

PROPERTY I MINI-HYPOTHETICAL QUESTION AND ANSWER

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Here please find a simple essay question and, starting the next page, a sample answer. To best practice for the exam, try writing your answer first, before looking at the model.

Essay Question

Gary took Allison to dinner, where he gave her a gold bracelet engraved, "I wuv you, Snugglebuns!" She put it on. Gary drove Allison back to her house, but when he tried to kiss her goodnight on her front doorstep, she drew away, hurled the bracelet into an adjoining yard, and said, "I'm sorry, Gary, but you nauseate me. We're over." Gary retrieved the bracelet and drove away. Describe the property rights in the bracelet.

Sample Essay Answer

To describe the property rights in the bracelet requires that we name who has rights to it and what rights they have, which in turn requires that we trace the chain of title. We can assume that initially Gary enjoyed a fee simple absolute in the chattel property—the bracelet—since nothing in the facts suggests otherwise.

Did Gary give the bracelet to Allison? To make a gift requires satisfaction of three elements: An intention by the donor to transfer title, delivery of the gift if at all possible (else delivery constructively or symbolically), and acceptance by the donee. Gary quite evidently meant for Allison to have the gift and he delivered the bracelet itself to her. Did she accept? It seems most likely that she did, given that she wore the bracelet for some time before abandoning it. Gary thus gave to Allison absolute title to the bracelet.

Did Allison retain property rights in the bracelet? To abandon property, its owner must intentionally and voluntarily relinquish it with not intent to reclaim it (text p. 109). By throwing the bracelet away, Allison showed her intent to abandon it, and she evidently acted voluntarily, as she was under no compulsion. It does not seem likely, moreover, that she had any intent to reclaim the bracelet, given that she threw it into her neighbor's yard.

Did Allison's neighbor win property rights in the bracelet? *Hannah v. Peel* held that while the possessor of land is entitled against the finder of all chattels found attached to or in the land, the same does not necessarily follow for chattels found on the property. In contrast to *Hannah*, however, the yard owner here had (we can presume) actual possession of the property, which suggests ownership should follow (*Parker v. British Airways*, discussed at text p. 107). By analogy, that owners of land presumptively own abandoned ships found on their property—even if someone else finds them (text p. 113)—and also constructively own wild animals on their property (text p. 33). Allison's neighbor thus had some claim to the bracelet.

Did Gary win better title to the bracelet, by finding it, than Allison's neighbor? Gary was, in contrast to the plaintiff in *Hannah*, trespassing on the neighbor's property, a fact that renders him unable to secure better title than the property owner—unless the trespass is "trivial or merely technical." *Favorite v. Miller*, quoted p. 107 of text. Although we could use more facts, here, it sounds as if Gary's trespass went beyond that. If so, he had worse title than the neighbor.

What was the state of Gary's title to the bracelet?
Possession gives even a thief title good against all but the true owner and prior possessor of a chattel. *Armory v. Delamirie*. Even if we regard him a little better than a trespasser and thief, therefore, his possession of the bracelet gave him title good against all but Allison's neighbor. There is no other claimant to the bracelet, given that Gary had given complete title to Allison, who had abandoned it by throwing it onto the neighbor's property.