

Business Law

Text & Exercises *6th Ed.*

Roger LeRoy Miller
William Eric Hollowell



Chapter 37: Real Property

Learning Outcomes

- LO1** • Discuss the nature of real property.
- LO2** • Identify the most common types of real property ownership.
- LO3** • Explain how the ownership of real property can be transferred.

Learning Outcomes

LO4

- **List the elements for acquiring real property by adverse possession.**

LO5

- **Describe the government's right of eminent domain.**

- **Real property is immovable and includes:**
 - Land & Permanent Buildings.
 - Airspace & Subsurface Rights.
 - Plant Life and Vegetation.
 - Subsurface (mineral) rights.
 - Fixtures. →

Fixtures

- **A fixture is personal property that is “intentionally” and permanently affixed to real property. Intent is determined by showing:**
 - Property cannot be removed without causing damage to the realty, or
 - Property is so adapted to the realty that it has become part of the realty.

- **Fee Simple Absolute:** gives owner the greatest aggregation of rights, powers and privileges possible under American law.
 - Potentially infinite in duration.
 - Owner has *exclusive* possession and use of property and can assign to heirs.
 - Fee Simple Defeasible: conditional.

Life Estates

- **Estate that lasts for the life of some specified individual.**
 - “A grants Blackacre to B for B’s life” grants B a life estate in Blackacre. When B dies, Blackacre returns to A or his heirs or assigns, or a third party in the same condition, normal wear and tear excepted.
 - Grantor A retains a “future interest” in the property. During B’s life, she can possess, use, and take the fruits of the estate.

Nonpossessory Interests

- **Easement**: right to make limited use of another person's real property without taking anything from the property.
- **Profit**: right to go onto another's land and remove some part of the land itself (or some product of the land).
- **License**: revocable right to come unto another's land without removing anything from the land.

- **Ownership in real property can be transferred by:**
 - A written Deed.
 - A Gift.
 - A Sale.
 - An Inheritance.
 - Adverse Possession.
 - Eminent Domain.

Deeds

- **A Deed is the instrument setting forth the interests in real property being transferred.**
- **Necessary components of a Deed:**
 - Names of Grantor and Grantee.
 - Words evidencing intent to convey.
 - Legally sufficient description of the land.
 - Grantor's signature.
 - Delivery of the Deed.

Types of Deeds

- **Warranty Deed.**
 - Special Warranty Deed.
 - Implied Warranties in New Homes.
 - Covenant of Quiet Enjoyment.
- **Quitclaim Deed.**
 - Least amount of protection to grantee.

Will or Inheritance

- **Owner of real property dies, his property is transferred by:**
 - Will (testate).
 - Without Will (intestate).
- **Title is transferred at the time state law so provides in its testate and intestate laws.**

Adverse Possession

- **One person possesses the property of another for a certain statutory period of time. Must be:**
 - Actual and exclusive.
 - Open, visible and notorious.
 - Continuous and peaceable.
 - Hostile and adverse.

Eminent Domain

- **The government has the right of ultimate right of ownership in all land. This is called the right of “eminent domain.”**
- **Government can only “take” private land for public use with just compensation.**
- **Generally invoked during condemnation proceedings.**