

CHAPTER 2 – PART I: LEGAL DESCRIPTION, METHOD OF ACQUIRING TITLE, AND DEEDS

Objectives

Due to the depth of material, Chapter 2 has been divided into two parts. Part I covers legal descriptions, methods of acquiring title, deeds, and recordings. Part II covers estates and methods of holding title. Depending upon your schedule, this unit can be covered in one session in outline form with little, if any, time for student questions, or as two separate sessions. It is recommended that this be covered in two sessions, as much of the material in this unit appears on the state examination. If you need to eliminate course material due to the shortage of time, it is recommended that you drop Chapter/Unit 14, Single Family Homes and Mobile Homes.

Suggested Lesson Plan

1. Review the material from last session.

Reproduce and give the 10-question review quiz of the material presented in Chapter 1 that appears in the instructor support materials in this unit. Spend the first 10 minutes of class time on this quiz. This will not only give you control of the class, but will also stress the importance to the students of being on time. Mention that this will be your pattern each session and that latecomers will not get make up copies of the review quiz.

2. Land Descriptions

- A. Legal descriptions are needed to identify parcels of real estate.
- B. Lot, block, and tract system is based on recorded subdivision maps located in the county courthouse. Once a map is recorded, reference to the lot in the map constitutes a legal description.

- C. Refer students to the example in their textbook. Quickly illustrate how to locate Lot 4, Block A, Tract 2025.
- D. Another system called metes and bounds is used to describe irregular parcels that are not a part of a subdivision map. Metes and bounds simply means to measure the boundaries.
 - 1. Start at a point of beginning.
 - 2. Follow the course of a line, sometimes not straight, but angled and curved.
 - 3. Return to point of beginning to enclose the parcel.
- E. Refer students to the example in their textbook. Illustrate how to find the shaded area.
- F. The third major system for describing land is the U. S. Government Survey system, commonly called sections and townships. Then discuss the base and meridian lines.
 - 1. Humboldt Base and Meridian in Northwest California
 - 2. Mt. Diablo Base and Meridian in Central California
 - 3. San Bernardino Base and Meridian in Southern California
- G. Range lines run parallel to meridian at six-mile intervals. Township lines run parallel to base line at six miles, forming squares of townships approximately 6 x 6 miles = 36 sq. miles. Refer to the. Illustrate how to find the township example given in the textbook.
- H. Township is divided into 36 sections and each section can be further divided to locate a parcel. Refer to the textbook and then illustrate a section, 1/2 section, and 1/4 section giving acres.

3. Methods of Acquiring Title

- A. Once a desired property is located, the question becomes "How do I legally acquire title to the property?"

There are five basic ways to acquire title:

1. by will
2. by succession
3. by accession
4. by occupancy
5. by transfer

- B. A will is a legal instrument that leaves property of the deceased to an heir(s). The three types of wills in California are:

1. witnessed will...formal and signed by at least two witnesses
2. holographic will...handwritten and requires no witnesses
3. statutory will...preprinted form approved by the state and needs two witnesses

Use as your lecture notes to discuss wills, key terms, including probate.

- C. Probate sale

1. Initial offer 90% of the appraised value.
2. After offer, petition probate court. Additional bids allowed.
3. First additional bid 10% of 1st \$10,000, 5% of any excess.
4. Court confirms sale and sets broker's commission.
5. This probate sale process can be waived per the terms of the Independent Administration of Estate Act.

- D. Acquiring property by succession occurs when a person dies without a will, called Intestate Succession. The State determines the rightful heirs based on separate property vs. community property.

1. Separate property: Deceased leaves
 - (a) spouse or registered domestic partner only, surviving spouse or registered domestic partner gets the property
 - (b) spouse or registered domestic partner and one child, the split is 50/50

- (c) spouse or registered domestic partner and two or more children, the split is 1/3 spouse or registered domestic partner, 2/3 equally divided between children
 - (d) no spouse or registered domestic partner, just children...children get equal shares
2. Community property...all goes to surviving spouse or registered domestic partner

HINT: Rather than reading the splits, ask in question form, such as:
"Regarding separate property, if one spouse dies intestate and leaves a spouse and one child, what is the split?" Repeat until all choices have been answered.

Then ask: What if there are no heirs? What happens?

