

Sample Essay Question

Henry and Katharine owned a summer cottage on Golden Pond in the State of Main. They spent every summer there with their children from time they bought it in 1950. Tracy Spencer owned the property adjoining Henry and Katharine's, but his property does not front on the pond. Unbeknownst to Henry or Katharine, Tracy has occupied their property during the off-season every year since 1950. Tracy ran a water pipe across Henry and Katharine's property to his own to take water from the pond to feed his herring hatchery.

Henry had a stroke in 1980 which left him partially paralyzed. He and Katharine decided that they could no longer vacation at their Golden Pond cottage and that their daughter, Jane, should have it. Katharine wrote a letter to Jane which read as follows:

May, 1, 1980

Darling Jane,

Your father and I have decided that since we can no longer get up to the cottage, and we know that you have always loved being there, we want you to have it. We hope you will find as much pleasure there as we have over the last thirty years.

Love,
Mom & Dad

Jane spent that summer at the cottage and continued to spend occasional weekends there during the rest of the year. She discovered during one of her weekend visits that Tracy had been occupying the property in her absence. Jane confronted Tracy and demanded that he discontinue his use and occupation of the property. He refused, claiming that the property now belonged to him. When her attempts at neighborly persuasion had proven futile, she resorted to bringing an action in ejectment against him.

While this legal action was pending, Henry, Katharine and their son, Peter, were involved in a very serious auto collision. As Henry and Katharine lay dying at the scene of the accident, Henry took from his pocket a key chain and, giving it to Peter, said, "here are the keys to the cottage on Golden Pond. Your mother and I want you to have it."

It seems that Henry and Katharine were devout Republicans who objected to Jane's pro-Mondale activities during the 1980 presidential campaign. They, thereafter, decided that Peter should have the cottage, but had failed to take any formal legal actions prior to the auto accident.

The three were then taken by ambulance to the nearest hospital where Henry and Katharine were pronounced dead on arrival. The wills that each left gave their entire estates to Peter. The wills were property probated and recorded with the office on land records.

Peter recovered from his injuries and thereafter brought an action to eject his sister, Jane.

The following statutes are in force in the State of Main:

Main Rev. Code §250 - Every conveyance of real property not recorded is void as against any subsequent purchase in good faith and for a valuable consideration, from the same vendor, his heirs, or devisees, of the same real property or any portion thereof, whose conveyance is first duly recorded.

Main Rev. Code §5540 - The following actions and proceedings must be commenced within twenty-one (21) years of the time of their first accrual:

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(b) An action for the possession of real property

The two actions have been consolidated and you are the presiding judge. Write your opinion discussing all the relevant issues raised by the facts and resolving the dispute.