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Property

Cases and Statutes

Second Edition

Roger Bernhardt

Joyce Palomar

Patrick Randolph Jr.

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Contents

Table of Cases	xiii
Preface	xix
Chapter I • POSSESSING AND OWNING ASSETS	3
A. RIGHTS AND DUTIES OF POSSESSORS	3
1. Possessors and Their Rivals	3
<i>Gissel v. State</i>	3
Notes	6
<i>Terry v. A.D. Lock</i>	17
Notes	19
<i>McGlynn v. Parking Authority of City of Newark</i>	24
Notes	27
<i>Dodge v. Irvington Land Co.</i>	31
Notes	33
B. ADVERSE POSSESSION	38
<i>Alaska National Bank v. Linck</i>	38
Notes	42
<i>Howard v. Kunto</i>	44
<i>Gilardi v. Hallam</i>	46
Notes	48
<i>Estate of Wells v. Estate of Smith</i>	51
Notes	53
<i>Lawrence v. Town Of Concord</i>	54
Notes	56
<i>Warsaw v. Chicago Metallic Ceilings</i>	59
Notes	62
C. ALTERNATIVE THEORIES	64
1. Good Faith Improvers	64
<i>Somerville v. Jacobs</i>	65
Notes	67
2. Agreed Boundaries	69
<i>Bryant v. Blevins</i>	69
Note	74
Chapter II • COMMON LAW ESTATES	75
A. BASIC RULES	75
INTRODUCTION: DIVIDING PROPERTY OVER TIME	75

1. What Kind of Interest Was Created?	79
a. Present Estates	79
<i>Prieskorn v. Maloof</i>	79
<i>Allen v. Hall</i>	81
b. Future Interests	82
<i>Summers v. Garland</i>	82
Notes	83
c. The Rule Against Perpetuities	86
<i>Old Port Cove Holdings v. Old Port Cove Condominium Association One</i>	86
Notes	88
<i>Brokaw v. Fairchild</i>	97
<i>Brokaw v. Fairchild</i>	100
Notes	101
C. Partition	104
<i>Forrest v. Elam</i>	104
Note	106
Chapter III • CO-OWNERSHIP	107
A. TYPES OF ARRANGEMENTS	107
<i>D'ercole v. D'ercole</i>	107
Notes	109
<i>In re Estate of Johnson</i>	113
Notes	116
<i>Hardy v. United States</i>	126
Notes	127
<i>Long v. Long</i>	129
Notes	132
<i>Cook v. Cook</i>	133
Notes	136
B. MANAGEMENT ISSUES	140
<i>Tenhet v. Boswell</i>	140
Notes	143
<i>Nahrstedt v. Lakeside Village Condominium Association</i>	145
Notes	150
C. ECONOMIC CONSEQUENCES	156
<i>Sawada v. Endo</i>	157
Notes	160
<i>Dutcher v. Owens</i>	164
Notes	165
D. UNEQUAL CONTRIBUTIONS AND EXPENDITURES	166
<i>Giles v. Sheridan</i>	166
Notes	168
<i>In Re Fazzio</i>	175
Notes	177
Chapter IV • LANDLORD AND TENANT	179
A. TYPES OF TENANCIES	179
<i>Union Travel Associates v. International Associates</i>	179
Notes	181

<i>Braschi v. Stahl Associates</i>	186
Notes	189
<i>Arbenz v. Exley, Watkins & Co.</i>	197
Notes	199
<i>Piggly Wiggly Southern, Inc. v. Heard</i>	203
Notes	204
B. TENANTS WHO ABANDON	206
<i>Duda v. Thompson</i>	206
<i>Austin Hill Country Realty v. Palisades Plaza</i>	208
Notes	211
<i>Aurora Business Park Associates v. Albert</i>	213
Note	215
C. TRANSFERS OF INTERESTS IN LEASES (AND SELECTION OF TENANTS)	216
<i>Tenet Healthsystem Surgical v. Jefferson Parish Hospital Service District</i>	216
Notes	218
<i>Northside Station Associates v. Maddry</i>	227
Notes	229
<i>Plaza Freeway Limited Partnership v. First Mountain Bank</i>	231
Notes	233
D. TENANTS WHO REFUSE TO LEAVE	235
<i>Deroshia v. Union Terminal Piers</i>	235
Notes	236
<i>Lindsey v. Normet</i>	238
Notes	243
<i>In re Butler</i>	251
Notes	253
<i>Hi Kai Investment v. Aloha Futons Beds & Waterbeds</i>	256
Notes	257
<i>Sinclair Refining Co. v. Shakespeare</i>	258
Notes	260
<i>Dieffenbach v. McIntyre</i>	261
Note	262
E. “DEFECTIVE” PREMISES	263
<i>Gehrke v. General Theatre Corp.</i>	263
Notes	264
<i>Kennedy v. Kidd</i>	265
Notes	268
<i>Brown v. Green</i>	271
Notes	276
<i>Wesson v. Leone Enterprises, Inc.</i>	278
Notes	282
<i>Green v. Superior Court</i>	286
Notes	291
<i>Merrill v. Jansma</i>	297
Notes	301
<i>Ward v. Inishmaan Associates Limited Partnership</i>	308
Notes	309

