

An owner owned a single-family residence. Fifteen years ago, the owner conveyed a life estate in the house to a landlord. Fourteen years ago, the landlord, who had taken possession of the house, leased the house to a tenant for a term of 15 years at the monthly rental of \$500. Eleven years ago, the landlord died intestate leaving her son as her sole heir. The tenant regularly paid rent to the landlord and, after the landlord's death, to her son until last month.

The period in which to acquire title by adverse possession in the jurisdiction is 10 years.

In an appropriate action, the tenant, the owner, and the landlord's son each asserted ownership of the house.

Who now owns the house?

- A. The landlord's son, because the landlord asserted a claim adverse to the owner when she executed a lease to the tenant.
- B. The landlord's son, because the tenant's occupation was attributable to the son and the landlord died 11 years ago.
- C. The owner, because the owner held a reversion and the landlord has died.
- D. The tenant, because of his physical occupancy and because his term ended with the landlord's death.

Explanation:

A person may acquire title to another's land by **adverse possession** if his/her possession of the land is:

Open and notorious – apparent to a reasonable owner

Continuous – uninterrupted for the statutory period

Exclusive – not shared with the owner

Actual – physical **presence** by the **adverse possessor** *or* **another** whose possession is **attributable** to the adverse possessor (as seen here)

Non-permissive – hostile and adverse

Here, the owner conveyed a life estate in the house to the landlord, who leased it to the tenant. Ownership of the house reverted to the owner when the landlord died. But since the tenant remained in the house and paid rent to the landlord's son, the tenant's possession was *attributable to the son*. And because the house was visibly and exclusively occupied by the tenant for the 10-year statutory period without the owner's permission, the son acquired title to the house by adverse possession.

(Choice A) Life estates are *alienable*, which means that the life tenant can freely convey all or part of his/her interest to another (eg, by conveying a right of possession through a lease). Therefore, since the landlord (life tenant) was entitled to lease the house to the tenant during her life tenancy, she did not assert a claim adverse to the owner by doing so.

(Choice C) A reversion is a future interest retained by the grantor. Although the owner had a reversionary interest in the house (which became possessory when the landlord died), the owner lost that interest due to the son's adverse possession.

(Choice D) Although the tenant continued to occupy the house after the landlord's death for 11 years, he paid rent to the landlord's son. As a result, the tenant's possession was attributable to the son—not himself.

Educational objective:

To acquire title by adverse possession, a person's possession of another's land must be open and notorious, continuous for the statutory period, exclusive, actual, and non-permissive (OCEAN). Actual presence can occur through another so long as their presence on the land is attributable to the adverse possessor.

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Ownership and possession of the house

