Odisha Judicial Service (Mains) 2022

Law of Property · optional paper

3 hours · Full marks: 150

The questions are of equal value. Answer six questions, selecting two questions from each Section.

SECTION—A

1. (a) What do you understand by gift? Can a gift be revoked under the Transfer of Property Act (TPA)? Explain with the help of relevant case laws.
(b) Explain the following with the help of relevant case laws :
(i) Doctrine of Acceleration which is given under Section 27 implying conditional transfer to at least one person including transfer to a different person with a condition.
(ii) Doctrine of Substituted Security given under Section 73 which implies the right to proceeds of revenue sale or compensation on acquisition.

2. (a) What do you mean by transfer by an ostensible owner? What is the impact of Benami Transactions Act, 1988 to the transfer made by an ostensible owner? Elucidate your answer with the help of the relevant jural postulates.
(b) Discuss the following with the help of relevant case laws :
(i) The Doctrine of Lis Pendens
(ii) Kinds of Subrogation in the Transfer of Property Act (TPA)

3. (a) Explain in detail, the Rights of Mesne Mortgagee keeping in consideration the principle of 'redeem up and foreclosure down'. Also shed light on the provisions which tell about the persons who may sue for redemption.
(b) What do you mean by Mortgage? How is it different from Charge? Explain with the help of the relevant legal provisions and case laws.

4. (a) One of the significant principles of the Law of Transfer of Property is "the Right of redemption is the right of mortgagor and the right of foreclosure is the right of mortgagee!" Explain the above principle in detail with the help of the relevant legal provisions.
(b) What do you mean by the doctrine of Spes-successionis? What is its relevance in the Transfer of Property Law? Explain with the help of decided case laws.

SECTION—B

5. (a) What do you understand by the declaratory suit under Section 34 of the Specific Relief Act? What are the scope and ambit of a declaratory suit in TPA? Explain in detail.
(b) How can property be possessed under the Specific Relief Act? What is the recommended procedure? Explain with the help of relevant case laws.

6. (a) What changes have been incorporated under the Specific Relief Act by the 2018 Amendment? How do you see these changes as a law student? Will it be able to address the long list of pendency cases related to the Specific Relief Act? Explain with relevant legal postulates.
(b) What do you understand by the word Injunction? What is the significance of the Injunction in the Specific Relief Act? Explain with the help of relevant case laws.

7. (a) What do you mean by the Specific Performance of the Contract? Under what circumstances, court cannot grant the Specific Performance of the contract? Explain with the help of relevant legal

provisions and case laws.
(b) Who can obtain the decree of specific performance of the contract under Section 15 of the Specific Relief Act? Can compensation be also given in lieu of the performance? Explain with the help of legal provisions and case laws.

8. (a) What is the notion of Rectification of Instruments? Can both parties to a contract rectify the clauses of the contract at any time? Explain in light of appropriate legal provisions.
(b) What do you mean by the recession of contract? Distinguish it with the rectification of the instrument under the Specific Relief Act with the help of relevant case laws.

SECTION—C

9. (a) Under Section 3 of the Limitation Act, 1963, there is a bar on the limitations of litigation while a claim by way of it is treated as a cross-suit under the Act itself. In light of the above statement, explain the notion embedded in Section 3 of the Limitation Act.
(b) The Limitation Law prescribes different aspects of limitation on litigation in the courts which must have some requisites. State the requisites of a valid acknowledgment for the prescribed limitation period.

10. (a) Discuss the provision under the Limitation Act, 1963 relating to the exclusion of time of proceeding bona fide in court without jurisdiction.
(b) Discuss the provision under the Limitation Act, 1963 relating to the effect of death on or before the accrual of the right to sue and fraud and mistake in computing the period of limitation with relevant case laws.

11. (a) Discuss the provision under the Limitation Act, 1963 relating to the extension of the period of limitation on the ground of legal disability and certain other circumstances.
(b) Discuss the provision under Limitation Act, 1963 relating to the suits against trustees and legal representatives.

12. (a) Discuss the provision under the Limitation Act, 1963 relating to the acquisition of an easement by prescription.
(b) Discuss the provision under the Limitation Act, 1963 relating to the exclusion of time in legal proceedings.