Answer: escheats to the State of California

E. Acquiring title by accession occurs when property is added to your property.
Examples:

- 1. accretion...action of river adds soil to your land
- 2. avulsion...river carries soil from one parcel to another
- 3. addition of fixtures, usually by tenants who abandon same
- 4. improvements made in error, however courts usually allow removal as long as damages are repaired

F. Acquiring title by occupancy usually occurs by:

- 1. abandonment by a tenant who leaves early
- 2. adverse possession

List on the board and discuss.

Requirements for title by adverse possession:

- 1. open and notorious use
- 2. hostile to the owner's wishes
- 3. claim of right or color of title
- 4. continuous for 5 years
- 5. payment of property taxes for 5 consecutive years

Cannot obtain title by adverse possession to public land and property of an incompetent person.

G. Acquiring property by transfer includes:

1. private grant...deed
2. public grant...patent
3. gift...no compensation
4. public dedication...government is given land for public use
5. court action...foreclosure, escheat, eminent domain

Discuss items # 2-5, then use the outline below for deeds.

H. A deed is a written instrument that transfers real estate from the existing owner (grantor) to the new owner (grantee).

List on the board and discuss.

1. must be in writing per Statute of Frauds
2. parties must be correctly described and identified
3. grantor must be competent, grantee must be capable
4. description of the property must be clear
5. there must be a granting clause
6. deed must be signed by the grantors
7. delivery and acceptance are required

I. Discussion items:

1. Statute of Frauds states that all real estate contracts to be enforceable must be in writing.
2. To describe two or more grantees, the word "and" must be used, not "or." Assumed names are OK but not good policy.
3. Incompetents include: non-emancipated minors, judicially declared incompetents, certain convicts.
4. Clear description is anything that isolates the property from all others, usually lot, block, tract, metes and bounds, or U. S. Government Survey.
5. Granting clause refers to words of intention to pass title, such as "I hereby grant" or "hereby convey."
6. Must be signed by all grantors or their duly appointed attorney in fact.

7. The title must be physically delivered or recorded during the lifetime of the grantor. Grantee must be willing to accept the title.
8. A deed must be acknowledged to be recorded, but need not be recorded to be valid. However, recording is recommended at all times. If a real estate agent is involved in the transaction, regulations require the agent to see that the deed is recorded.
9. Deeds usually contain, but are not legally required to have: a date, acknowledgement, and a recording number issued by the county.

J. Types of deeds. Topics covered are:

1. grant deed and two implied warranties
 - (a) grantor has not previously deeded
 - (b) property is free of encumbrances made by grantor other than those disclosed to grantee
 - (c) contains an "after acquired" provision
2. quitclaim deed and lack of warranties
 - (a) used to remove clouds from title
 - (b) "What I have you get."
3. sheriff's deed at judgment sales
4. gift deed and love and affection consideration
5. tax deed given by tax collector for sale of delinquent property
6. warranty deed due to grantor liability not used in California
7. trust deed as security for a real estate loan
8. deed of reconveyance used when loan is paid off
9. trustee's deed used in foreclosure proceedings

K. Recording system is used to prevent fraud as to real estate ownership. The basics are:

1. Documents must be acknowledged to be recorded.
2. Names of where future property tax bills are to be sent must appear on the deed.
3. Recording gives constructive, not actual, notice.
4. Chain of title shows a successive list of all owners.

5. First to record is usually the first in right.
Exceptions:
 - (a) prior actual knowledge of unrecorded instrument
 - (b) prior possession usually defeats prior recording

This ends Chapter 2, Part I. Chapter 2, Part II begins on the next page. Instructor examination questions for both Part I and Part II can be found at the end of Part II.

CHAPTER 2 – PART II: ESTATES AND METHODS OF HOLDING TITLE

4. Estates

- A. An estate is defined as the degree, nature, and extent a person has in a property. Real property estates can be divided into freehold and less-than-freehold estates. List on the board and discuss.
- B. Freehold estate refers to one's interest as an owner. Less-than-freehold refers to one's interest as a tenant. Freehold estates can be divided as follows:
1. Fee simple including absolute and qualified.
 - (a) fee simple absolute has no private restrictions and is considered the highest form of ownership
 - (b) fee simple qualified (defeasible) is where the title is subject to private restrictions. All properties are subject to government controls and that is not the issue...private restrictions are the issue.
 2. Life estates are created for the life of a named human being and include the following:
 - (a) estate in remainder: A deeds to B for B's life; when B dies, title and possession goes to C, the remainder person.
 - (b) estate in reversion: A deeds to B for B's life; when B dies, title and possession reverts back to A or A's heirs.
 - (c) grant reserving a life estate: A deeds to B, but A keeps the right of possession for A's life. When A dies, possession passes to B or B's heirs. This is the most common type of life estate.

