

MONTEREY COLLEGE OF LAW

REAL PROPERTY-Section 1

Midterm Examination

Fall 2021

Prof. J. O'Connell

Instructions:

Answer three (3) questions in this examination.

Total Time Allotted: Three (3) hours.

Your answer should demonstrate your ability to analyze the facts in the question, to tell the difference between material facts and immaterial facts, and to discern the points of law and facts upon which the case turns. Your answer should show that you know and understand the pertinent principles and theories of law, their qualifications and limitations, and their relationships to each other. Your answer should evidence your ability to apply the law to the given facts and to reason in a logical, lawyer-like manner from the premises you adopt to a sound conclusion. Do not merely show that you remember legal principles; instead, try to demonstrate your proficiency in using and applying them. If your answer contains only a statement of your conclusions, you will receive little credit. State fully the reasons that support your conclusions and discuss all points thoroughly. Your answer should be complete, but you should not volunteer information or discuss legal doctrines that are not pertinent to the solution of the problem.

REAL PROPERTY

Professor Justin O'Connell

Midterm, Fall 2021

Question 1

Adam is the owner of an apartment complex. On January 1, 2021, Betty entered into a written lease with Adam providing that she had the right to occupy one of the apartments on the ground floor for 6 months at a rental rate of \$1,000 per month. That day, Betty moved in. At the end of the lease Betty continued to occupy the apartment and continued to pay Adam rent monthly. Adam and Betty did not enter into a new written lease agreement.

In August of 2021, Betty notified Adam that her second, side door leading out of her apartment to a walkway was not locking properly. The next day, Adam nailed a sheet of plywood across the entire doorway from the outside. The plywood has remained in place ever since, and he never repaired the lock.

Also in August of 2021, the water heater in Betty's apartment began to work only intermittently. She notified Adam about the problem in mid-September. Adam immediately inspected the water heater and while in the apartment saw that Betty had removed the prior electric oven in the kitchen, cut the countertop out slightly, and installed a gas oven. Adam notified Betty he would not fix her hot water issue. Betty looked up the price of a new water heater on the internet, which was \$400, and deducted that amount from her from her October rent payment.

In September of 2021, Betty told Adam that she would not pay rent beginning in October until her door and hot water heater were fixed. She also told him she would not pay rent so long as other tenants keep parking in the spot she likes, and so long as other tenants "come and go" at all hours. Betty failed to pay Adam rent in October 2021. After giving Betty proper notice to pay rent or vacate, Betty did not vacate, so Adam filed an eviction proceeding against her based on her failure to pay rent.

Discuss the rights and remedies of Adam and Betty.

REAL PROPERTY

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Midterm, Fall 2021

Question 2

Oliver owned Blackacre, a parcel of real property. His niece, Alice, attended his seventieth birthday party. At the party, Oliver told guests it could be his last birthday, so everyone should have fun. Alice overheard this, which made her think Oliver's death was imminent, plus she thought he looked sick.

The following day, Oliver executed a valid deed transferring Blackacre to Alice. Oliver's signature was notarized. Oliver placed the deed on his kitchen table with the intent to take it to the county recorder's office for recordation the next day. Oliver knew that by law the original deed would be mailed by the recorder's office to the new owner – Alice – after it was recorded.

Two weeks later, Oliver realized he had not recorded the deed yet, but sent Alice a letter, which she received, that only stated "My Dear Alice, I hope you like your surprise. You should get it in the mail soon."

Oliver forgot to go to the recorder's office, but several months later, Oliver asked his friend Bob to record the deed. Oliver handed Bob the deed to record, but Bob misplaced it before recording it. However, Bob told Oliver it had been recorded, to which Oliver replied, "She better like her gift, or its going to Cory."

A year passed, and Alice left Oliver a voicemail asking what the letter had meant. Oliver was surprised by her message, so he called the recorder's office and found out that Bob had not recorded the deed. Oliver then called Alice and told her he had meant to send her a book and had forgotten.

A month later, Bob found the deed and recorded it but did not tell Oliver. Oliver died the next day with a valid Will leaving his entire estate to Cory.

What claims to Blackacre can be made by Alice and by Cory?

REAL PROPERTY

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Question 3

In 2018, Able, inherited a 500-acre parcel of rugged, undeveloped real property, which was bordered by a National Park. Able had never been to the remote property, so he immediately went out to inspect it.

