

**GUJARAT NATIONAL LAW UNIVERSITY  
GANDHINAGAR**

Course: **Law of Transfer of Property and Easement**  
**Semester- IV (Batch: 2022-27)**

**End Semester Examination: April-May 2024**

**Date: 25<sup>th</sup> April, 2024**

**Duration: 3 hours**

**Max. Marks: 50**

**Instructions:**

- Read the questions properly and write the answers in the given answer book.
- Do not write anything on the question paper.
- The respective marks for each question are indicated in-line.
- Indicate correct question numbers in front of the answer.
- No questions or clarification can be sought during the exam period, answer as it is, giving reason, if any.

**Part: A**

**Marks**

- Q.1 Answer the following with suitable reasoning: (1x5= 5)
- a) Name any right attached to actionable claim as a mode of transfer under the Transfer of Property Act, 1882. Will right to mesne profits constitute an actionable claim?
  - b) In the context of execution or registration of transfer of property, what will be the validity of:
    - i. an unregistered usufructuary mortgage for Rs. 99;
    - ii. an oral assignment of debts.
  - c) What is the nature of a gift, a part of which can be taken back at the pleasure of the Donor, where both parties to the transaction mutually consent for such a condition.
  - d) Redemption is the heart of mortgage. The remedy of foreclosure is available under which type(s) of mortgage(s)?
  - e) In the context of Lease, when can waiver of forfeiture take effect?

**Part: B**

(Answer **any three** of the following questions)

- Q.2 On the basis of the principle "once a mortgage, always a mortgage", study the following situation and answer accordingly. (10)
- Mr. Cooper, a merchant dealing with leather products, took a loan from Mr. Hofstadter and the mortgage deed provided that Mr. Cooper could repay the loan anytime after giving one month's notice to Mr. Hofstadter. The deed also provided that Mr. Cooper could not sell raw leather to any other person except Mr. Hofstadter for five years. Mr. Cooper repaid the loan in 3 years from the date of taking loan. The question arose whether Mr. Cooper was bound to sell raw leather to Mr. Hofstadter for remaining period of 2 years or whether it amounted to clog on redemption. Advise the parties how to proceed with the help of relevant judicial precedents and suitable provisions of the Transfer of Property Act, 1882.
- Q.3 Mr. Drac, a wealthy art collector, decides to gift his prized collection of rare paintings and his private museum to his pregnant daughter, Ms. Mavis, as a gesture of paternal affection. Mr. Drac meticulously drafts a gift deed outlining the transfer of ownership and signs it in the presence of his friend, Mr. Frankenstein. However, before Mr. Drac can formally deliver the gift deed to Ms. Mavis, a series of unexpected events unfold. Firstly, Mr. Drac suffers a sudden health setback, rendering him incapable of completing (10)



the transfer process. Secondly, a long-lost relative, Ms. Wanda, resurfaces and claims a familial right to the paintings, throwing the validity of the gift into question.

Analyze the multifaceted legal issues arising from this scenario, considering the provisions of the Transfer of Property Act, 1882 and evaluate the validity of the attempted transaction.

- Q.4 A local cricket association, inspired by the popularity of IPL matches, decides to lease a prestigious cricket ground from the municipal corporation for hosting cricket tournaments. The association enters into a lease agreement with the corporation, specifying the terms and conditions of the lease, including the duration, rental amount, and permitted use of the ground for cricket matches. (10)

However, as the cricket season progresses, several unforeseen circumstances arise. The municipal corporation undergoes a change in leadership, leading to uncertainty regarding the validity of the lease agreement. A neighbouring property developer claims ownership of a portion of the cricket ground, raising doubts about the association's rights to use the entire premises. Owing to inclement weather conditions, several matches are cancelled, prompting the association to seek a reduction in the lease duration to avoid financial losses.

Examine the situation, identify and analyse the legal issues and advise remedies available to the association in case of disputes or breaches of agreement.

- Q.5 Mr. Timon, a real estate developer, purchases a piece of land with the intention of constructing a commercial building. Before Mr. Timon can commence construction, he encounters financial difficulties and decides to sell the land to a prospective buyer, Mr. Pumba, without disclosing the existing mortgage on the property. After acquiring the land, Mr. Pumba begins construction on the site, investing significant time and resources into the project. However, Mr. Pumba later discovers that the property is encumbered by a mortgage that Mr. Timon failed to disclose during the sale. (10)

In the light of this situation, analyze the legal implications for both Mr. Timon and Mr. Pumba under relevant provisions, if any, of the Transfer of Property Act, 1882. Consider the duties of disclosure owed by the seller, the consequences of non-disclosure or fraudulent concealment of encumbrances, and the remedies available to Mr. Pumba as the innocent purchaser who relied on the seller's representations.

- Q.6 Ms. Dory, an elderly widow, has been using a pathway cutting through her neighbour, Mr. Marlin's land for over two decades to access the main road. Despite the absence of a formal agreement, Ms. Dory's use of the pathway has become habitual and uninterrupted. However, during this time, the ownership of Ms. Dory's property changes hands multiple times due to inheritance disputes and legal complexities. Meanwhile, the neighbour, Mr. Marlin, decides to construct a fence along the boundary of his property, effectively blocking Ms. Dory's access to the pathway. Ms. Dory, now facing mobility issues, protests vehemently, claiming a right of way over the pathway acquired through long and continuous use. Adding to the complexity, the local municipality has plans to widen the road adjacent to Mr. Marlin's property, which could potentially encroach upon Ms. Dory's property. The widening project is stalled due to bureaucratic red tape and funding issues, further complicating the situation. (10)

In the light of these developments, identify the legal issues involved and analyse the intricate legal aspects of acquisition and termination of easements under the Indian Easement Act, 1882.

**Part: C**

(Answer **any three** of the following questions)

- Q.7 Explain the following: (5)
- a) *Quiesensit commodum debet et sentire onus in light*
  - b) *Nemo protest esse tenens et deminus*
- Q.8 Explain the concept of Exchange as a mode of transfer of property. (5)
- Q.9 Differentiate between Lease and License under relevant Acts. (5)
- Q.10 Explain the following: (5)
- a) Doctrine of Lis Pendens
  - b) Doctrine of Holding Out

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