Chapter V • SERVITUDES	315
A. CREATION	315
1. EASEMENTS	315
<i>Consolidated Rail Corporation v. Lewellen</i>	315
Notes	317
<i>United States v. Blackman</i>	320
Notes	323
<i>Corbett v. Ruben</i>	326
Notes	328
<i>Camp v. Milam</i>	330
Notes	332
<i>Peterson v. Beck</i>	334
Notes	335
<i>Block v. Sexton</i>	337
Notes	339
2. COVENANTS	344
<i>Runyon v. Paley</i>	344
Notes	351
<i>Regency Homes Association v. Egermayer</i>	353
Notes	356
<i>Citizens for Covenant Compliance v. Anderson</i>	361
Notes	363
B. SCOPE ISSUES	366
1. EASEMENT CHANGES	366
<i>Brown v. Voss</i>	366
Note	368
<i>Abbott v. Nampa School District</i>	369
Notes	371
<i>Figliuzzi v. Carcajou Shooting Club of Lake Koshkonong</i>	373
Notes	375
2. COVENANT CHANGES AND VALIDITY	375
<i>Windemere Homeowners Association v. Mccue</i>	375
Note	377
<i>McHuron v. Grand Teton Lodge Company</i>	378
Note	380
<i>Hall v. Butte Home Health</i>	381
Notes	383
C. TERMINATION	388
<i>Simone v. Heidelberg</i>	388
Notes	389
<i>B.B.P. Corporation v. Carroll</i>	391
Note	392
<i>El Di, Inc. v. Town of Bethany Beach</i>	393
Notes	395
D. RELATED INTERESTS IN LAND	398
1. RIGHTS ABOVE AND BELOW THE SURFACE OF THE LAND	398
<i>Brown v. United States</i>	398
Notes	400
<i>Noone v. Price</i>	402
Note	406

2. WATER	407
<i>Koch v. Aupperle</i>	407
Notes	408
<i>Spear T Ranch v. Knaub</i>	412
Notes	415
<i>Locklin v. City of Lafayette</i>	417
<i>National Audubon Society v. Superior Court</i>	420
3. NUISANCE AND RELATED ISSUES	425
<i>Carpenter v. Double R Cattle Company</i>	425
<i>Carpenter v. Double R Cattle Company</i>	429
Notes	430
Chapter VI • LAND USE REGULATIONS	439
A. BASIC PRINCIPLES	439
<i>Village of Euclid, Ohio v. Ambler Realty Co.</i>	439
Notes	446
<i>Town of Jonesville v. Powell Valley Village Limited Partnership</i>	452
Notes	453
<i>Town of Orangetown v. Magee</i>	458
Notes	459
<i>Fritz v. City of Kingman</i>	466
Notes	468
<i>Kelo v. City Of New London, Connecticut</i>	472
Notes	479
B. COMMON REGULATORY TECHNIQUES	481
<i>In the Matter of Raritan Development Corp. v. Silva</i>	481
Notes	483
<i>St. Onge v. Donovan</i>	485
Notes	487
<i>Village of Hudson v. Albrecht</i>	493
<i>Penn Central Transportation Company v. City of New York</i>	497
Notes	511
<i>AVR, Inc. v. City of St. Louis Park</i>	514
Notes	518
<i>Smith v. Zoning Board of Appeals of the Town of Greenwich</i>	524
Notes	528
<i>Campion v. Board of Aldermen of New Haven</i>	529
<i>Mayor and Board of Aldermen, City of Ocean Springs v.</i> <i>Homebuilders Association</i>	532
<i>Matter of Avy v Town of Amenia</i>	534
Notes	535
<i>Associated Home Builders v. City of Livermore</i>	537
Notes	543
C. ATTACKS BY OPPONENTS	545
<i>Britton v. Town of Chester</i>	546
Notes	548
<i>Town of Flower Mound v. Stafford Estates Limited Partnership</i>	550
Notes	558
<i>Lucas v. South Carolina Coastal Council</i>	561
Notes	565