During the inspection, Able followed a lightly worn trail from the public road that lead to a small log cabin in which Baker was living. The cabin did not have any electrical hookup but did have a large fireplace for heating and cooking. Able knocked on the door. Baker answered the door, introduced himself, and truthfully explained that he had built the cabin over the course of 2016-2017, finishing and moving in during 2017. Baker also truthfully said that, prior to beginning construction of the cabin in the spring of 2016, he had seasonally camped at that site since 2000. Baker untruthfully told Able that the cabin was an illegal structure because it was within the National Park. Baker asked Able not to tell the National Park officials. Able responded by telling Baker "No way. I think you should live here as long as you want." Able left the property later that day, and never returned.

In 2019, Baker created a wide gravel driveway leading across Able's property from the cabin to the public road.

In November 2021, Able died and Carroll inherited the property. The following month, Carroll inspected the property and discovered the driveway and cabin. Carroll does not consent to Baker's occupancy of the property.

Assume this jurisdiction has a 5-year statute to assert ownership by adverse possession. Discuss the rights of Baker and Carroll under the theory of acquisition by possession as of December 2021.

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Question 1-Answer

Creation of the tenancy.

Conversion of the tenancy to periodic by implication.

Habitability issue with door.

Still has access.

Is sealing off equivalent to prevent entry by third parties.

Is it really a habitability issue.

Habitability issue with water heater.

Is intermittent enough?

Is hot water fundamental to habitability to begin with?

If habitability issue, then she is entitled to reduced rent, but owes the \$400 (see below) – likely offsetting claims

Repair and Deduct

Deducted from rent but did not do the repairs so the defense is not available.

Parking spot not a habitability issue and not a contractual right

Other tenants – ambiguous what “coming and going means”

If being unreasonably loud, landlord has a duty to intervene

If unreasonably loud, claim for breach of quiet enjoyment and reduction of rent

Likely not a habitability issue unless severe – if so then reduction in rent

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Question 2 - Answer

Was there donative intent at the time of the transfer?

Some ambiguities – later statement about taking it back and giving it to Cory – does this reflect a lack of intent or thought one can take back a gift

Why repeatedly forgotten about if it was going to be gifted. Plain view on kitchen table.

Delivered

Providing a third party is fine

Was it delivered when handed to Bob or only upon recordation?

Acceptance

Presumed unless of no value or detrimental to own

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Question 3 – Answer

Adverse Possession:

1. Actual;
2. Open and notorious;
 - a. Remote
 - b. Trail leading from road – visible enough that Able saw and followed
 - c. Fireplace – smoke in summer and winter for cooking and heating
3. Exclusive;
4. Hostile;
 - a. Was there permission?
5. Continuous
 - a. Intensification of use over time
 - b. At what point did actual possession begin
 - c. Phased in construction
6. Good faith or bad faith intent
7. Improvement, cultivation or enclosure

1)

Betty's Original Lease with Adam was a tenancy for years.

A **tenancy for years tenancy** is one that is for a fixed duration of time. It has a specified end date. Notice to terminate is not required because both the LL and T know the date it will terminate. If the time is for more than one year, it must be in writing to satisfy the Statute of Frauds (SOF).

Here, On January 1, 2021 Betty entered into a "written lease" with Adam for six months. This is a fixed duration of time. As such the lease would automatically terminate on the last day of June 2021. Notice is not required for this type of tenancy, hence it was not given.

Because Betty continued to occupy the apartment after the end of the lease, it turned into a Tenancy in Sufferance. A **tenancy in Sufferance** is when a tenant holds over after the termination of a valid lease. When a tenant holds over, the Landlord has two options, he can evict the tenant or hold the tenant to a new term as a tenant.

Here, Betty did not move out when her original lease terminated. Instead she continued to occupy the apartment. As a result, the Landlord could have evicted her. Adam however chose to continue accepting payment of rent from Betty. Because Adam accepted rent from Betty, Betty now has periodic tenancy for the Apartment

A **periodic tenancy** is one that continues for successive and continuous intervals of time. It can be created expressly or by implication. Notice of termination is required by either Tenant or Landlord. The notice must be at least the length of one period.

Here, because Adam accepted Betty's payment of rent after the original tenancy for years had terminated, he now has a periodic tenancy with Betty, usually month-to-month

depending on how often Betty pays rent to Adam. This was created by implication when Adam accepted the rent after the termination of the first lease.