Life estate holders cannot deed or lease for more than the life of the designated person. Life estate holders must pay property taxes and other costs of ownership during the term of the life estate.
- C. Less-than-freehold estates are property interest held by tenants who rent or lease property. This topic will be discussed in Chapter 11, Landlord and Tenants Relations.

5. Methods of Holding Title

A. When people acquire real estate, they must hold title in some legal form. The basic choices are:

1. ownership in severalty (sole ownership)...one name alone
2. concurrent ownership consisting of two or more owners

Concurrent ownership is the most popular with many variations. In this course only the basic method of joint tenancy, tenancy in common, community property, and partnership is discussed.

B. Joint tenancy is where two or more people are equal owners in the same undivided interest in real property.

List on the board and discuss the following:

1. To have a valid joint tenancy there must be four unities:
 - (a) Unity of time: must acquire title at the same time
 - (b) Unity of title: must come into title on the same document or legal proceedings
 - (c) Unity of interest: all owners must have equal shares
 - (d) Unity of possession: all owners have right to use

If any of these unities are absent, or are broken later, the joint tenancy is destroyed and the rules of tenants in common are applied.

2. Most important characteristic is the right of survivorship. If one joint tenant dies, the share goes to the surviving co-owners, not to the heirs of the deceased. This passing of title upon death does not require a probate. Thus, a joint tenant cannot will his or her interest.
Special Note: a joint tenant should still have a will for the disposition of other kinds of property or in the event of simultaneous death with the other joint tenant(s).
3. A joint tenant can sever his or her interest without the permission of the other joint tenants. Depending upon the number of other joint tenants, this sever can completely destroy or partially destroy the joint tenancy and bring on the rules of tenancy in common.
4. The surviving joint tenant(s) acquires the property free of the individual debts of the deceased joint tenant.

Question: Can a corporation hold title as joint tenants?

Answer: No, because in theory a corporation cannot die, only stockholders, officers, and directors "die." Bankruptcy is not considered a form of "dying" for title purposes.

C. Tenancy in common also has two or more co-owners in an undivided interest in real estate. But the characteristics and rules are different from joint tenancy. Tenancy in common has the following characteristics:

1. There is no right of survivorship. Upon the death of a tenant in common, his or her interest passes to the heirs, not the remaining co-owners unless they also happen to be the heir(s). This process requires a probate proceeding. Therefore, it is OK to will a tenant in common interest.
2. Unequal shares are allowed...for example, A owns 1/3 and B owns 2/3.
3. Each co-owner has the right of possession and must pay his or her share of property expenses according to the percentage of ownership.
4. Each co-owner can sever his or her interest without the permission of the other tenants in common.

D. Community property is a form of ownership available to married couples in nine states...California, Arizona, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin.

The major characteristics of community property are:

1. All property acquired during a lawful marriage or registered domestic partnership is community property, except:
 - (a) property acquired before marriage or registered domestic partnership, and not commingled after marriage or registered domestic partnership, is separate property.
 - (b) property acquired after marriage or registered domestic partnership by gift or inheritance is separate property as long as it is not commingled.

Income and profits from separate property remain separate if not commingled. Stress to students the importance of keeping separate well-documented bookkeeping in light of the high divorce rate.

2. Husband and wife or registered domestic partnership are equal co-managers and the signature of both is required to sell or lease the property.

3. Each spouse or registered domestic partner has the right to will and leave his or her interest to whomever they wish. If community property is willed to a surviving spouse or registered domestic partner, no probate is required. If left to anyone other than a surviving spouse or registered domestic partner, a probate is needed.
4. Effective 7/03/01, married couples or registered domestic partners can choose to hold title as community property with the right of survivorship. This means upon the death of one spouse or registered domestic partner, title passes to the remaining spouse or registered domestic partner without a probate and neither spouse or registered domestic partner has the right to will this property to an outsider.

Whether a married couple or registered domestic partners should hold title as joint tenants or community property is a decision to be made after consulting a person's attorney or tax person. Many married couples or registered domestic partners are using a living trust to take care of the issue.

