

SAN LUIS OBISPO COLLEGE OF LAW

Real Property

Midterm Examination

Fall 2022

Prof. C. Lewi

Instructions:

There are three (3) questions in this examination. You will be given three (3) hours to complete the examination.

Your answer should demonstrate your ability to analyze the facts in the question, to tell the difference between material facts and immaterial facts, and to discern the points of law and facts upon which the case turns. Your answer should show that you know and understand the pertinent principles and theories of law, their qualifications and limitations, and their relationships to each other. Your answer should evidence your ability to apply the law to the given facts and to reason in a logical, lawyer-like manner from the premises you adopt to a sound conclusion. Do not merely show that you remember legal principles; instead, try to demonstrate your proficiency in using and applying them. If your answer contains only a statement of your conclusions, you will receive little credit. State fully the reasons that support your conclusions and discuss all points thoroughly. Your answer should be complete, but you should not volunteer information or discuss legal doctrines that are not pertinent to the solution of the problem.

REAL PROPERTY
Professor Christopher C. Lewi
Midterm, Fall 2022
Question 1

In 2000, by a deed which she drafted herself, Olive conveyed Blackacre (a five acre parcel of land with a small house on it) to Austin. The deed provided:

“Olive conveys Blackacre to Austin and his heirs so long as it is used only for residential purposes.” Austin took possession of Blackacre and began living there in the small house.

In 2010, Austin remodeled and added to the small house and built a small boutique hotel and a parking area for the hotel on Blackacre and in 2012, began operating the hotel. The hotel structures and parking area utilize three of the five acres of Blackacre and the remaining two acres are “open” “wild” land, with a trail or two for hotel guests, which Austin uses as part of his promotional and social media materials for the hotel as an “eco-friendly” “green” experience.

Austin continued up to present date to live on the property, using a dedicated “owner’s suite” at the hotel.

In 2022, while Austin is still operating the hotel, Olive filed a lawsuit to quiet title for Blackacre back into her name.

Assume this is a “common law” jurisdiction, that no “disability” applies to any party, and that the applicable statute of limitations is eight (8) years.

Discuss Olive’s and Austin’s respective arguments as to why the Court should decide in their favor. Please make sure to include as part of your answer which of these two positions has the better chance of prevailing and why.

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Question 2

Lyle is the owner of Redacre, a farm with a farmhouse.

Effective January 01, 2015, Tom entered into a written agreement with Lyle where for the next 10 years, Tom will work the farm, live with his family in the farmhouse, and pay Lyle \$500/mo *plus* a percentage of the net annual revenues from the farming operations, payable by January 31st for the year preceding, which are projected to be \$25,000/yr payable to Lyle, subject to annual accounting.

The \$500/mo rent for the farmhouse is well below market. Assume the “net farming proceeds” clause is usual and customary.

The farmhouse is old, and it has some problems – the pipes leak, the heat is poor and does not reach every room, the doors and windows do not seal all the way and allow drafts and moisture in, the electrical system seems to “blow a fuse” once or twice a month. Tom tells Lyle about all these problems; Lyle does not fix any of them but does allow Tom to make necessary repairs as needed and take it out of Tom’s rent. At no time does Tom ever seriously consider moving out. The repair expenses incurred by Tom average \$200/mo and he receives rental credit from Lyle every month, *i.e.*, Tom pays Lyle \$300/mo in money and gets credit from Lyle for the \$200/mo of repair work Tom does every month.

By the end of 2021, drought, supply chain issues, and the lack of affordable farm labor render farming a net loss for Tom (despite all his best efforts and intentions – it does not help that his main crop is kale, which has fallen out of favor in the market) and Tom decides to stop farming entirely and take a job at Home Depot, where he has no overhead, guaranteed wages, health insurance for him and his family, and 401k matching.

The farm itself has some problems with the well and the well pump over the

years - and in 2021 Tom paid \$10,000 towards the well and well pump issues – but in answering this question assume that these issues did not contribute to Tom’s decision to stop farming the land.