<i>City of Ladue v. Gilleo</i>	571
Notes	576
Chapter VII • REAL ESTATE TRANSACTIONS	583
A. LAWYERS AND BROKERS	583
<i>In the Matter of Guy J. Lanza, An Attorney at Law</i>	583
Notes	586
<i>Chicago Bar Association v. Quinlan and Tyson, Inc.</i>	589
Notes	592
<i>Steve Schmidt & Co. v. Berry</i>	598
Notes	602
<i>Haymes v. Rogers</i>	609
Notes	611
<i>Teter v. Old Colony Company</i>	621
Notes	623
B. SALES CONTRACTS	625
<i>Phoenix Mutual Life Insurance Co. v. Shady Grove Plaza Limited Partnership</i>	625
Notes	629
<i>Fry v. George Elkins Co.</i>	638
Notes	640
<i>Conklin v. Davi</i>	643
Notes	644
<i>Bryant v. Willison Real Estate Co.</i>	647
Notes	649
<i>DiGiuseppe v. Lawler</i>	650
Notes	654
<i>Wallace Real Estate Investment, Inc. v. Groves</i>	655
Notes	659
C. DEFECTS IN THE PROPERTY	662
<i>Caceci v. Di Canio Construction Corp.</i>	662
Notes	665
<i>Nelson v. Heer</i>	666
Notes	668
<i>Calloway v. City of Reno</i>	677
Note	680
<i>Hydro-Manufacturing, Inc. v. Kayser-Roth Corp.</i>	681
Notes	685
<i>Alabama Plating Company v. United States Fidelity and Guaranty Company</i>	689
Notes	691
D. DEEDS AND CLOSINGS	694
1. Conveyancing Formalities	694
<i>Illinois Statutes, Chapter 765, Act 5 (Conveyances Act)</i>	694
Note	695
2. Legal Descriptions & Boundaries	696
<i>Pilgrim v. Kuipers</i>	696
Notes	697
3. DELIVERY	699

<i>Lenhart v. Desmond</i>	700
Notes	701
<i>Ferguson v. Caspar</i>	702
Note	708
<i>Johnson v. Schultz</i>	708
Notes	711
E. PRIORITY OF RIGHTS TO LAND	718
<i>Haner v. Bruce</i>	719
Notes	720
<i>Hersh Properties v. McDonald's Corporation</i>	722
Notes	725
<i>Rolling "R" Construction v. Dodd</i>	727
Notes	728
<i>Martinez v. Affordable Housing Network</i>	733
Notes	737
<i>Gabel v. Drewrys Limited</i>	738
Notes	740
F. TITLE ASSURANCE	745
1. Title Warranties in Deeds	745
<i>St. Paul Title Insurance Corporation v. Owen</i>	745
Notes	747
2. Attorneys' Title Opinions	749
<i>Bass v. Farr</i>	749
Note	750
3. Title Insurance Policies	751
<i>Walker Rogge, Inc. v. Chelsea Title & Guaranty Company</i>	751
Notes	754
G. MORTGAGES	762
<i>Mid-State Investment Corporation v. O'Steen</i>	763
Notes	764
<i>Johnson v. Cherry</i>	768
Notes	769
<i>Looney v. Farmers Home Administration</i>	772
Notes	773
<i>BFP v. Resolution Trust Corporation</i>	775
Notes	778
<i>First State Bank of Forsyth v. Chunkapura</i>	779
Notes	783
H. INCOME TAX	784
Basis of Assets	790
<i>Crane v. Commissioner of Internal Revenue</i>	792
<i>Lukens v. Commissioner of Internal Revenue</i>	795
Index	799

