

Business Law

Text & Exercises *6th Ed.*

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Chapter 36: Personal Property and Bailments

Learning Outcomes

- LO1** • Explain the nature of personal property.
- LO2** • Identify different types of property ownership.
- LO3** • State how ownership of personal property is acquired.

Learning Outcomes

- LO4** • Discuss who gets title to lost, mislaid, and abandoned property, and treasure trove.
- LO5** • Outline the elements of a bailment.



Nature of Personal Property

- **Property is divided into two categories:**
 - Real Property: land everything permanently attached to it.
 - Personal Property. All other property, both tangible and intangible.

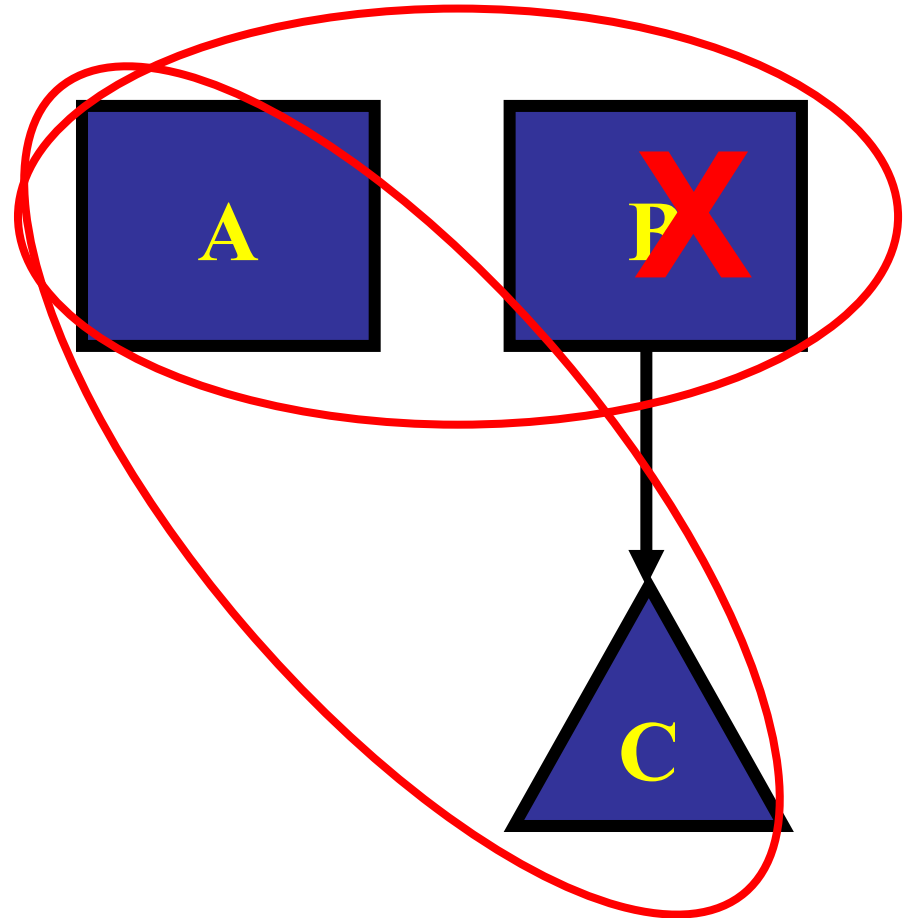
- **Property ownership is viewed as a “bundle of rights”, including the:**
 - Right to possess.
 - Right to sell.
 - Right to give.
 - Right to lease.
 - Right to destroy.

Fee Simple

- **Owner owns the entire “bundle of rights”.**
- **Fee simple gives the owner the maximum possible estate or right of ownership of real property, continuing forever.**
- **Chapter 36 will deal with realty estates.**

