

PROPERTY

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CLASS 4(B):
THE DOCTRINE OF ACCESSION

CLASS OUTLINE

- Increase
- The Doctrine of Accession
- The Ad Coelum Rule
- Fixtures

The Doctrine of Accession

3 Doctrinal Elements:

1. Mental state of the improver
2. Degree of transformation of the object
3. Relative value contributed by the original owner and the improver

Two Theories of the *Ad Coelum* Rule

(1) Possession theory (*Hinman v. Pacific Air Transport*): surface owner has what amounts to an exclusive option to occupy above or below, but if s/he makes no attempt to gain possession of these areas, intrusion by others is not a trespass.

(2) Title theory (*Edwards v. Sims*): Under the title theory, the surface owner literally owns to the heavens and to the depths

The Great Onyx Cave



Fixtures

- Seller/purchaser: A sells Blackacre to B. A dispute arises as to what is included in the sale and what A can remove.
- Tenant/landlord. C leases Blackacre from D. At the end of the term, a dispute arises as to what is part of the freehold and what C can remove.
- Mortgagor/mortgagee. E borrows money from F secured by a mortgage on Blackacre. When E defaults, a dispute arises as to what is included in A's security interest and what E can remove.

Fixture “Tests”

- Generic class/Custom: Would some sort of item of this generic class would be included in any house in the same general price level (light fixtures).
- Attachment: Or “bolted to the wall.” If a thing is bolted to the wall (or the ground), it is a fixture. If it can be removed without unbolting or unscrewing from the wall, it is personal property. (Mirrors in the living room but not the mirror in the powder room, which the Greens get to keep.)
- Specially fitted: Is the item custom built or otherwise a unusual strong complement for the surroundings. (Venetian blinds – not appealed)