- E. Tenancy in partnership is a method whereby two or more people acquire title to real property to be used for a business purpose. Each partner has the right to use the property for business, but not personal purposes. There is a form of survivorship upon death of one of the partners depending upon the terms of the partnership agreement. Key issues to remember: a general partner has unlimited liability, while limited partners can only be liable for their partnership investment. Limited partnerships are frequently used by real estate syndicates.

The attached instructional support material is provided for your use.

1. Review quiz of the previous week's lesson, with answers, to be reproduced and given to your students at the beginning of this session.
2. 30 multiple-choice questions, with answers, based on the material in Chapter 2.

Review Quiz Chapter 1 – Introduction to Real Estate

1. Airspace above a parcel of land is:
 - (a) real property
 - (b) personal property
 - (c) an encumbrance
 - (d) a fixture

2. Zoning regulations have the greatest impact on which right?
 - (a) right to encumber
 - (b) right to possess
 - (c) right to use
 - (d) right to exclude

3. All of the following are real property except:
 - (a) fruit trees
 - (b) chattels
 - (c) stock in a mutual water company
 - (d) built-in stove

4. In a dispute over fixtures, courts tend to favor
 - (a) sellers over buyers
 - (b) landlords over tenants
 - (c) lenders over borrowers
 - (d) grantors over grantees

5. The right of a landowner along a river to take water is called:
 - (a) percolating rights
 - (b) river water rights
 - (c) user rights
 - (d) riparian rights

6. Which of the following is a test of a fixture?
 - (a) attachment
 - (b) chose
 - (c) appropriation
 - (d) restrictions

7. California became a state in:
 - (a) 1803
 - (b) 1848
 - (c) 1849
 - (d) 1850

8. Shelves in a retail store are an example of:
- (a) real estate
 - (b) encumbrances
 - (c) trade fixtures
 - (d) real property
9. Which of the following would be considered real property?
- (a) a potted plant in the backyard
 - (b) patio furniture
 - (c) a chandelier
 - (d) a washing machine
10. What would not be an example of a trade fixture:
- (a) attached shelving in a retail store
 - (b) an oven in a restaurant
 - (c) a swing set at a day care facility
 - (d) a water heater in a residence

Answers to Review Quiz, Chapter 1

1. (a)
2. (c)
3. (b)
4. (c)
5. (d)
6. (a)
7. (d)
8. (c)
9. (c)
10. (d)

**CHAPTER 2, PART I: DESCRIPTION, METHOD OF ACQUIRING
TITLE, AND DEEDS**

1. The W 1/2 of the NW 1/4 of the NW 1/4 of the SE 1/4, and the SW 1/4 of Section 10 contains:
 - (a) 2 1/2 acres
 - (b) 5 acres
 - (c) 45 acres
 - (d) 165 acres

2. In the U. S. Government Survey System, which lines run parallel to the principal base line?
 - (a) township line
 - (b) meridian line
 - (c) range line
 - (d) survey line

3. How many square feet are in an acre?
 - (a) 5,280
 - (b) 14,970
 - (c) 43,560
 - (d) 75,436

4. A person who makes a will is the:
 - (a) executor (trix)
 - (b) administrator (trix)
 - (c) devisor (ee)
 - (d) testator (trix)

5. If a married person dies testate and leaves all community property, the decedent's interest passes to the:
 - (a) whomever is named in the will
 - (b) surviving spouse and children, if any
 - (c) surviving spouse
 - (d) surviving children, and not to surviving spouse

6. Ben's father passed away and left Ben a ring in his will that Ben had always admired along with a sizeable sum of money. Ben received this gift as a:
 - (a) bequest.
 - (b) devise.
 - (c) legacy.
 - (d) both a and c.

7. The sudden tearing away of land along a river with the re-deposit of the land on the other side of the river, downstream, is called:
 - (a) erosion
 - (b) accretion
 - (c) avulsion
 - (d) reliction

8. When possession of land includes open and notorious use for 5 years, hostile to the owner's wishes, and payment of property taxes, this best describes:
 - (a) intestate succession
 - (b) accession title
 - (c) alluvion ownership
 - (d) adverse possession

9. The passing of title to the state because of the lack of heirs is called:
 - (a) escheat
 - (b) eminent domain
 - (c) police power
 - (d) condemnation

10. The Connecticut case, *Kelo vs. New London*, was decided by a U.S. Supreme Court ruling which had an impact on:
 - (a) how foreclosures should be conducted.
 - (b) whether or not a partition action can be taken.
 - (c) how private property can be taken to further economic development.
 - (d) how filing for bankruptcy will stop foreclosure.