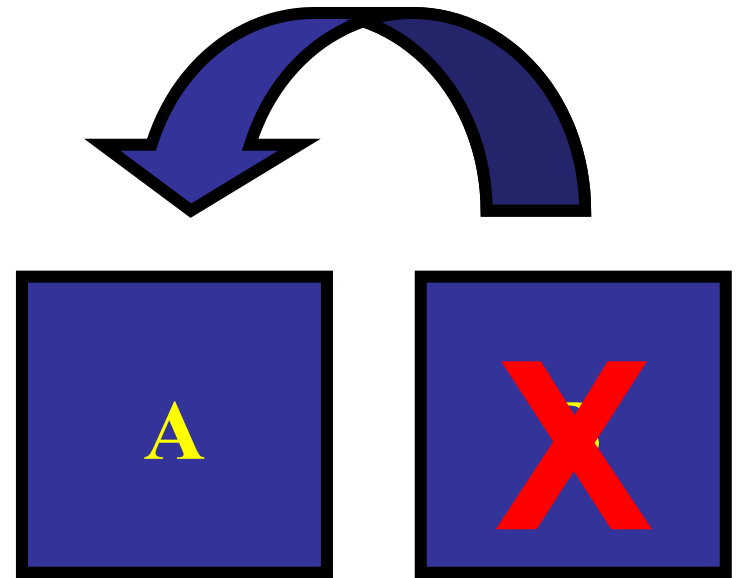
Tenancy in Common

- A and B own an undivided interest in the property.
- Upon B's death interest passes to B's heir, "C".
- The new owners of the property are A and C.



Joint Tenancy

- **A and B own a Joint Tenant interest in property.**
- **Upon B's death, B's interest automatically passes to A, the surviving joint tenant.**



Community Property

- **Community Property (limited number of states).**
 - Property acquired by couple during their marriage is owned as an undivided $\frac{1}{2}$ interest in property (real and personal).

Summary: Real Property Ownership

Concept Summary

Common Types of Property Ownership

CONCEPT	DESCRIPTION
Fee Simple	Owners of property in fee simple have the fullest ownership rights in property. They have the right to use, possess, or dispose of the property as they choose during their lifetimes and to pass on the property to their heirs at death.
Tenancy in Common	Co-ownership in which two or more persons own an undivided interest in property; on one tenant's death, that tenant's property interest passes to his or her heirs.
Joint Tenancy	Co-ownership in which two or more persons own an undivided interest in property; on the death of a joint tenant, that tenant's property interest transfers to the remaining tenant(s), <i>not</i> to the heirs of the deceased.
Community Property	A form of co-ownership between a husband and wife in which each spouse technically owns an undivided one-half interest in property acquired during the marriage. This type of ownership exists in only some states.

Acquiring Ownership of Personal Property

- **Possession.**
 - Capture of wild animals (wild animals belong to no one).
 - Finding of abandoned property.
 - Adverse Possession.
- **Purchase.**
- **Production:** fruits of one's labor.

Acquiring Ownership: Gifts

- **Voluntary transfer of property ownership from Donor (owner) to Donee (recipient) for no consideration.**
- **Elements:**
 - Donative Intent.
 - Delivery—actual or “constructive” (symbolic, such as keys to car). Relinquishing Dominion and Control: Donor must give up complete control or dominion.
 - Acceptance by donee.

Acquiring Ownership: Gifts

- **Three types of Gifts:**
 - Intervivos—while donor is living.
 - Causa Mortis: -- made by donor in contemplation of imminent death.
 - Testamentary – after death, by will/inheritance.

Acquiring Ownership of Personal Property

- **Will or Inheritance** (see Ch. 39).
- **Accession:** adds value to a piece of personal property by use of either labor or materials.
- **Confusion:** commingling so that a person's personal property cannot be distinguished from another's. Fungible goods consists of identical particles such as oil or grain.

Mislaid, Lost, and Abandoned Property

- **Mislaid Property**: *Voluntary* placed somewhere, then inadvertently forgotten.
 - Finder is steward for true owner.
- **Lost Property**: *Involuntarily* left.
Property owner acquires title against whole world, except for true owner.
 - Finder must return to true owner or be liable for conversion.

Mislaid, Lost, and Abandoned Property

- **Abandoned Property**: Discarded by true owner with no intention of recovering. Finder acquires title against all the world, including the original owner.
- **Treasure Trove**: treasure (money, gold, silver, or bullion). A finder has title to treasure trove against all except the true owner, unless statute allows title after advertising and due diligence.

Bailments

- A bailment is formed by the delivery of personal property, without transfer of title, by one person (Bailor) to another (Bailee), usually under an agreement for a particular purpose.
- The property must be returned by the Bailee to the Bailor, or a third party as directed by the Bailor, in the same or better condition.

Elements of a Bailment

1. Must be Personal Property.

2. Delivery of Possession.

- Bailee given exclusive control or possession.
- Actual (physical) or constructive delivery.
- Bailee must knowingly accept (Bailee must intend to exercise control over chattel).
- “Involuntary” Bailments.

3. Bailment Agreement. (express or implied)