Table of Cases

- Abbott v. Nampa School District, 119 Idaho 544, 808 P.2d 1289 (Supreme Court of Idaho, 1991), 369
- Alabama Plating Company v. United States Fidelity and Guaranty Company, 690 So. 2d 331 (Supreme Court of Alabama, 1996), 689
- Alaska National Bank v. Linck, 559 P.2d 1049 (Supreme Court of Alaska, 1977), 38
- Allen v. Hall, 148 P.3d 939 (Supreme Court of Utah, 2006), 81
- Arbenz v. Exley, Watkins & Co., 57 W. Va. 580, 50 S.E. 813 (West Virginia Supreme Court of Appeals 1905), 197
- Associated Home Builders v. City of Livermore, 18 Cal. 3d 582, 557 P.2d 473 (Supreme Court of California, 1976), 537
- Aurora Village Park Associates v. Albert, 548 N.W.2d 153 (Iowa Supreme Court, 1996), 213
- Austin Hill Country Realty v. Palisades Plaza, 948 S.W.2d 293 (Texas Supreme Court 1997), 208
- AVR, Inc. v. City of St. Louis Park, 585 N.W.2d 411 (Minnesota Court of Appeals, 1998), 514
- B.B.P. Corporation v. Carroll, 760 P.2d 519 (Supreme Court of Alaska, 1988), 391
- Bass v. Farr, 315 S.C. 400, 434 S.E.2d 274 (Supreme Court of South Carolina, 1993), 749
- BFP v. Resolution Trust Corporation, 512 U.S. 1247, 129 L. Ed. 2d 884 (United States Supreme Court, 1994), 775
- Block v. Sexton, 577 N.W.2d 521 (Minnesota Court of Appeals, 1998), 337
- Braschi v. Stahl Associates, 74 N.Y.2d 201, 543 N.E.2d 49 (New York Court of Appeals, 1989), 186
- Britton v. Town of Chester, 134 N.H. 43, 595 A.2d 492 (Supreme Court of New Hampshire, 1991), 546
- Brokaw v. Fairchild, 135 N.Y. Misc. 70 (Sup. Ct. New York County, 1929), 97
- Brokaw v. Fairchild, 231 A.D. 704 (New York Supreme Court Appellate Division, 1st Dept., 1930), 100
- Forrest v. Elam, 88 Cal. App. 3d 164 (California Court of Appeal, 4th District, 1979), 104
- Brown v. Green, 8 Cal. 4th 812, 884 P.2d 55 (California Supreme Court, 1994), 271
- Brown v. United States, 95 F.3d 1163 (U.S. Court of Appeals, Federal Circuit, 1996), 398
- Brown v. Voss, 105 Wash.2d 366, 715 P.2d 514 (Supreme Court of Washington, 1986), 366
- Bryant v. Blevins, 9 Cal. 4th 47, 884 P.2d 1034 (Supreme Court of California, 1994), 69
- Bryant v. Willison Real Estate Co., 177 W. Va. 120, 350 S.E.2d 748 (West Virginia Supreme Court of Appeals, 1986), 647
- Caceci v. Di Canio Construction Corp., 662
- Calloway v. City of Reno, 72 N.Y.2d 52, 526 N.E.2d 266 (New York Court of Appeals, 1988), 677