Tom and his family continue to live in the farmhouse and continue to pay Lyle the \$500/mo rent but Tom does not make the January 31, 2022, payment to Lyle for Lyle’s share of the 2021 net farming proceeds (which, historically, are in the range of \$25,000/yr paid to Lyle.)

On March 01, 2022, Lyle serves Tom with a 3 Day Notice to Pay Rent or Quit for the 2021 net farming proceeds. Tom does not pay the money and Lyle sues to evict Tom and his family from Redacre.

The trial on the eviction lawsuit is set for July 01, 2022.

Under common law principles, identify and discuss the grounds for Lyle’s eviction lawsuit, Tom’s defenses (if any), and your best evaluation of the Court’s conclusion, *i.e.*, does Lyle prevail? Does Tom prevail? If you conclude that damages may be owing, you must do the damages calculations (the math is easy here) and explain your work. You are not required to apply specific California rules in answering this question.

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Question 3

Oliver owned Blackacre a parcel of real property. At his ninetieth birthday party Oliver had wonderful reunion with his niece, Alice, 62, with whom he had been close as a young woman but had no contact in over 40 years. (Alice had moved half-a-world-away to a very rural, quiet primitive section of Papua New Guinea where communications were difficult. Looking to close her overseas chapter and start a new phase of her life, Alice had just returned to her home state of California to be closer to family and enjoy the amenities of a more “civilized” world.)

At the party, Alice told Oliver of her fond memories of spending her childhood at Blackacre.

Also at the party, while it was obvious to anyone that saw him that Oliver was in excellent physical and mental health, Oliver told many people that he expected “a bolt from above” and that he could die at any time at his age.

The following day, Oliver – who was a life-long bachelor and childless -- decided to give Blackacre to Alice. So, Oliver executed a deed that named himself as grantor and Alice as grantee, and designated Blackacre on the deed as the property being conveyed. Oliver’s signature was notarized, and he immediately gave the deed to Alice’s dad, Bob, with the instruction for Bob to record the deed but not tell anyone about it, especially Alice, because Oliver wanted to surprise her. Bob agreed to follow those instructions.

The following day, Oliver sent Alice a text which Alice received and read. The text only stated “My Dear Alice, I hope you like Blackacre.”

Several weeks later, Bob left Oliver a voicemail informing Oliver that Bob had lost the deed. Oliver called Bob back, and left Bob a voicemail that stated, “Heard about the deed. That’s OK.” The next day, Bob found the deed, and recorded it without telling Oliver.

A year passed.

Alice called Oliver, now 91, and asked what the text meant. Oliver said he had wanted to surprise her with owning Blackacre, but the “paperwork got messed up,” and he never fixed it. Oliver died the next day with a will leaving his entire estate to his son Cory.

What claims to Blackacre can be made by Alice and by Cory?

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Question 1

Question 1 Issue Outline (Defeasible Fees and Adverse Possession)

Issue #1: What Interest does the deed create?

- *Defeasible Fee*
 - *Fee Simple Determinable (FSD) in Austin*
 - *Conditional grant -- residential*
 - *"so long as"*
 - *Title remains in Austin and his heirs so long as condition is not breached*
 - *If condition breached, Blackacre automatically reverts back to Olive*
 - *Olive has the future interest under the common law called "possibility of reverter" in fee simple absolute*
 - *Extra Credit: If we assume this is in Cal*
 - *FSD abolished*
 - *All defeasible grants are in FSSCS to avoid harsh results of the automatic forfeitures created by FSD grants*
 - *Olive has the future interest called right of entry in fee simple absolute*
 - *Olive has the option to take Blackacre back in the event Austin breaches the condition but does not have to exercise that option*
 - *As long as Olive does not exercise option, Blackacre remains with Austin in FSSCS*
 - *O has to exercise the option within 5 years of the breach*
 - *If Oe does not do so, A would now have BA in Fee Simple Absolute*

Issue #2 – Did Austin Breach the Condition?

