Essays

A) (10 points) After celebrating his 80th birthday A decided to make a disposition of his antiques, paintings, and furniture to his children, Son and Daughter. He invited S and D to his home and the three walked through the house room by room. It was decided on the spot who would get what. With some, but not all of the items, A laid his hand on the item while saying, "Son (or daughter) this is yours." The size of the items ranged from very small (antique jewelry box) to very large (grand piano). S and D laid hands on some of the items but not all. They picked up many of the small items (antique silver spoons for example) but not all. A gave D an extra set of keys to his car (a 1991 Mercedes) saying, "I want you to have the car and I don't want you to have to look for the keys."

The next day A wrote a letter to S and D which states in pertinent part:

The purpose of the session on January 8 was to give you tangible possessions of mine which you would like to inherit. The things you asked for are yours as of Jaunary 8. Some of them I will need until I die. Some of them will become available to you later. There may be some which you can take now. I list below what my record indicates each of you asked for. Check it over; if you agree sign your copy and the original, which I will keep.

This language was followed by a list of S's items and a list of D's items. S and D signed the original and returned it to A. Neither S nor D took anything from the house. Six months later A died.

To what extent, if at all, did the above accomplish A's goal of making gifts to S and D? Discuss.

B) (10 points) L, owner of a six unit apartment bulding, rented a two bedroom apartment to T with a one year written lease, which provides that T is to "pay all utilities" and is silent as to L's duty to provide heat and airconditioning. T paid L $500 as a security deposit plus the first month's rent ($300) and moved into the apartment on May 1, 1992.

When it became warm in late May T realized that the air conditioner didn't cool -- the fan worked but the compressor didn't cool the air. T complained to L on six different occasions in May and June. Each time L said he would have the unit fixed but no workman ever came. By the end of June the temperature in the apartment had twice reached 90 degrees and the hot sticky air makes the apartment very unpleasant. The windows are sealed and the only way to get fresh air into the apartment is to open the door. T has children ages four and two and she finds the situation unbearable.

It is now the last of June and T's rent for July is due. She has consulted you for advice as to her rights and remedies. T fears losing her security deposit if she moves. She is also concerned about the cost of moving and the difficulty of finding a nice two bedroom apartment at a comparable price. Discuss her rights and remedies under the URLTA and the common law (to the extent the common law is not superseded by the URLTA).

C) (10 points) A owns a small upscale suburban shopping center containing six shops. In January 1991 A entered into a five year lease with B for unit 6 at a rental of $500 per month or 10% of the gross receipts, whichever is greater. The lease does not restrict B's use of the premises but does contain the following clause, "The lessee may not assign or sublease the premises without the lessor's written consent."

B's shop never turned a profit and in only one month in the first two years were B's gross receipts such that the rental paid to A exceeded $500. In January 1993 B found a prospective tenant for the shop: Progressive Packing -- a company which, in another location, has been grossing about $10,000 a month. For a fee Progressive packages and sends items by various delivery services (UPS, Emery, etc.) who pick up from Progressive twice a day. A refuses to consent to the assignment of the lease, and B sues A for a declaration that the refusal of A to consent to the assignment
is an unreasonable and unlawful restraint on alienation.

Assume this to be a case of first impression in the jurisdiction. Discuss the issues.

D) (10 points) A owned parcel X (map below) and B owned parcel Y. In 1975 B conveyed the westerly half of his property to C (Z). Tract Z fronts on the public road but the terrain is such that it would be very expensive to build an access road to the level land on the northern part of Tract Z. An old mine road, abandoned about 1940, runs across X to the northerly part of Z. In 1976 C asked A if he could use the road for the purpose of building a house on Z. A gave oral permission. In 1977 C built a $50,000 house on Tract Z. From 1976 to the present C has maintained the road, grading and grading it twice. A has also used the road for access to his property though there is no house or other improvements on X.

In 1992 A sold X to D who had no actual knowledge of C's use of the road. There is no instrument of record and A did not tell D about C's use of the road. When D inspected the property he saw the road but assumed it serviced only Tract X. A conveyed to D. D made plans to relocate the road for the purpose of building a home and discovered C's use. D put logs across the road and C, rather than shoot D, has brought suit to enjoin D's interference with the road.

Discuss C's theories of relief. The statute of limitations for prescriptive easements is ten years.

E) In 1985 A sold Blackacre to B by general warranty deed for $10,000. B did not record. In 1990 B sold the property to C by special warranty deed for $20,000. C recorded. Neither B nor C ever physically occupied the property.

In 1992 A sold Blackacre to D by quitclaim deed for $5000. D had no actual notice of the A/B or B/C deeds. D did not record. D occupied the property. Aware that D was on the property, C caused the A/B deed to be recorded and filed suit to eject D.

Assuming Blackacre is in a notice jurisdiction who prevails between C and D and why?

What can the losing party recover, if anything, from grantors in the chain of title for breach of any of the warranties of title?