- Camp v. Milam, 291 Ala. 12, 277 So. 2d 95 (Supreme Court of Alabama, 1973), 330
- Campion v. Board of Aldermen of New Haven, 278 Conn. 500, 899 A.2d 542 (Supreme Court of Connecticut, 2006), 529
- Carpenter v. Double R Cattle Company, 105 Idaho 320, 669 P.2d 643 (Idaho Court of Appeals, 1983), 425
- Carpenter v. Double R Cattle Company, 108 Idaho 602, 701 P.2d 222 (Supreme Court of Idaho, 1985), 429
- Chicago Bar Association v. Quinlan and Tyson, Inc., 34 Ill.2d 116, 214 N.E.2d 771 (Supreme Court of Illinois, 1966), 589
- Citizens for Covenant Compliance v. Anderson, 12 Cal.4th 345, 906 P.2d 1314 (Supreme Court of California, 1995), 361
- City of Ladue v. Gilleo, 512 U.S. 43, 114 S.Ct. 2038 (Supreme Court of the United States, 1994), 571
- Conklin v. Davi, 76 N.J. 468, 388 A.2d 598 (Supreme Court of New Jersey, 1978), 643
- Consolidated Rail Corporation v. Lewellen, 682 N.E.2d 779 (Supreme Court of Indiana, 1997), 315
- Cook v. Cook, 142 Ariz. 573, 691 P.2d 664 (Supreme Court of Arizona, 1984), 133
- Corbett v. Ruben, 223 Va. 468, 290 S.E.2d 847 (Supreme Court of Virginia, 1982), 326
- Crane v. Commissioner of Internal Revenue, 331 U.S. 1, 67 S.Ct. 1047 (United States Supreme Court, 1947), 792
- D'ercole v. D'ercole, 407 F. Supp. 1377 (District Court, D. Massachusetts 1976), 107
- Deroshia v. Union Terminal Piers, 151 Mich. App. 715, 391 N.W.2d 458 (Michigan Court of Appeals 1986), 235
- Dieffenbach v. McIntyre, 208 Okla. 163, 254 P.2d 346 (Oklahoma Supreme Court, 1952), 261
- DiGiuseppe v. Lawler, 269 S.W.3d 588 (Supreme Court of Texas, 2008), 650
- Dodge v. Irvington Land Co., 158 Ala. 91, 48 So. 383, Ala. (Supreme Court of Alabama, 1908), 31
- Duda v. Thompson, 169 Misc. 2d 649, 647 N.Y.S.2d 401 (New York Supreme Court, 1996), 206
- Dutcher v. Owens, 647 S.W.2d 948 (Texas Supreme Court, 1983), 164
- El Di, Inc. v. Town of Bethany Beach, 477 A.2d 1066 (Supreme Court of Delaware, 1984), 393
- Estate of Wells v. Estate of Smith, 6 A.2d 707 (District of Columbia Court of Appeals, 1990), 51
- Ferguson v. Caspar, 359 A.2d 17 (U.S. Court of Appeals, District of Columbia, 1976), 702
- Figliuzzi v. Carcajou Shooting Club of Lake Koshkonong, 184 Wis.2d 572, 516 N.W.2d 410 (Supreme Court of Wisconsin, 1994), 373
- First State Bank of Forsyth v. Chunkapura, 226 Mont. 54, 734 P.2d 1203 (Supreme Court of Montana, 1987), 779
- Fritz v. City of Kingman, 191 Ariz. 432, 957 P.2d 337 (Supreme Court of Arizona, 1998), 466
- Fry v. George Elkins Co., 162 Cal. App. 2d 256, 327 P.2d 905 (California Court of Appeal, 2d District, 1958), 638
- Gabel v. Drewrys Limited, 68 So. 2d 372 (Supreme Court of Florida, 1953), 738
- Gehrke v. General Theatre Corp., 207 Neb. 301, 298 N.W.2d 773 (Nebraska Supreme Court, 1980), 263
- Gilardi v. Hallam, 30 Cal. 3d 317, 636 P.2d 588 (Supreme Court of California, 1981), 46
- Giles v. Sheridan, 179 Neb. 257, 137 N.W.2d 828 (Supreme Court of Nebraska, 1965), 166