- *Grant imposes the condition "so long as it is used only for residential purposes."*
- *What does "residential purposes" mean?*
 - *If it means non-commercial housing which we commonly call "home" or "residence", a hotel would violate the condition*
 - *However, a hotel can be argued to be "residential" – a place where humans reside and sleep and hang their clothes and bathe, etc.*
 - *Not a factory*

- Not a farm
- Not shops
- Not an office building
- If hotel deemed “residential”, then condition not breached and title is still unquestionably with Austin.
 - And, A still lives there . . .
- However, the better argument is that “residential” means a “house”, where people really live for longer than some short term and even though A still lives there, the property is a hotel which does not easily fit into the common usage of the term “residential.”
 - And, because Olive is still alive, we can ask her what her intent was in the use of the term “residential” and we can presume she will do so, since she is suing to quiet title in her name, and that testimony will help her

Issue #3 – if Condition Breached, Who now Owns Blackacre and why?

- If we presume the “residential” condition is breached – and we do here . . .
- Because this is a FSD grant, title will automatically revert to Olive upon the breach, which occurred in 2010, when Austin began construction of the hotel.
 - But this is not the end of the analysis . . .
- Austin remained on BA, as if he were the true owner from 2010-2022 – a period of 12 years, four years longer than the applicable 8 year statute of limitations.
- Does Austin have a claim to own BA through adverse possession?
 - Better argument is that he does.
- Analyze elements for AP:
 - Was A using land as an owner might?
- Exclusive Possession
 - Yes; there are no facts to suggest that anyone but A or his agents controlled BA.
 - No evidence of any concurrent use by public or owner
- Open / Notorious
 - Yes; no evidence that A did the hotel in any way except in the open and we are told that he operates the hotel and promotes it to the public.
- Hostile (little analysis, but issue must be noted)
 - We do not know . . . , but
 - No evidence that O gave permission to A to continue to be on BA or use BA from 2010 to present . . .

- o *Better conclusion is that the use was "hostile"*
- *Continuity of Use*
 - o *8 year statute*
 - o *2010-2012 = 12 years*
 - o *Austin still alive and still operating hotel in 2022*
 - o *No disabilities apply per call of the question so no tolling issues*
 - o *Continuity is established*
 - o *No tacking analysis necessary because facts tell us that both original parties – O and A – are still directly involved*
- *How Much of BA? Exclusivity revisited*
 - *Claim of Title vs Claim of Right?*
 - *Was A on BA based on a good faith belief that a proper writing granted him title?*
 - *Yes; at least until 2010 . . .*
 - *But, issue here is that from 2010 to present, A not on BA under that FSD deed . . .*
 - *Better argument is that A is a "trespasser"*
 - *Means that he only acquires in AP that portion of BA that he actually controlled exclusively for the 8 year statutory period.*
 - *Did he?*
 - *Arguably no; he only used 3 of the 5 acres*
 - *But, he also utilized the remaining 2 acres as "part" of the hotel experience, including trails for hotel guest use.*
 - o *Better conclusion is that A used all 5 of the acres*

Extra Credit: Payment of Property Taxes?

If we presume jdx follows Cal rule we would also require the AP claimant to pay property taxes on the subject parcel; we have no evidence of that and A would lose. However, we are told this is a common law jdx, and thus the better conclusion is that there is no requirement that AP claimant pay property taxes.

Question 2 Issue Outline (Landlord / Tenant)

Short Answer: best analysis is that (1) Tom will be evicted for failure to pay the net farm proceeds for 2021; (2) Tom will owe approximately \$25,000 to Lyle, subject to possible offset for the \$10,000 Tom paid towards the well and well pump; (3) and Tom will get an additional \$15,600 offset for habitability issues for the farmhouse, meaning that Tom will not actually owe Lyle any money, except perhaps for future rents that may be imposed on Tom because the 10 year lease is not yet done (but see below.)

Tom's best defense is that he actually had no net farming revenues on 2021 and therefore owed Lyle nothing beyond the \$500/mo, on which he was current, and thus, he was not in breach of the lease for farm revenues owed for 2021 (2022 is another issue, but that is not in front of us yet, given the July 2022, trial date.) Subject to proof, this would be a complete defense.