Adam's Duties to Betty

Adam as a landlord has a duty of **implied warranty of habitability**. The implied warranty of habitability requires that a landlord maintain the premises to a standard that is fit for basic human habitation. And it is not waiveable. If Landlord breaches this duty, then tenant can: move-out and terminate lease, repair and deduct the amount from the rent, reduce rent, or remain there.

Here, in August of 2021 when Betty notified Adam that the side door leading out of her apartment to a walkway was not locking properly is an issue of habitability because the apartment is located on the ground level. If Betty is unable to lock the side door, it could expose her and her apartment to the outside, unwanted people being able to enter the apartment, cold getting into the apartment because the door will not properly seal because it is not locked. Adam responded to Betty's request by nailing a sheet of plywood across the entire doorway. This may keep unwanted persons outside of the apartment, but it did not resolve the issue Betty complained of, the door not locking properly.

Betty's options regarding the door.

Betty can move-out and terminate the lease, repair and deduct the cost of a new lock from the next months rent, reduce rent or remain there and do nothing.

In this circumstances, moving out and terminating the lease does not seem like a logical next step and neither does permanently reducing the rent or remaining and doing nothing. It is reasonable the because Adam didn't actually repair the defect Betty

complained of, she should have the lock repaired and deduct the cost of repair from the next months rent only. This serves both Betty and Adam. Betty can continue to live at the apartment and Adam knows the lock has been fixed and Betty's concerns addressed, because he was responsible for fixing the lock regardless.

Betty's options regarding the water heater

Betty was aware that the water heater was not working properly in August of 2021. She did not report the issue to Adam until mid -September. Having warm water is a concern of habitability. However Adam can argue that Betty waited a while before even mentioning that it wasn't working properly. Adam has a duty to fix the water heater because even though hot water is a want for comfort, it is reasonable that a court would determine that Betty is entitled to have running hot/warm water in her apartment. Even though Betty checked the cost of the water heater and found out it cost \$400, she cannot deduct that amount from the next months rent if she never bought it herself to replace the current broken water heater.

Betty's Duties to Adam

Betty has a duty not to commit **waste**. There are 3 kinds of waste:

1. **Affirmative** - overt act
2. **Permissive** - negligent act
3. **Ameliorative** - caused by alterations that increase value of premises

Here, Betty committed affirmative waste and ameliorative waste. The overt act was by cutting the counter top out slightly. This is an overt act that destroys Adam's premises

for its intended purpose. It is reasonable that Adam wanted all the apartments in the complex to have electric ovens because they are safer, cause less accidental fires or a host of other reasons. The waste can be considered Ameliorative because maybe now the apartment would have a greater value because gas stoves are desired by more people over electric. Either way Betty breached her duty to not commit waste.

The stove can be considered a fixture. A **fixture** is a once movable chattel that by virtue of its annexation to the realty objectively shows its intention to permanently improve the realty. the fixture passes with the land and can only be installed by a tenant if there is an agreement between the landlord and tenant.

Here, Betty did not get Adam's permission to install a new gas stove and therefore Betty is in Breach.

Adam's Duties re parking spots, other tenants coming can going

Landlords are not liable to a tenant for the **bothersome acts of other tenants**, except that Landlord has a duty to not allow a nuisance on the premises and must maintain common areas.

Here, Betty complains that other tenants are parking in the spots she likes, this is not a problem of the landlord. If the apartment complex had designated parking areas for each tenant, then maybe the Adam could enforce the rules that all tenants must only park in their own parking spots. That is not the case in this situation so Adam is not responsible for making sure Betty only parks in spots she likes. Every tenant who leases an apartment from Adam has the right to come and go from their apartment as they choose. Unless the other tenants are violating the terms of the respective leases this is also not Adam's problem.

Betty has a **duty to pay rent**.

If Betty does not pay rent and is still in possession of the property, Adam can evict Betty through the courts or continue the relationship and sue Betty for unpaid rent.

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2)

Gift

A gift is a transfer of property to another without consideration. To be considered a gift three elements have to be satisfied. (1) The person giving the gift must have the intent to give the gift, (2) The gift must be delivered, and (3) The gift must be accepted.

Delivery

A person can deliver a gift in three different ways. They can either do this personally or through an agent acting on their behalf. These three ways are (1) Actual, (2) Constructive, or (3) Symbolic

Actual

Actual delivery occurs when the physical gift is delivered to the other person. For example, if someone were to hand a wallet to their child and say "I'm gifting my wallet to you", the wallet would have been actually delivered to the child.

