West Bengal Judicial Service (Mains) 2022

Transfer of Property Act · compulsory paper

Time: 3 hours · Full marks: 100

Group A: answer Question No. 1 and any two from the rest

1. (a) Right conferred u/s 53A of the Transfer of Property Act, 1882 can be used only as "a shield and not as a sword." — Discuss.
(b) Explain the Doctrine of performance with reference to a leading case. (10+10)

2. (a) Explain vested interest and contingent interest. When does a contingent interest become vested? Is the vested interest defeated by the death of the transferee before he obtains possession?
(b) Distinguish between restrictive covenant and affirmative covenant. (10+5)

3. (a) Is there any exception to the rule that a person cannot convey a better title than what he himself has in the property? If no, state the principle upon which it is based.
(b) Discuss the provision of law relating to the transfer of property for the benefit of an unborn child. (10+5)

4. (a) (i) What are the essential ingredients of attestation? (ii) Discuss legal consequences of an invalid attestation. (iii) Can a party to the transaction be an attesting witness? (iv) What are the instruments required for attestation under the Transfer of Property Act, 1882?
(b) (i) Is attestation necessary in respect of the following documents: (I) Will; (II) Sale Deed; (III) Deed of Gift; (IV) Deed of Mortgage? (ii) Does the attestation estop the attesting witness denying the knowledge of the contents of the deed? (10+5)

Group B: answer Question No. 5 and any two from the rest

5. (a) Discuss the principles under the Transfer of Property Act, 1882 relating to redemption and foreclosure.
(b) What do you understand by the right of subrogation? When can be the right of subrogation allowed? (10+10)

6. (a) What is a legal remedy available to a bonafide purchaser if before an acceptance of the conveyance he discovers material defect in the property and in the title of the vendor which have not been disclosed by the vendor?
(b) Is the seller bound to disclose any material defect in the property? (10+5)

7. (a) What is known as the Doctrine of Marshalling by a subsequent purchaser?
(b) What do you understand by a vendor's lien? (10+5)

8. (a) Distinguish between Charge and Mortgage.
(b) What is meant by clog on equity? (10+5)