Re future rents, while Lyle may make a claim for the next 4 years of farming rent (2021-2025) and 2.5 years of residential rent under the 10 year fixed term lease, subject to Lyle's duty to re-lease the property and mitigate, the eviction lawsuit will likely result in termination of the lease and Tom being relieved of further obligation.

Long Answer:

There are two Leases here and each needs to be addressed:

1. Farm lease is a commercial lease

-contract terms control

-no Warranty of Habitability issues or analysis necessary

2. Farmhouse lease is a residential lease

-contract terms also control but . . .

-IWH will be read into contract as well and may provide a defense to

Tom for any rent claims made against him by Lyle.

3. Notice Issues:

Was Notice given by Lyle proper? -- Yes

-we have no facts to suggest it was not

-failure to pay rent will always be grounds for a notice to pay or quit

-no facts that suggest any timing issues

4. *What About Rent Owed?*

-Farm Revenues:

-this is a commercial lease

-is the rental term commercially reasonable?

-While farming became hard, there are no facts to suggest that Tom was relieved by contract or law of his obligations to perform

-Tom can argue impossibility of performance or Act of God perhaps but these defenses are very specific and likely will not apply here.

-Tom could have obtained business interruption insurance

-Tom's better argument would be on a basic accounting basis

-that he had no net farming revenues in 2021, in good faith, and therefore owed no monies to Lyle.

-If Tom cannot make that proof, he will owe Tom some amount of money for the 2021 farming revenue.

-Farmhouse:

-Tom is not behind on the rent re the farmhouse

-Tom may argue that the lease – though one document – is really two agreements and that the farmhouse lease has not been breached at all.

-Lyle will say, No, that is not the deal, the farmhouse rent was very low because it would be made up by the farm income proceeds and that the lease is one, integrated document.

-Tom has breached his obligation to pay all his rent and the proper remedy, after notice to pay or quit, is eviction.

-Tom is current on the farmhouse portion and will owe no monies there.

-Tom can argue IWH re farmhouse and there are a number of habitability issues that arose and Tom should be given credit, subject to proof.

-Lyle will argue that such credits have already been given by way of rent forgiveness at \$200/mo.

-Tom will argue, NO, there is no "credit" because Tom had to actually do repair work for the agreed value of \$200/mo, give or take.

-Tom should get a credit of \$200/mo for 7.5 years (78 months for Jan 2015 to July 01, 2022) = \$15,600.

Question 3 Issue Outline (Gift and Recording Rules)

- *Present Donative Intent – Not Clear*
 - *If no donative intent, then no gift to Alice and Cory prevails as the devisee under O's will*
 - *But, if O had present donative intent to make gift of Blackacre to Alice when he signed the deed, then the analysis can continue as to gift re delivery and acceptance*
 - *The intent must be to make a present transfer, not a transfer to take effect in the future.*
 - *Did Oliver intend a present gift? (was the gift to occur when deed given to Bob/when recorded)*
 - *recording not legally required so was this indicative of wanting to ensure the gift was in public record?*
 - *Signing a deed and having it notarized and instructing that it be recorded straight away is evidence of present donative intent*
 - *These are not inconsequential actions and should be given significance and can be argued as proof of donative intent*
 - *Cory will argue to the contrary, that if O wanted to make a present gift to A, he could have just done so by a deed and delivery of that deed to A, which he did not do.*
 - *C will argue that B is simply an escrow, and that as long as B has unrecorded deed and does not tell A, O can withdraw his authorization, which C will argue is what happened here.*
 - *Effect of Oliver finding out not recorded*
 - *was it "OK" because he never intended a present gift?*
 - *was it "OK" because he did not want Bob to feel bad that B had messed up and lost the deed?*
 - *do Oliver's subsequent statements to Bob and Alice clarify a previous ambiguity about his intent – "messed up" and never gifted?*
 - *For the sake of analysis, we move on to analyze the next element of gift*
- *Delivery*
 - *Did Oliver feel the "wrenching" of transfer? Oliver's words and conduct must be examined.*