The physical house cannot be actually delivered to Alice, so actual delivery is not an issue.

Constructive

Constructive delivery occurs when physical access to the property is handed over. For example, if someone were to hand their car keys over to their child and say "I'm gifting you my car", the keys allows the person receiving the gift physical access to the property.

Similarly, this does not apply, since Oliver never handed over the keys or anything else that would give Alice physical access to the property.

Symbolic

Symbolic delivery occurs when something is handed over that symbolized transfer of the property. For example, if someone were to hand their house deed over to their child and say "Im giving you my house", the symbolism of the deed transfer is sufficient to be considered symbolic delivery.

Oliver executed a valid deed transferring Blackacre to Alice. Oliver placed the deed on his kitchen table with the intent to take it to the county recorder's office for recording the next day. Oliver knew that by law the original deed would be mailed by the recorder's office to the new owner, Alice. Oliver appeared to have the intent to deliver the deed through symbolic delivery, using the government as his agent. After this did not happen Oliver sent Alice a letter that stated "My Dear Alice, I hope you like your surprise. You should get it in the mail soon". Alice could also argue that this represented a symbolic transfer of property since Oliver had the intent for the gift to be on the way.

Intent to Gift

Another element of giving a gift is that the person giving the gift must have the intent to gift the property to someone else. To look at the persons intent the court looks at many factors including the nature of the gift, the relationship between the parties, and the words and actions of the parties.

Nature of Gift

Oliver is attempting to transfer an entire parcel of real property to Alice.

Relationship between parties

Alice is Oliver's niece.

Words and actions of Party

As explained above, Oliver had the private intent to record the deed and have the original deed sent by mail to Alice. After forgetting to do this, Oliver then sent a letter to Alice telling her she hoped she liked her gift. Several months after this Oliver asked his friend Bob to record the deed. Oliver handed Bob the deed to record, but Bob misplaced it before recording it. Bob told Oliver it had been recorded to which Oliver replied "She better like her gift, or its going Cory". This is the first instance where Oliver's intent is in question. Oliver shows that his intent is to only gift the property to Alice if she likes it. ✓

A year passes and Alice leaves a voice message for Oliver asking what the letter had meant. Oliver replied that "He meant to send her a book and had forgotten". At this point it appears that Oliver no longer intends to give the gift to Alice. ✓

*but can he take it back?
Hobbs
conditions/
transfer
of real
property*

A month later, Bob found the deed and recorded it but did not tell Oliver. Oliver died the next day with a valid will leaving his entire estate to Cory.

Third Party/Agent

A gift may be given to a third party or agent in order to complete delivery. Oliver gave the deed to Bob to record. Bob was acting as an agent of Oliver and would be authorized to make deliveries.

Acceptance of Gift

Acceptance of the gift is the final element needed to give a gift. The receiving party must accept the delivery of the gift. This can be accomplished through physical acceptance of the gift, or through words and actions.

Alice would argue that she would have accepted the deed if she had received it. Alice would also argue that her phone call to Oliver asking what the letter had meant, also indicated her intent to accept the deed. Cory would argue that Alice never accepted the

deed since she had now knowledge what the letter was about. Alice never accepted the gift since she had no idea what the cryptic message was about and never followed up for an entire year. Once she decided to inquire about it, Oliver had already revoked the gift before it was completed. This may not be an issue though since courts often assume that acceptance is given because of the nature of the gift.

Alice's Claim to Blackacre

Alice would argue that the letter she received in the mail was symbolic delivery of the deed. This delivery occurred during the time in which Oliver had the intent to gift Blackacre to Alice. Because of the nature of the gift Alice would argue that acceptance should be assumed upon delivery, since who wouldn't want a piece of real property. If the court were to accept this logic, Alice would have been gifted Blackacre prior to Oliver's death and would be the rightful owner.

Cory's Claim to Blackacre

Core would argue that delivery never occurred and if it did, it happened after Oliver no longer had the intent to gift Blackacre to Alice. Cory would reject Alice's argument that the letter she received was a symbolic delivery of the gift and would claim it is merely a statement that a gift may be coming. By the time Bob delivered the deed to the county recorder's office, Oliver no longer had the intent to give the real property to Alice. If the court found that no delivery occurred until Bob recorded the deed, then the elements of a gift would not be satisfied and Alice would not have received Blackacre. Cory would be the rightful owner as a result of Oliver leaving him the entire estate.

