition subsequent is the difference in the present land interests giving rise to these future interests. b. One is automatic while the other requires action on the part of the grantor to regain title.
c. Creation language is different - "so long as" vs. "on the condition that"

134. The following grant is made: "To A for life, then if B is married, to B." a. What interests are created?
b. How can the wording of the grant be varied to change B's interest?

Graders Info :

A - life estate B - contingent remainder
"To A for life, then to B, if B is married."
B then has a vested remainder subject to complete divestment.

135. Provide two examples of how present and future interests can be combined to create a fee simple interest.

Graders Info :

Fee simple determinable + possibility of reverter Fee simple subject to a condition subsequent + right of entry/power of termination
Life estate + remainder
Life estate + reversion

136. Discuss the rights and limitations of life tenants.

Graders Info :

Life tenants can possess the property, can lease it and can transfer or pledge their interests. The only restriction is that whoever is the mortgagee or transferee only has rights so long as the life of the life estate holder. When the life estate holder dies, their interest terminates. Life tenants cannot commit waste and must preserve part of the land interest for the remaindermen. For example, a life tenant cannot deplete the natural or mineral resources of the property. However, the life tenant can make changes in the use of the property in order to maximize its benefits.

137. Name the types of interests subject to the Rule Against Perpetuities.

Graders Info :

The contingent remainder and executory interest are subject to the Rule Against Perpetuities.

138. Higbee Corporation and Kennedy both claimed title to a narrow strip of property located in Bethel Park, Allegheny County, Pennsylvania. Higbee filed suit to quiet title. The original grant on the property to Kennedy provided as follows:
To have and to hold the said piece of land above-described the hereditaments and premises hereby granted or mentioned and intended so to be with the appurtenance unto the said party of the second part his heirs and assigns to and for the only proper use and behoove of the said party of the second part his heirs and assigns forever provided the party of the second part his heirs and assigns wishes to make use of it for the purpose of a road. THE PARTY OF THE SECOND PART AGREES TO KEEP A GOOD FENSE AROUND THE ABOVE-MENTIONED LOT, FAILING TO DO SO FORFEITS HIS CLAIM, whenever the party of the second part wishes to give up his claim to said lot he is to have full privilege to remove all fencing materials whenever the party of the second part his heirs and assigns fails to fulfill this agreement the land is to revert to the party of the first part.
What type of land interests were created?

Graders Info :

The court held it was a fee simple subject to a condition subsequent. When the language is unclear, courts lean toward a condition subsequent.

139. The following grant has been made: "To Nordstrom Department Stores so long as the land is used only for a 5' high by 12' long sign with only the word ‘Nordstrom' on the sign." Describe the type of interest(s) created by this grant. Be sure to discuss any rules that may apply.

Graders Info :

The grant is a fee simple defeasible (fee simple determinable). There is a right of reversion that belongs to the grantor or grantor's heirs. If Nordstrom ceases to use the property for the sign, it loses the interest and the interest automatically reverts back to the grantor or grantor's heirs. No rules apply here because fee simple defeasibles are not subject to the rule against perpetuities.

140. Suppose, with reference to the Nordstrom grant in #14, Nordstroms has pledged the property to First Interstate Bank to secure a $790,000 loan. Discuss what happens to the mortgage if Nordstrom violates the restriction.

Graders Info :

The owner of a fee simple determinable has full right to pledge title to property but the mortgagee can take no greater interest than the fee simple determinable allows. First Interstate Bank takes subject to this risk and could lose its mortgage interest. Many mortgages have a clause prohibiting the mortgagor from violating the restriction so that it has protection.

141. Consider the following grant: "This transfer or deed is made with the full understanding that

should the property fail to be used for the Church of God, it is to be null and void and property to revert to W. E. Collins or heirs."
Discuss the interests created.

Graders Info :

There is a fee simple defeasible. Whether there is a determinable or one subject to a condition subsequent depends upon the interpretation of the language. The language seems to connote time, not conditional grant so that it would be appear to be a determinable. However, the law tends not to favor determinable, but conditions subsequent because some action is required to gain title. W.E. Collins and his heirs hold a future interest that is either a possibility of reverter or a right of re-entry, depending upon the interpretation of the type of present interest.

142. Explain the purpose behind the Rule Against Perpetuities.

Graders Info :

The purpose was to limit control of land from the grave. The idea was to limit the control of a grantor over certain types of interests.

143. Explain why a married couple would want to leave their property in life estate form to their surviving spouse.

Graders Info :

The benefit of this type of arrangement is that the spouse does not pay estate tax on the full estate. The spouse does not inherit the property, only the right to use the property for life. The children would pay the estate tax, but the estate is not taxed twice using this method.