- o *The hard fact here is that once Bob found the deed, he did not reconfirm with O that O wanted him to record the deed, but simply recorded it.*
- o *Was handing to Bob alone enough?*
 - o *Could be*
 - o *Delivery to an escrow with instructions that the escrow deliver the deed to the grantee presently or record the deed presently may suffice*
- o *Directing to record indicate delivery upon recordation?*
 - o *See above re "not an insignificant" act by O*
 - o *See above re delivery to escrow with instruction*
- o *Effect of telling Bob (ostensible agent for Alice) not to tell Alice*
 - o *Not fatal to "delivery" where deed ends up being recorded as occurred here but . . .*
- o *Did Oliver impliedly recall the deed?*
 - o ***Where Oliver can get the deed back from Bob, there is no delivery.***
 - o *Rosengrant v. Rosengrant case*
 - o *This is the crucial part of the case, really*
 - o *What does "'OK" mean?*
 - o ***Oliver never asked to get the deed back – a fact helpful to Alice -- but Oliver thought the deed was lost and thus, it would be reasonable for a Court to conclude he did ask for it back because he thought there was no deed to get back***
- o *Was deed delivered when finally recorded?*
 - o *when a deed has been recorded, there is a rebuttable presumption of delivery. Ev. Code § 1600 . . . but.*
 - o *while recording conveys constructive notice to the world, there is limited evidence to suggest Alice actually ever knew BA had been "given" to her*
 - o *Alice called Oliver a day before O died and asked what the text meant.*
 - o *Oliver said he had wanted to surprise her with owning Blackacre, but the "paperwork got messed up," and he never fixed it.*
 - o *Vague*
- o *Oliver did not feel the wrench of the transfer because when he had the chance to unwind the decision to make a future gift – to cancel escrow as it were – looks like he did not reconfirm expressly his desire to have Bob redo the deed and record it, which he very easily could have done. Instead, he said simply "OK", which is vague, yes, but because it is vague, a Court will be very careful in construing it as the desire to continue with a gift.*
- o *Assuming for sake of analysis donative intent and delivery are in favor of a gift – which we do not here – we move on to . . .*

- *Acceptance (less analysis here)*

- o *Presumed acceptance if of value – Alice loved the property as a child/condition now? Is it something she wants?*
- o *Yes; real property; acceptance presumed and no evidence that A did not want or that there were problems with BA that would make accepting it non-desirable*
- o *Alice lacked knowledge/ likely a non-issue as presumption will likely apply absent repudiation.*
- *Gift Causa Mortis (less analysis here)*
 - o *Could Oliver revoke even if there is a gift?*
 - o *Comment about lightening – joking or really thought death imminent*
 - o *No facts of imminent death / age not enough*
 - o *In fact, O was in good health at time he made filled out the deed*
 - o *No facts to indicate Oliver escaped peril and sought to reclaim gift*

CONCLUSION: Oliver is dead so we cannot ask him what he intended. The facts and circumstances are too tortured to conclude a present gift was made to A; C will get BA under the will.

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1)

Below is a dispute between Olive and Austin, where Olive transfers Blackacre to Austin with subject to the condition that Austin use Blackacre only for residential purposes. Austin, although residing on the property in the "owner suite," defies the terms of the transfer. Olive sues to acquire Blackacre back, but Austin will likely prevail. The terms and conditions of the transfer is such that Austin must reside there, which he does. If transferring the land back to Olive occurs, Olive would be in possession of a hotel, which would potentially be unjust enrichment. In the event Austin fails under the terms and conditions of the transfer, Austin would likely prevail under an Adverse Possession theory, which in this jurisdiction is eight years. Austin had been in breach of the contract for longer than eight years and meets all the requirements to adversely possess Blackacre.

Fee Simple Determinable

YES

One who possesses land under fee simple determinable is to have all the rights the owner of the land would have, contingent on the conditions of the contract. So long as the recipient adheres to the condition of the contract, they are the rightful owner of Blackacre.

