

## **RE 310 – Principles of Real Estate Deeds and Title Transfer**

### 1) Title Transfer

a) Title to real estate means \_\_\_\_\_.

- A person who holds title would, if challenged in court, be able to \_\_\_\_\_ of a parcel of real estate.

### b) Methods of Transferring Title

- Voluntary alienation
  
- Involuntary alienation
  - Escheat
  
  - Eminent domain
  
  - Foreclosure
  
  - Adverse possession
  
- Devise and descent

## 2) Voluntary Alienation and Deeds

a) A *deed* is the written instrument by which an owner of real estate:

- The \_\_\_\_\_ is the person who is transferring title to the property to someone else.
- The \_\_\_\_\_ is the person receiving title to the property.

b) General warranty deeds – These provide the greatest protection of any deed, and the grantor is legally bound by certain covenants or warranties.

- Covenant of seisin
  - Covenant against encumbrances
  - Covenant of quiet enjoyment
  - Covenant of further assurance
  - Covenant of warranty forever
- These guarantees extend back to the origin of the property. The grantor defends the title against anyone who may previously have had a claim on the property, including himself.

c) Special warranty deeds

d) Bargain and sale deeds

e) Quitclaim deeds

- Quitclaim deeds are frequently used to cure a defect, called a *cloud on the title*.



c) Root of title

- The Kansas Marketable Record Title Act sets the *root of the title* as the date of the most recent transaction recorded \_\_\_\_\_ years prior to the time when marketability is being determined.
  - Claims that arise from prior to the root of title are not valid, unless they have been properly recorded under the act.
  
- Example: Suppose that the date at which marketability is being determined is May 21, 2003. The most recent transfers were on:
  - January 21, 1999
  - March 13, 1991
  - December 20, 1978
  - February 7, 1978
  - May 14, 1965

What is the root of title in this case?

- All claims to title that arise from prior to this date are no longer valid, unless they have been properly pursued in the meantime.

#### 4) Title Searches and Public Records

a) Public records contain information about many of the claims that may exist with respect to a parcel of real estate.

- Title searches are regularly done to ensure that each transfer of the property was completed properly, and that each past lien has been removed.

b) The county Register of Deeds office records information about real estate (among other records).

- When you have an interest in real estate, you need to give notice of this interest so that others may be aware of it and act accordingly.

– Constructive notice

\_\_\_\_\_ a claim provides constructive notice of that claim.

\_\_\_\_\_ also can serve as constructive notice.

– Actual notice

- Priority

- Example: I sell some land to Susan. I give her a deed, but she fails to record the deed. She takes possession of the land and begins to cultivate the land. I then sell the land again to Jason. I give Jason a deed, which he promptly records. Who has legal claim to the land?

c) Not all information relevant to clear title of real estate is publicly recorded.

- Tax assessment authorities
- County Clerk's office
- Local court records for any judgments against previous owners of the property
- Water rights
- Inspection of the property

## 5) Methods of Demonstrating Good Title

### a) Certificate of title

- Not a guarantee of ownership

### b) Abstract and attorney's opinion of title

- An abstract is a summary report of what the title search found in the public record.

c) Title insurance

- Title insurance covers against any defects that could be found in the public records, forged documents, incompetent grantors, incorrect marital statements, and improperly delivered deeds.
  - Generally lenders require insurance coverage. The buyer may also obtain coverage of their own.
  - In the event of a claim on the property, the insurance company will typically pay all of your legal expenses to defend the title and to get any documents necessary to perfect title.

d) Torrens certificate