

QLTS SCHOOL LTD.

Revision Notes – Property Law – Sample Material

The Qualified Lawyers Transfer Scheme - QLTS

Basic Principles of Land Law

Real v personal property

Real property	Personal property
An interest in land, which is: <ul style="list-style-type: none">• Corporeal – land; mines and minerals; buildings; fixtures and fittings.• Non-corporeal – rent; easement, etc.	<ul style="list-style-type: none">• An interest in anything that is not land.

Fixtures and fittings

Fixture or fitting?	Test
<ul style="list-style-type: none">• Fixture – objects affixed/annexed to land or to a building so as to become part of the land or building (a house erected permanently, or personal property attached to land or a building such that it becomes a fixture).• Everything else – a fitting (chattel).	<i>Elitestone Limited v Morris</i> [1997]: <ul style="list-style-type: none">• Degree of annexation – something free-standing will be a fitting even if temporarily connected. Anything attached to the land will be a fixture.• Purpose of annexation – for more convenient use as a chattel or for more convenient use of the land or building?

Estates in Land

All land in England and Wales notionally belongs to the Crown absolutely. It is only possible for a subject to own a set of rights in the land known as an **estate in land**. The estate can be:

- *term of years absolute (leasehold)* – for a fixed period of time;
- *fee simple absolute in possession (freehold)* – in perpetuity;
- *profit à prendre in gross* – for a fixed period of time or in perpetuity;
- *rentcharge* – for a fixed period or in perpetuity.

Interests in Land

It is possible for a person to acquire rights over an estate which is owned by someone else. Such rights can exist at law or in equity.

Legal interests

There are a limited number of interests which can exist at law and are known as **legal interests**. These are listed at section 1(2) of the LPA 1925 and which principally consist of:

- an easement over a freehold or leasehold estate;
- a rentcharge existing for a fixed period of time or in perpetuity;
- a charge by way of legal mortgage;

- a charge on land created otherwise than by an instrument;
- rights of entry annexed to a rentcharge or leasehold estate.

Legal interests are said to “**bind the world**”. This means that if they are properly constituted in law, then they will bind everyone, regardless of whether they are acting in good faith, give consideration or do not have knowledge of the existence of the right.

Equitable interests

All other interests in land which are not capable of existing as legal interests exist in equity only and are regarded as **equitable interests**.

The enforceability of an equitable interest against a third party is governed by the **Doctrine of Notice**.

The Doctrine of Notice:

Equitable interests bind everyone except a bona fide purchaser for value without notice.

Someone seeking to claim that they are not bound by an equitable interest must demonstrate that they are:

1. **bona fide**: that they are acting in good faith;
2. **purchaser for value**: that they have given valuable consideration for whatever interest in the land they are acquiring; and
3. **without notice**: that they did not have actual, constructive or imputed notice of the equitable interest.

Equitable interests can include:

- **the interest of a beneficiary under a trust**: where one person holds a legal estate on behalf of another;
- **estate contracts**: a contract to create or transfer a legal interest gives rise to an equitable interest until the contract is completed;
- **interests not created formally**: for a legal estate or interest to operate at law, it must now be registered at HMLR. Failure to register will mean that the estate or interest will exist in equity only;
- **restrictive covenants**.