Here, Olive, the original owner of Blackacre, conveys Blackacre to Austin and his heirs so long as it is used only for residential purposes. By doing this, Olive has given Blackacre to Austin, making Austin the true owner of Blackacre. Using the language, "so long as" creates a caveat or contingency, to which, in the event Austin breaches the condition set forth in the deed, the land can go back to Olive. Because Olive has a chance to regain title to Blackacre, Olive is vested in Blackacre, and only Olive can regain title of Blackacre from Austin through legal action. Olive is not required to do so.

In 2000, Olive transferred Blackacre to Austin. In 2010, Austin remodeled, making Blackacre the location of a small hotel, which began operation in 2012. In 2022, Olive filed a lawsuit to regain Blackacre. Olive would assert that, because the contingency set in the contract was violated, and because Olive has a vested future interest in Blackacre in the event Blackacre is not used for residential purposes, Olive should regain Blackacre. Additionally, the terms of the contract state that Austin would own Blackacre "so long as it is used ONLY for residential purposes (emphasis added). In the current condition, the property is being used for Austin's residence and the residence of travelers. Austin would assert that, although Blackacre is now the location of a hotel, he still resides on the property, living in a dedicated "owner suite." Because he resides on the property, and the terms of the transfer state that Austin owns Blackacre in fee simple "so long as it is used only for residential purposes," he would not be in violation of the contract.

A court would likely rule in favor of Austin because he owns Blackacre contingent on him residing on the property. Despite the word "only" in the contract, Austin resides there, and Olive would be unjustly enriched if she regained Blackacre under these terms.

Adverse Possession

Adverse possession is a rare instance in the law where a wrong does make a right. One can own the land in fee simple absolute through adverse possession if they have (1) actual possession, (2) they are open and notorious, (3) they are hostile, and (4) the stay is continuous. In California, there is a 5th element where the adverse possessor must pay the property tax on the land. They cannot pay the tax in a lump sum. They must actually be present on the land. Open and notorious indicates they act as the true owner of the land. Hostile refers to without permission, even if it is a mistake. The stay must be continuous, but not inherently 365 days a year.

In the event Olive wins through the breach of contract theory listed above, Austin may have a chance at acquiring Blackacre through an adverse possession claim. Austin remodeled in 2010, and opened the hotel for business in 2012. Olive did not bring suit until 2022, and the statute of limitations is eight years. Additionally, this jurisdiction does not require any property taxes to be paid (although Austin likely paid them as he owned Blackacre for a set time). If Austin breached the contract, he could assert that, since 2012, he was not there with permission, making his stay and use of the land hostile; he was living there, so he met the requirements for actual possession and continuous stay; and he meets the requirement for open and notorious, as he was acting as the true owner of the land.

If he does not win under the terms and conditions of the contract listed above, Austin would likely have a successful claim under an Adverse Possession claim.

END OF EXAM

So Proud. Really Really
Good.

YESSS

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2)

Below is a landlord-tenant dispute to which a landlord and tenant enter into a 10 year agreement to which tenant will pay \$500 a month, plus a percentage of proceeds from farming to landlord, roughly averaging \$25,000 a year. The dispute arises when tenant fails to pay landlord the percentage of net profits. Tenant does not make any net profit, so the amount to give landlord is \$0.00. The landlord will likely prevail under a breach of contract theory, finding that, although tenant did pay the percentage of farm-based revenue (which was nothing), the tenant failed to adhere to all the terms of the contract, specifically the provision stating that the tenant, over the course of the 10 years, must tend to the farm. The tenant ended up quitting farming three years before the contract expired.

Landlord Tenant Agreement

In a typical landlord tenant agreement, the landlord allows the tenant to use the land per the terms of the agreement. The landlord is required act in good faith and fair dealing, adhere to the implied warranty of habitability (residential), and adhere to the covenant of quiet enjoyment. The tenant is required to pay rent unless evicted.

Here, the agreement between Lyle (Landlord) and Tom (Tenant) is one where, effective January 1st, 2015, Tom will work the farm, live in the farmhouse, and pay Lyle \$500 a month plus a percentage of the net annual revenues from the farming operations, payable by January 31st for the year preceding, which are roughly \$25,000 a year. This agreement has two branches analysis: (1) the residential aspect, and (2) the commercial aspect.