11. Which of the following is not required for a deed to be valid?
 - (a) signature of grantor
 - (b) granting clause
 - (c) date
 - (d) must be in writing

12. Chang deeds to Lopez and Lopez takes possession but does not record the deed. Chang then tells his friend Jones about the deed to Lopez. Chang then deeds the same property to Jones, who records the deed. Based on this information, title probably vests in:
 - (a) Lopez
 - (b) Chang
 - (c) Jones
 - (d) both Lopez and Jones

13. A sequential list of owners for a parcel of real estate is called:
- (a) constructive notice
 - (b) chain of title
 - (c) notarized record
 - (d) deed of reconveyance
14. Mr. and Mrs. Smith were interested in purchasing a vacant lot. However, they first wanted the property surveyed. When the surveyor came out to measure the property he began measuring from the iron spike embedded in the middle of the street. In this case the iron spike would be known as:
- (a) a benchmark.
 - (b) an angular line.
 - (c) a vara.
 - (d) a compass.
15. A metes and bounds description requires:
- (a) a point of beginning
 - (b) a distance and direction from one point to another
 - (c) a return to the point of beginning
 - (d) all of the above
16. Before a deed is recorded, it must be acknowledged by:
- (a) the grantee
 - (b) a notary public
 - (c) the escrow officer
 - (d) the grantor
17. Who is competent to deed title to real estate?
- (a) 17-year-old unmarried student
 - (b) married 16-year-old
 - (c) convict under a death sentence
 - (d) none of the above are competent to deed
18. There are implied warranties made by the grantor in a grant deed. Which one of the following is not implied?
- (a) property has not been encumbered by grantor except as disclosed
 - (b) the interest held by grantor is being transferred to the grantee
 - (c) the grantor holds a certificate of title to the property
 - (d) the interest being deeded has not been conveyed to others
19. A deed need not be recorded in order to be valid, but must be delivered. Effective delivery depends on:
- (a) valid acknowledgment by the grantor
 - (b) physical transfer
 - (c) intention of the grantor
 - (d) knowledge of its existence by the grantee

20. The recording of a deed gives:
- (a) actual notice
 - (b) constructive notice
 - (c) right of possession
 - (d) effective notice
21. Real estate law states that in order to be valid, a deed must contain:
- (a) a date
 - (b) a granting clause
 - (c) the signature of the grantee
 - (d) evidence of a notary
22. A major railroad company plans to run a line across Kuan's property. If Kuan refuses to give permission, the railroad company can proceed to take action through the use of:
- (a) eminent domain
 - (b) partition action
 - (c) injunction
 - (d) writ of execution
23. Title can be transferred from government to private owners using a:
- (a) fiduciary grant
 - (b) partition grant
 - (c) public dedication
 - (d) patent
24. When describing or locating a piece of property using the metes and bounds system, which of these would be classified as artificial markers?
- (a) rocks
 - (b) trees
 - (c) streets
 - (d) rivers
25. Under the United States Government Survey system, a property containing this description includes how many acres? "The S 1/2 of the SE 1/4 of Section 17 and the E 1/2 of the NE 1/4 of Section 23 and the SW 1/4 of the NW 1/4 of Section 21":
- (a) 160 acres
 - (b) 200 acres
 - (c) 240 acres
 - (d) 220 acres

26. If a married person with two children dies intestate and leaves community property, the descendant interest passes to the:
- (a) surviving spouse and children
 - (b) surviving children, and not the surviving spouse
 - (c) surviving spouse
 - (d) surviving parents
27. The County Recorder files deeds according to:
- (a) first to record is first to be filed
 - (b) legal descriptions
 - (c) grantor-grantee index
 - (d) the city where the property is located
28. If a court proceeds to confirm a probate sale, the first additional bid must be what percent above the original bid?
- (a) 5% on the first \$10,000, 3% on the remainder
 - (b) 5% on the first \$10,000 and any amount on the remainder
 - (c) 10% on the first \$10,000, 5% on the remainder
 - (d) 10% on the first \$10,000 and any amount on the remainder
29. According to the laws of California, which of the following documents must be recorded to be valid?
- (a) land mortgage
 - (b) grant deed
 - (c) trust deed
 - (d) none of the above
30. When a gift deed is used to transfer title to real property, the deed may be set aside or voided by:
- (a) certain debtors of the grantor
 - (b) no one
 - (c) certain creditors of the grantor
 - (d) someone who later purchases the land from the gift deed grantor