Dying gift Giving (Causa Morta)

One exception for the rule is when the person giving the gift is doing so under the assumption that their impending doom is coming. That person may revoke any gift if they overcome their near death experience.

This allows a person giving a gift to revoke the gift if they gave it under the impression of near death and have sense overcome that. Oliver hosted a birthday party at his house and told guest that it would be his last birthday. Alice overheard this, which made her think Oliver's death was imminent, plus she thought he looked sick. Oliver did not die within the year. The issue here is no facts indicate Oliver really thought his impending death was immanent. The only comment made by Oliver was saying it could be his last birthday, which for someone who is 70 years old, isn't an abnormal thought. Since Oliver never thought his impending death was immanent this would not apply. ✓

Conclusion

The outcome of this would rely on if the court found there to be delivery or not at the time that Oliver intended to give Alice Blackacre. The most likely outcome would be that the letter sent to Alice did not constitute symbolic delivery and that delivery only occurred when the deed was filed and the original deed sent by mail to Alice. Thus, Cory would be entitled to own Blackacre.

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3)

Adverse Possession

A trespasser can acquire titles to the land if 5 elements are met, then the trespasser's possession ripens into ownership. Elements: Actual, Open & Notorious, Exclusive, Hostile and Continuous.

Doctrine of Laches: if a person sleeps on their rights, by not taking affirmative action or making a claim in a timely manner, then it could prejudice that person. Use your property or basically lose it because we want the free flow of property in the housing market.

Actual

The trespasser must physically/literally use the parcel of land in some manner that a reasonable true owner would use.

Here, the partial of land is 500 acres in an undeveloped property in a National Park. The trespasser (Baker/B) is using the property by living inside of a small log cabin. It could be inferred that this is how a reasonable owner would use the property since it is in a remote area bordered by the national park. Although there isn't "any electrical hookup" there is a "large fireplace for heating and cooking." This is reasonable for B to be using this parcel of land in this manner since it is in a remote area where he most likely doesn't have access to electricity. B actually constructed the small cabin and made the fire place, so B made improvements on the parcel of land (like an owner would).

The court would likely hold that B is actually using the parcel of land.

Open & Notorious (notice)

The acts of trespassing must be so visible, obvious and apparent that if a reasonable true owner came to inspect the land, they would be put on notice of the trespasser.

Here, the facts indicated that Able (A; the true owner) noticed a "lightly worn trail from the public road that lead to a small log cabin in which B was living." These facts indicate that A was in fact on notice of a trespasser (B). Furthermore, A "knocked on the door and introduced himself to B". B "untruthfully told Able that the cabin was an illegal structure because it is within the National Park and to not tell anyone about it." B also explained that he had been "seasonally camping there since 2000" and had actually built the cabin over the course of 2016-2017. Once A died, the land was inherited by Carroll (C), who immediately inspected the property and discovered the driveway and cabin." So both A and C were on notice of B (the trespasser).

*Fireplace = smoke
log cabin → were trees cut down?*

Exclusive

The property must not be shared with the true owner or the general public. Exclusivity could be defeating if the true owner returns to the property and reasserts possession (these can be small acts such as cutting down a tree, changing the locks, cleaning a window etc.)

The facts indicate that once A left the property, "he never returned" so this means that only B was using the property at the time. There are no other facts to indicate that the general public was using the property. Additionally, there aren't any facts to indicate that B (the trespasser) ever left the property. Although, trespasser's are allowed to leave and still be considered to have possession (just like true owners leave their property for work, school, vacation, grocery shopping, road trips). There are no facts that A ever returned back, in fact it says that A never returned after initially talking with B in 2018. However, since A gave B consent to stay on the land, A can argue that he was "sharing ownership with B".

not the issue - issue is was A using the property?

The court would likely conclude that B was sharing ownership with A during 2018 when A inherited the property. The exclusive element is not met.

Tacking

The court would conclude that B has exclusive possession of the land.

Hostile

Not hostile as in punching the true owner in the face, but hostile against the true owners rights of possession. Meaning, the trespasser does not have consent or permission to be on the property.

Split of authority- depending on the jurisdiction (JD)

Main Doctrine- bad faith possessor. The main doctrine is a minority view, which required the trespasser to have a bad faith intent/state of mind and the trespasser is aware that they are possessing the property of a true owner.