(1) The residential aspect of the contract-- Tom will pay Lyle \$500 a month to reside in the farmhouse. This part of the analysis is governed by the implied warranty of habitability discussed below.

(2) The commercial aspect of the contract-- Tom will pay Lyle a percentage of the revenue of farm operations by the 31st of January each year over the next 10 years. This does not have an implied warranty of habitability. The farm itself had some problems with the well and the well pump, to which Tom paid \$10,000 towards a new pump in 2021. Although the well pump did not inherently contribute to Tom's decision to stop farming, it could have led to why his crops did not yield profit. By the end of 2021, Tom rendered a net loss.

Sold { Per the terms of the agreement, Tom will pay Lyle \$500 a month plus a percentage of the net annual revenues from the farming operations, so long as Tom works the farm. Tom stopped working the farm, which is a breach of contract, but the lost wages from 2021 are not a breach of contract. Tom worked the farm, but by the end of 2021, because of drought, supply chain issues, and the lack of affordable farm labor, the farm suffered a net loss. The percentage of farm revenue to Lyle was effectively paid, as the revenue was \$0.00.

Sold { A court would likely find in favor of Tom under the terms of the agreement up to 2021. Tom will still owe for residential every month up to the eviction date if evicted. If Tom is not evicted, he would be responsible for Jan 1st, 2025, which is approximately \$5,100 in owed rent for the \$500 a month minus the \$200 off in credits until the terms of the contract are up in 2025. (Math is not my strong suit).

Implied warranty of habitability

The implied warranty of habitability applies to residential landlord-tenant transactions, to which the landlord must ensure that the property is habitable. For property to be found inhabitable, it must have significant damages or repairs necessary to make it livable, such as little to no hot water, significant electric issues, etc.

Here, Tom and Lyle had already worked out an arrangement to where, Tom would fix any habitability issues and receive a credit off the monthly rent of \$500 a month. Lyle gives Tom a credit of \$200 a month the electrical issues, window repairs, pipe leaks, etc.

A court would likely find that the residential aspect of the case is satisfied through the credits and agreement in place from Lyle and Tom.

Notice

Notice of eviction by a landlord to a tenant must be given with a reasonable amount of time based on the terms of the original agreement. If no such time is provided in the terms, common law states that 30 days is typically sufficient for month to month, 180 days is sufficient for year to year-- the court wants to ensure that reasonable notice is upheld based on the length of the contract.

Here, notice was given to Tom on March 1st, 2022, which is 90 days after Tom's failure to pay the percentage of farming operations to Lyle. Although this is 90 days after Tom did not pay Lyle, the notice given to Tom was a three-day Pay or Quit notice, which is only allowing Tom three days to find a new place to live if upneid. Tom would likely assert that, per the discussion above, the revenue generated in 2021 that is owed to Lyle was \$0.00, so there is no farm-based revenue owed to Lyle. Additionally, three days to leave is unconscionable. Tom would argue that 30 days minimum is required per common law. Lyle would assert that, because the contract requires farming proceeds to be paid, Tom is to pay the correct percentage. Lyle would state that he had waited 90 days for payment and Tom had failed to deliver.

A court would likely find in favor of Tom for notice.

Except that a 3 day for rent is law in CA.

Breach of Contract

A contract is valid when there is offer, acceptance, and consideration, which is a bargain for exchange.

Here, Tom and Lyle had a valid contract where Tom would live in the farmhouse and work the farm over the course of 10 years. Because Tom quit farming by the end of 2021, there is effectively a breach of contract. In the event the court rules in Tom's favor over the matter of farming proceeds being \$0.00, to which Lyle would have received the proper percentage, Lyle could still sue Tom for specific performance, requiring him to continue to farm for an additional three years. Tom does not have a defense to the breach of contract claim under the farming clause of the contract.

A court would likely find in favor of Lyle for breach of contract.

