



Real Property

Class 4



The Estate System

- **Estate:** Right to possess land for a period of time
- **Freehold Estates** (holder of the estate is considered an owner):
 - Fee Simple
 - Fee Tail
 - Life Estate
- **Non-Freehold Estates** (only original owner is considered to be the owner of the property)
 - Term of Years
 - Periodic Tenancy
 - Tenancy at Will



Fee Simple Absolute

- One Owner (or one partnership of owners)
- That owner has the right to possess the land in **perpetuity**
- There are **no conditions** that would cause the owner to lose the property upon the occurrence of an event or condition

- **Language of Creation:**
 - Historically: "To A and his heirs"
 - Today: "To A" is sufficient



Lesser Fee Simple Interests – The Fee Simple Determinable

- Ownership interest can, but need not last forever;
- Interest lasts for an **indefinite duration**
- Ownership interest ends **automatically** at the occurrence of an event or condition
- If the interest terminates, the property "reverts" to the original owner
- Original owner's interest called a "**possibility of reverter**"
- **Language of Creation:**
 - "To A, so long as.."
 - "To A, unless..."
 - "To A, during the time that..."
 - Example: Mike conveys Blackacre "To Sue, as long as the Cubs don't win the World Series."



Lesser Fee Simple Interests – The Fee Simple Subject to Condition Subsequent

- Ownership interest can, but need not last forever;
- Interest lasts for an **indefinite duration**
- At the occurrence of the event or condition, the original owner has a **right to re-claim the land** (*does not happen automatically*)
- Owner's interest is called a **"right of re-entry"**
- **Language of Creation:**
 - "To A, but if XYZ happens, then O has a right to re-enter"
 - Example: Mike conveys Blackacre "To Sue, but if the Cubs win the World Series, then Mike can re-take the land."



Lesser Fee Simple Interests – The Executory Interests

- An executory interest is any interest following a lesser fee simple that vests in someone other than the original grantor
- If the future interest is an executory interest, the original interest (whether akin to a fee simple determinable or fee simple subject to a condition subsequent) is called a “fee simple subject to an executory limitation.”
- **Examples:**
 - Mike conveys Blackacre “To Sue, so long as the Cubs don’t win the World Series, and then to Bob.” Bob has an executory interest (akin to a possibility of reverter) and Sue has a fee simple subject to an executory limitation.
 - Mike conveys Blackacre “To Sue, but if the Cubs win the World Series, then Bob can take the land.” Bob has an executory interest (akin to a fee simple subject to a condition subsequent) and Sue has a fee simple subject to an executory limitation.



QUIZ TIME!



The Fee Tail

- Same as a fee simple, except that it **must stay within the grantee's lineal descendants**
- If it is sold to someone outside this class, **it automatically goes back to the grantor**
- Designed to **allow people to keep property within their families**
- **Obsolete today** because restrictions on transfers of land are disfavored

- **Language of Creation:**
 - "To A and the heirs of his body"

- Most states today will not enforce the fee tail; instead it simply becomes a fee simple absolute.



The Life Estate

- Holder of Life Estate has the right to keep it for the duration of a person's life; this could be:
 - the holder's life (usual); OR
 - someone else's life (called a life estate *pur autre vie*)
- Afterwards, it goes back to:
 - the owner (called a **reversion**) OR
 - a designated third party (called a **remainder**)
- **Language of Creation:**
 - O conveys "To A for life"
 - O conveys "To A, for the life of B"
 - O conveys "To A for life and then to C"