CHAPTER 2, PART I – ANSWERS

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|---------|---------|
| 1. (d) | 16. (d) |
| 2. (a) | 17. (b) |
| 3. (c) | 18. (c) |
| 4. (d) | 19. (c) |
| 5. (a) | 20. (b) |
| 6. (b) | 21. (b) |
| 7. (c) | 22. (a) |
| 8. (d) | 23. (d) |
| 9. (a) | 24. (c) |
| 10. (c) | 25. (b) |
| 11. (c) | 26. (c) |
| 12. (a) | 27. (c) |
| 13. (b) | 28. (c) |
| 14. (a) | 29. (d) |
| 15. (d) | 30. (c) |

CHAPTER 2, PART II – ESTATES AND METHODS OF HOLDING TITLE

1. The highest form of ownership a person can have in a piece of property is:
 - (a) fee simple absolute
 - (b) fee simple qualified
 - (c) life estate
 - (d) testate estate

2. Interest in real property held by a tenant is called:
 - (a) freehold estate
 - (b) fee estate
 - (c) rental estate
 - (d) less-than-freehold estate

3. Greene deeds a life estate to Blue and upon Blue's death, title passes to Brown. This is an example of what type of life estate?
 - (a) estate in reversion
 - (b) estate in reservation
 - (c) estate in remainder
 - (d) estate in severalty

4. Title held as "Elva L. Vargas, an unmarried woman" is an example of:
 - (a) joint tenancy
 - (b) tenancy in common
 - (c) estate in remainder
 - (d) ownership in severalty

5. A valid joint tenancy must have the four unities of:
 - (a) time, title, interest, remainder
 - (b) title, time, possession, interest
 - (c) interest, right, possession, time
 - (d) time, title, occupancy, possession

6. Which of the following is not a principal baseline and meridian?
 - (a) Humboldt
 - (b) Mount Diablo
 - (c) Riverside
 - (d) San Bernardino

7. Johnson and Moscovitz hold title as tenants in common. Upon Johnson's death, Johnson's interest passes to:
 - (a) Johnson's heirs without probate
 - (b) Johnson's heirs with probate
 - (c) Moscovitz without probate
 - (d) Moscovitz with probate

8. Susan owned a home prior to marriage to Carlos. Upon marriage, Susan's home:
 - (a) remains her separate property unless commingled
 - (b) automatically becomes community property
 - (c) is converted to joint tenancy
 - (d) must have a deed recorded showing her married name

9. For a married couple, community property rules include all of the following except:
 - (a) property acquired by gift after marriage can be separate property
 - (b) each spouse must will their interest to the surviving spouse if title is held without the right of survivorship
 - (c) it takes the signature of both spouses to sell community property
 - (d) each spouse has the equal right to manage community property

10. Assume a brother and sister own title in a commercial property as joint tenants. The brother marries and deeds his interest to himself and his new wife. The sister now holds title in the property as:
 - (a) community property as to 1/4 interest
 - (b) ownership in severalty
 - (c) joint tenant
 - (d) tenant in common

11. A married couple is planning to purchase a home. If they want to take title in such a way as to be able to will their separate interest, they should take title as:
 - (a) community property, without the right of survivorship
 - (b) joint tenants
 - (c) limited partners
 - (d) any of the above

12. Real estate syndicates usually hold title as:
 - (a) joint tenants
 - (b) a limited partnership
 - (c) a corporation
 - (d) tenants in common

13. Mr. Rhu deeds a life estate to Ms. Silva with the stipulation that upon her death the property comes back to him. If Rhu and Silva are killed together in an auto accident, who gets the property?
 - (a) it escheats to the state
 - (b) Rhu's heirs and devisees
 - (c) Silva's heirs
 - (d) the county where property is located

14. If an investor owns a piece of property with some private restrictions, the investor owns what type of estate?
 - (a) fee simple absolute
 - (b) fee simple qualified
 - (c) fee simple defeasible
 - (d) both (b) and (c)