- Gissel v. State, 111 Idaho 725, 727 P.2d 1153 (Supreme Court of Idaho, 1986), 3
- Green v. Superior Court, 10 Cal. 3d 616, 517 P.2d 1168 (California Supreme Court, 1974), 286
- Hall v. Butte Home Health, 60 Cal. App. 4th 308 (California Court of Appeal, 3d District, 1997), 381
- Haner v. Bruce, 146 Vt. 262, 499 A.2d 792 (Supreme Court of Vermont, 1985), 719
- Hardy v. United States, 918 F. Supp. 312 (United States District Court, District of Nevada, 1996), 126
- Haymes v. Rogers, 70 Ariz. 408, 222 P.2d 789 (Supreme Court of Arizona, 1950), 609
- Hersh Properties v. McDonald's Corporation, 588 N.W.2d 728 (Supreme Court of Minnesota, 1999), 722
- Hi Kai Investment v. Aloha Futons Beds & Waterbeds, 84 Haw. 75, 929 P.2d 88 (Hawai'i Supreme Court, 1996), 256
- Howard v. Kunto, 3 Wn. App. 393, 477 P.2d. 210 (Washington Court of Appeals, 1970), 44
- Hydro-Manufacturing, Inc. v. Kayser-Roth Corp., 640 A.2d 950 (Supreme Court of Rhode Island, 1994), 681
- In re Butler, 271 B.R. 867 (Bankruptcy Court, C.D. California, 2002), 251
- In re Estate of Johnson, 739 N.W.2d 493 (Supreme Court of Iowa, 2007), 113
- In re Fazzio, 180 B.R. 263 (Bankruptcy Court E.D. California, 1995), 175
- In the Matter of Guy J. Lanza, An Attorney at Law, 65 N.J. 347, 322 A.2d 445 (Supreme Court of New Jersey, 1974), 583
- In the Matter of Raritan Development Corp. v. Silva, 91 N.Y.2d 98, 689 N.E.2d 1373 (New York Court of Appeals, 1997), 481
- Johnson v. Cherry, 726 S.W.2d 4 (Supreme Court of Texas, 1987), 768
- Johnson v. Schultz, 671 S.E.2d 559 (Court of Appeals of North Carolina, 2009), 708
- Kelo v. City Of New London, Connecticut, 545 U.S. 469, 125 S.Ct. 2655 (Supreme Court of the United States, 2005), 472
- Kennedy v. Kidd, 557 P.2d 467 (Oklahoma Court of Appeals, 1976), 265
- Koch v. Aupperle, 274 Neb. 52, 737 N.W.2d 869 (Supreme Court of Nebraska, 2007), 407
- Lawrence v. Town of Concord, 439 Mass 416, 788 N.E.2d 546 (Supreme Judicial Court of Massachusetts, 2003), 54
- Lenhart v. Desmond, 705 P.2d 338 (Supreme Court of Wyoming, 1985), 700
- Lindsey v. Normet, 405 U.S. 56, 92 S. Ct. 862 (Supreme Court of the United States, 1972), 238
- Locklin v. City of Lafayette, 7 Cal. 4th 327, 867 P.2d 724 (Supreme Court of California 1994), 417
- Long v. Long, 1997 Me. 171697, 697 A.2d 1317 (Supreme Court of Maine 1997), 129
- Looney v. Farmers Home Administration, 794 F.2d 310 (U.S. Court of Appeals, 7th Circuit, 1986), 772
- Lucas v. South Carolina Coastal Council, 505 U.S. 1003, 112 S.Ct. 2886 (Supreme Court of the United States, 1992), 561
- Lukens v. Commissioner of Internal Revenue, 945 F.2d 92 (U.S. Court of Appeals, 5th Circuit, 1991), 795
- Martinez v. Affordable Housing Network, 123 P.3d 1201 (Supreme Court of Colorado, 2005), 733
- Matter of Avy v Town of Amenia, 27 A.D.3d 557, 813 N.Y.S.2d 134 (Supreme Court of New York, Appellate Division, 2006), 534
- Mayor and Board of Aldermen, City of Ocean Springs v. Homebuilders Association, 932 So.2d 44 (Supreme Court of Mississippi, 2006), 532