Overall Conclusion

Overall, Tom would likely be successful in the payment of farming proceeds to Lyle. Because Tom failed to make any money off of 2021, finding himself with a net loss, the amount of revenue Tom generated from farming was \$0.00. Tom only owes Lyle rent at \$500 a month prior to any credits. For the breach of contract, a Lyle would likely win, finding that Tom breached the contract by quitting farming three years before the contract expired. Because the contract was breached, the contract may be void, allowing Lyle to evict Tom-- not for failure to pay, but for failure to continue to farm. Overall, Lyle will successfully evict Tom, but he will have to do the eviction process properly with adequate notice or through the breach of contract claim.

END OF EXAM

Super, super work and your
ultimate conclusions are right on the
money I think

6-000

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3)

Alice

Does Alice have a claim to Blackacre?

Alice was gifted Blackacre from her uncle Oliver, in order to gift real property, there needs to be donative intent and there needs to be delivery which can be actual, by delivering a key or by writing a deed and acceptance of the gift.

Oliver had donative intent, he wanted to gift Alice Blackacre and he executed a deed that named himself grantor and Alice grantee, and designated Blackacre on the deed as the property being conveyed, he even had the document notarized and immediately gave it to Alice's Dad Bob, for Bob to record. This satisfied the delivery. Alice can argue that Blackacre belongs to her because it was gifted to her by her Uncle Oliver. She even has a text stating, "My Dear Alice, I hope you like Blackacre." Cory will argue that if Oliver really wanted the property to convey to Alice then he would have fixed the paperwork immediately, but instead he told Bob, "Heard about the deed, That's OK," and did nothing about it.

Cory would argue that Oliver no longer intended to convey Blackacre to Alice.

good
In property cases, intent is everything and we need to always think of what the intent of the grantor was when they wanted to grant blackacre? Since the grantor of the deed is no longer alive and it is difficult to know what was on his mind since we can no longer ask him, Alice will use her father Bob as a witness and the notary as a witness to demonstrate to the court that her uncle Oliver wanted to intentionally gift her with Blackacre.

Cory

oops; my bad.

Does Cory have a claim to Blackacre?

First things first, I am not sure how Cory is the son of Oliver since it is clearly stated that Oliver was a life-long bachelor and childless, he may be a step-son or an adopted son or he may be someone that Oliver saw as a son. Either way, Cory will fight for blackacre and state it was left to him. Unfortunately, Blackacre was no longer Oliver's to give. Bob had recorded the deed a year prior to Oliver's death and if Cory were to go to the recorder's office of the county where blackacre is located in, he would see that Alice is the name on the deed of the property, she is part of the chain, she is not a wild deed floating around.

The will that was left to Cory stated that Oliver was leaving his entire estate to his son Cory, one cannot give what one no longer has. If Blackacre was no longer part of the estate because it was gifted to Alice, then Cory cannot acquire ownership or possession of blackacre because it belongs to Alice.

Cory will still try to argue that California is not a Race Notice recording jurisdiction, which is a jurisdiction that allows the first deed recorded the first in right, he will argue that California has exceptions for recordings.

Due to the fact that blackacre is being inherited, Cory cannot do much, if Cory would have purchased the property from Oliver, he would have a lot more rights and protections. First of all, he would be a bonafide purchaser and in California a bonafide purchaser has a right to blackacre, even though a previous deed has been written and or recorded the bonafide purchaser can gain possession by estoppel of deed, by stopping Alice from acquiring it and gaining possession.

If Cory were a bonafide purchaser, he would have a right to blackacre but because he inherited through a will, he does not have a right to black acre because Alice is the name

on the deed, it was gifted to her, a deed was written, it was notarized and recorded. Even though a deed does not have to be recorded in order to be valid, recording is good because it gives notice and in this case it gives notice to Cory that Oliver conveyed Blackacre to Alice a year ago.

Overall, Alice has the more compelling argument, but in a judicial courthouse anything can happen and Cory also has a chance to end up with blackacre, but his chances are less than those of Alice.

END OF EXAM

I really like this. Right to it.