

PROPERTY 2 FINAL EXAM INSTRUCTIONS

Prof. Chang – Spring 2005

1. You have two hours to complete one essay question worth 50 points and 25 multiple choice questions worth 2 points each for a total of 50 points for the multiple choice questions.

You may allocate your time as you wish although you should spend at least one hour on the essay question.

2. This exam is CLOSED BOOK. No materials of any kind are allowed.

3. Conclusions without analysis will not receive credit.

4. Write your exam number on your exam envelope. Put your correct class section and student exam # at the top of this page, each page of questions, each blue book, and the "ParSCORE TEST FORM." **Do not** use your name, student ID number or Social Security Number on any exam materials.

5. Please return all materials, including blue books, ParScore answer sheet, scratch paper, and put it in the envelope and submit it to the proctor at the end of the exam. **DO NOT** seal the envelope. Failure to return all materials will result in a failing grade.

Good luck and have a wonderful summer!

PROPERTY 2 – Final Exam – Essay Question – 50 Points

In 1999, Sam executed a general warranty deed purporting to sell Beachacre to Elsa for \$1,000,000. Elsa recorded the deed and immediately borrowed \$500,000 from her grandmother to build a vacation beach house on the property. Grandmother insisted that Elsa sign a promissory note for the loan at an annual rate of 10 percent interest. Grandmother also insisted that Elsa execute a quitclaim deed to Grandmother. Grandmother promised to record the deed only if Elsa failed to make her payments on the promissory note.

In 2000, Sam's father, Orlando died. Orlando's will left Beachacre to Sam. Sam duly recorded the deed to Beachacre and borrowed \$25,000 from Bank One secured by a mortgage against Beachacre to Bank One. Bank One recorded its mortgage.

Elsa wanted Beachacre to be a gathering place for her children, so she executed a deed conveying Beachacre to her daughter, Danielle. Elsa told Danielle that the deed to Beachacre was in a safety deposit box and that Danielle was authorized to record the deed after Elsa's death. Elsa gave Danielle the key to the safety deposit box. Danielle retrieved the deed from the safety deposit box and recorded the deed.

In 2002, Elsa got into an argument with Danielle and decided to sell Beachacre to Floyd for valuable consideration. Elsa executed a general warranty deed conveying Beachacre to Floyd but failed to spell Floyd's name correctly on the deed. Floyd asked his attorney Alta to handle the escrow for the sales transaction. Before close of escrow, a tidal wave hit Beachacre, destroying its beach access and substantially damaging the house. Although Alta was instructed to use the sales proceeds to pay the balance on Elsa's debt to Grandmother, Alta instead stole the money and fled the country.

Grandmother recorded her quitclaim deed after Elsa failed to pay the balance due on the promissory note. Floyd had obtained title insurance from Americana Title Insurance Company.

When Floyd attempted to take possession of Beachacre, Danielle refused to relinquish possession and claimed that she was the true owner of the property.

What claims and remedies should Floyd pursue? Who owns Beachacre?