15. Community property is normally defined as any property acquired by a married person or registered domestic person:
 - (a) prior to marriage or registration
 - (b) during marriage or registration
 - (c) by gift
 - (d) by inheritance

16. Don and June Seaman, father and daughter, purchased real estate as joint tenancy. Don died and left a number of personal debts. If he possessed no money or other property, his creditors could:
 - (a) place a lien against his daughter's property
 - (b) obtain no satisfaction against the real estate
 - (c) sue the daughter for the money
 - (d) place an attachment against the real estate

17. In which one of the following ways are joint tenancy and tenants in common similar?
 - (a) title can only be held by husband and wife
 - (b) both provide the right of survivorship
 - (c) all owners have the right to will their interest in the property
 - (d) both carry the right of possession

18. If a person took title to real estate as a sole owner, the ownership is called:
 - (a) ownership in gross
 - (b) ownership in common
 - (c) ownership in tenancy
 - (d) ownership in severalty

19. When a non-occupying investor and an owner-occupant pool their resources to buy a home, this is called:
 - (a) equity ownership
 - (b) equity occupancy
 - (c) equity sharing
 - (d) equity investing

20. A deeds to B for the life of C; upon C's death, title passes to D. This is an example of:
 - (a) an estate in reversion
 - (b) a grant of a reservation
 - (c) a less-than-freehold estate
 - (d) an estate in remainder

21. Which of the following is not considered concurrent ownership?
- (a) As an unmarried person
 - (b) Community property
 - (c) As a widow
 - (d) None of the above
22. To have a valid joint tenancy, all the owner names must appear on the same document. This is known as the unity of:
- (a) time
 - (b) title
 - (c) interest
 - (d) possession
23. There are advantages and disadvantages in taking title as a joint tenant. Any person holding title in joint tenancy may dispose of all or a part of his/her interest in all of the following ways, except:
- (a) by lease
 - (b) by gift
 - (c) by sale
 - (d) by will
24. A corporation is not allowed to hold title as:
- (a) tenants in partnership
 - (b) joint tenants
 - (c) tenants in common
 - (d) joint venture
25. Which one of the following is a correct statement regarding tenancy in common?
- (a) of the four unities, only the unity of possession is required
 - (b) the same right of survivorship exists as in joint tenancy
 - (c) each owner has an equal interest in the property
 - (d) upon the death of one co-owner, no probate is required
26. Which of the following is not considered to be a characteristic of a fee simple estate?
- (a) it is free of all encumbrances
 - (b) it may be willed
 - (c) it is transferable
 - (d) it is of indefinite duration

27. Joint tenancy has certain special characteristics. Which of these is considered to be the most important?
- (a) the right to will
 - (b) the right of survivorship
 - (c) the right to encumber
 - (d) the right to an undivided interest
28. Richard received a life estate from Isabell, who has no heirs. The estate was granted for the life of Richard. Richard then leased the property to Myron for four years. If Isabell were to die within the next two years, possession of the property would:
- (a) go to the probate court
 - (b) escheat to the State of California
 - (c) return to Richard
 - (d) stay with Myron for the duration of the lease or the life of Richard
29. A valuable parcel of land was left to two sisters, Mary and Josephine, as joint tenants. Later on both of them married. Mary was killed in an auto accident, leaving no will. In this situation, Mary's family would acquire:
- (a) half interest as a tenant in common with Josephine
 - (b) one-quarter interest in the property
 - (c) no interest in the property
 - (d) half interest as joint tenants with Josephine
30. Life estates are created by a:
- (a) mortgage.
 - (b) deed.
 - (c) trust deed.
 - (d) both b and c.

CHAPTER 2, PART II – ANSWERS

- | | |
|---------|---------|
| 1. (a) | 16. (b) |
| 2. (d) | 17. (d) |
| 3. (c) | 18. (d) |
| 4. (d) | 19. (c) |
| 5. (b) | 20. (d) |
| 6. (c) | 21. (b) |
| 7. (b) | 22. (b) |
| 8. (a) | 23. (d) |
| 9. (b) | 24. (b) |
| 10. (d) | 25. (a) |
| 11. (a) | 26. (a) |
| 12. (b) | 27. (b) |
| 13. (b) | 28. (d) |
| 14. (d) | 29. (c) |
| 15. (b) | 30. (b) |