If the fact pattern has this minority view, then B is a bad faith possessor because he is aware he is trespassing on the true owners property.

The court would likely hold that B is a hostile bad faith possessor.

Connecticut Doctrine- (majority view) Doesn't care about the state of mind of the trespasser. This jurisdiction holds that if there is a true owner to the land, then they should be exering their rights to possession and kick out the trespasser.

If the fact pattern goes by the majority view, then they wouldn't care about the state of mind of the trespasser. Here, the facts indicate that the true owner (both A and C) were aware that B was unlawfully trespassing on their property. A actually consented to B living

can consent be given w/o knowledge?

in the log cabin. A told B "No way. I think you should live here as long as you want." So actually the hostility element is not met here for the trespasser since A gave B permission to be on the property. However, C does not consent to B staying on the property. So B is acting hostile towards C's rights of possession.

If this was a majority view JD then the court would conclude that neither C or A are sleeping on their rights. The hostile element is not met for B because A gave him consent. But, the hostile element is met against C because she does not consent to B on the property.

Good Faith- The trespasser must have a bona fide good faith belief that it is their property. They are innocent, but mistakenly in possession of the true owner's property

Here, if the minority JD of good faith possessor is followed, then B would lose under the element of hostility because B does not have a bona fide belief that the property is his. There is no mistake (such as color of title) and B is aware that he is on another person's property.

The court would conclude that B is not a good faith possessor.

Continuous (through the SOL period of 5 years)

The trespasser must be continuously using the property as continuous or sporadic as a reasonable true owner would be using that particular type of property. Since the type of property is in a remote National Park, one can presume that periodic camping is sufficient. This is especially so since there is not any electricity or anything out there. A potential owner might only use this land to camp on. It is also possible that since the area is so large and remote, a reasonable true owner might only use the land for investment

purposes and not actually step foot or check on the property. The facts indicate that B had been "seasonally camping on at that site" since 2000. Trespassing to possession usually occurs through time. The trespasser slowly comes at first before they begin to take full possession of the property because they are trying to see how much they could get away with. Furthermore, B began constructing the cabin "over the course of 2016-2017." B finished construction and also moved in during 2017. B could argue that his actual possession started in **2016** because that's when he started acting like a true owner of the property by making improvement by building a cabin and large fireplace on the land. However, since A gave B consent to stay on the land, A can argue that he was "sharing ownership with B". Lastly, B created a wide gravel driveway leading across A's property from the cabin to the public road, these are all moves that a true owner would make. However, since A gave B consent, the continuity element of the land would likely fail since A shared the property and had permission to be there.

Tacking

Tacking APs- this can be done to satisfy the SOL period. But the facts do not indicate that there was another AP that gave B possession through privity, such as devise, decent or conveyance.

The court would conclude there was not two APs to tack time.

Tacking Owners

The AP can tack the time of owners. When an owner sells the property, they are also selling and problems that come along with the property, such as litigation or claims of adverse possession. Here, the facts indicate that when A died, C inherited the property. This means that B could tack the time of those owners together in order to satisfy the SOL of 5 years. But, since A gave B consent to stay on the property, tacking would likely

not hold in court because the hostile element is not met. However, the facts indicate that B had already been camping and staying on the property periodically since the year 2000. This means that B could potentially tack on the time from the previous owner that A inherited the property from. If this is so, and the court would agree that sporadic camping is sufficient for this type of parcel of land since it is in a remote area, then the court might hold that B was already considered an AP before A inherited the property. The court would likely not tack on ownership from A and C.

The court likely not hold that B had been in possession since he gained full ownership in 2016 by building the log cabin and moving in, which shows signs of true ownership/possession. And since A consented, that would have tolled and stopped the SOL period.

Disablement- occurs when the owner is mentally incapacitated, incarcerated, or the age of minority. No facts indicate any of this here.

AP's Rights-judicial determination

If the AP does satisfy the SOL, then they ask the court for a judicial determination. The court then holds a silent auction and hears all the evidence from B and decides whether B has satisfied all the elements of AP. The AP then uses the judicial determination to record as a deed.

Here, it is very unlikely that a court would grant AP to B. AP is a very harsh punishment because it is taking ownership and possession from the person that potentially paid good money for that property. The court really considers all the elements to determine if AP should be awarded. A court would likely not award AP to B.

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END OF EXAM