- McGlynn v. Parking Authority of City of Newark, 86 N.J. 551; 432 A.2d 99 (Supreme Court of New Jersey, 1981), 24
- McHuron v. Grand Teton Lodge Company, 9 P.2d 38 (Supreme Court of Wyoming, 1995), 378
- Merrill v. Jansma, 86 P.3d 270, 2004 WY 26 (Supreme Court of Wyoming, 2004), 297
- Mid-State Investment Corporation v. O'Steen, 133 So. 2d 455 (Florida District Court of Appeal, 1st District, 1961), 763
- Nahrstedt v. Lakeside Village Condominium Association, 8 Cal. 4th 361, 878 P.2d 1275 (Supreme Court of California, 1994), 145
- National Audubon Society v. Superior Court, 33 Cal. 3d 419, 658 P.2d 709 (Supreme Court of California 1983), 420
- Nelson v. Heer, 123 Nev. 26, 163 P.3d 420 (Supreme Court of Nevada, 2007), 666
- Noone v. Price, 171 W. Va. 185, 298 S.E.2d 218 (West Virginia Supreme Court of Appeals, 1982), 402
- Northside Station Associates v. Maddry, 105 N.C. App. 384, 413 S.E.2d 319 (North Carolina Court of Appeals, 1992), 227
- Old Port Cove Holdings v. Old Port Cove Condominium Association One, 986 So.2d 1279 (Supreme Court of Florida, 2008), 86
- Penn Central Transportation Company v. City of New York, 438 U.S. 104, 98 S. Ct. 2646, 57 L. Ed. 2d 631 (U.S. Supreme Court, 1978), 497
- Peterson v. Beck, 537 N.W.2d 375 (Supreme Court of South Dakota, 1995), 334
- Phoenix Mutual Life Insurance Co. v. Shady Grove Plaza Limited Partnership, 734 F. Supp. 1181 (U.S. District Court, D. Maryland, 1990), 625
- Piggly Wiggly Southern, Inc. V Heard, 261 Ga. 503, 405 S.E.2d 478 (Georgia Supreme Court, 1991), 203
- Pilgrim v. Kuipers, 209 Mont. 177, 679 P.2d 787 (Supreme Court of Montana, 1984), 696
- Plaza Freeway Limited Partnership v. First Mountain Bank, 81 Cal. App. 4th 616 (California Court of Appeal, 4th District, 2000), 231
- Prieskorn v. Maloof, 128 N.M. 226, 991 P.2d 511 (New Mexico Court of Appeals, 1999), 79
- Regency Homes Association v. Egermayer, 243 Neb. 286, 498 N.W.2d 783 (Supreme Court of Nebraska 1993), 353
- Rolling "R" Construction v. Dodd, 477 So. 2d 330 (Supreme Court of Alabama, 1985), 727
- Runyon v. Paley, 331 N.C. 293, 416 S.E.2d 177 (Supreme Court of North Carolina, 1992), 344
- Sawada v. Endo, 57 Haw. 608, 561 P.2d 1291 (Supreme Court of Hawaii 1977), 157
- Simone v. Heidelberg, 9 N.Y.3d 177, 877 N.E.2d 1288 (Court of Appeals of New York, 2007), 388
- Sinclair Refining Co. v. Shakespeare, 115 Colo. 520, 175 P.2d 389 (Colorado Supreme Court, 1946), 258
- Smith v. Zoning Board of Appeals of the Town of Greenwich, 227 Conn. 71, 629 A.2d 1089 (Supreme Court of Connecticut, 1993), 524
- Somerville v. Jacobs, 153 W. Va. 613, 170 S.E.2d 805 (Supreme Court of Appeals of West Virginia, 1969), 65
- Spear T Ranch v. Knaub, 269 Neb. 177, 691 N.W.2d 116 (Supreme Court of Nebraska, 2005), 412
- St. Onge v. Donovan, 71 N.Y.2d 507, 522 N.E.2d 1019 (New York Court of Appeals 1988), 485
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Preface

Welcome to the most exciting course you will take in law school. Don't believe those who tell you that Property is dull and hard. It may be hard, but it certainly is not dull. It is the battleground of some of the most difficult and painful (yet also most interesting) problems that society encounters. Here is where tenants and landlords take their stands on evictions, slum housing conditions, and rent control (to name only a few of their grievances). Here is where shared owners of property—business venturers, married couples or domestic partners—struggle over who makes the decisions, who owes what, and who owns how much. Here is where owners square off against their neighbors (and the government) about what they can do on their property (with the environmentalists, preservationists and the chamber of commerce all joining in the fray). And here is where sellers and buyers of houses and buildings make their deals and fight their fights over who has to do what about the unforeseen perils that can crop up (the river rising, the soil polluted). Just think about your own feelings when someone has appropriated something that belongs to you and you will appreciate how important property is to people. The criminal law system may make for interesting TV watching, but it doesn't come close to matching the intense attitudes people have about property matters.

Property law can be very complex, which often hurts its reputation among students. This book eliminates as much unnecessary difficulty as possible by providing materials which are clear and correct and current. Cases and statutes have been chosen and edited for maximum clarity and the judicial decisions are thoughtful and well-reasoned, written by intelligent judges wrestling with real contemporary problems. You can also trust that what they say is "right": what a case states to be the rule really is the rule. And the materials deal with the current issues society confronts, not with long vanished disputations from the past. This is not a collection of ancient cases forcing you to learn hundreds of years of history, or involving Byzantine facts which take forever to get straight, or plagued by weird reasoning that only your professor can comprehend.

Knowing the rules is where lawyers start; it is their essential first step to giving advice to clients or representing them in court. Likewise, understanding these materials is only the first step for a student learning the law. Only class can convert academic knowledge into lawyerlike understanding. But you can't understand class if you postpone reading until class is over. You need to know these principles before you walk in to the classroom if you want to start thinking and behaving like a lawyer.

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