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1. The issue is whether the deed conveying Abby's property to Courtney as life tenant and remainder to Madisen was properly made and delivered.

To be enforceable, a deed needs to be delivered to the grantee or the grantee needs constructive delivery. Here, Abby told Courtney and Madison about the deed but never delivered the deed to them. There could have been constructive delivery if Abby had tried to deliver the deed but they has asked that she hold onto it, but here nothing indicates that she ever tried to deliver the deed to them.

However, the deed was recorded. Although it is not clear who recorded it, we can assume it was Abby based on her possession of the deed. Accordingly, the recording is enough to satisfy delivery, since it is clear that she intended for the deed to be delivered and Courtney or Madison could have accessed it after it was recorded. Thus, there was proper delivery of the deed.

The description of the land, which was described as "the 100-acre tract of land and house that I own in Travis County, Texas," was sufficient. A deed just needs to identify the land, it does not need to satisfy formal description requirements like metes and bounds. Here, Abby only owned one tract of land in Travis County, so it was clear what land she was referring to. So, the deed was properly made and delivered and was enforceable.

Because the deed was written, there is no statute of frauds issue with Abby's description to Courtney and Madison of the conveyance, even though the subject of the conveyance is real property.

2. Abby is not entitled to receive any payments, as she validly conveyed the house to Courtney as life tenant and the remainder to Madison. She has given her entire interest in the house and cannot claim the rent or royalty payments. The question is whether Courtney, as life tenant, or Madison, as the remainder owner in fee simple, is entitled to receive them.

A life tenant has the right to receive rent if a property is leased during the life tenancy. The property is leased to Wyatt, who pays \$250 per month in rent. Courtney is the life tenant so she is entitled to receive the rent payments from Wyatt.

A life tenant does not have permission to sell natural resources from the land, except under the open mines doctrine. Generally, the natural resources belong to the remainder holder. However, under the open mines doctrine, a life tenant can continue a preexisting use that was in effect when the life tenancy started. Here, Abby's lease with the oil company was already in effect when she deeded the property to Courtney and Madison, so the oil lease can continue. Royalty payments are income paid based on a portion of the profit from the production of oil from the land, so they are paid to whoever is entitled to payment for the sale of the land's natural resources. Because the use was preexisting, the life tenant is permitted to be paid for the natural resources taken from the estate during the life tenancy. So, Courtney should receive the royalty payments.

3. Courtney, as life tenant, is responsible for replacing the front door lock but not the carpet. She took the land subject to Wyatt's lease, and accepts the rent payments from him. Thus, she is obligated to perform the functions of a landlord. The door lock, which is necessary for Wyatt's safety within the house, needs to be replaced, and she needs to either replace it or allow Wyatt to replace it and deduct the cost from the rent. The carpet, however, which is more minor and not necessary under usual landlord-tenant agreements without a specific promise to replace, does not need to be replaced. Abby may also have contract liability under the original lease with Wyeth.

4. Courtney is required to pay the taxes to Travis County, and Abby is required to pay the mortgage

interest.

A life tenant is generally required to pay taxes for the property. The holder of the remainder interest can also be held liable for taxes if the life estate holder does not pay them. So Courtney must pay the taxes, but if she does not, Madisen can be required to pay the taxes. Generally, a life tenant is also required to pay interest on a mortgage, and the remainder owner pays the principal. However, because here neither Courtney or Madisen assumed the mortgage, Abby remains liable on it.

Abby is required to pay the mortgage. Although she deeded the land to Courtney and Madisen, neither of them agreed to assume the mortgage, so the original mortgagee remains liable. So the Bank can still collect from Abby for the mortgage interest payments.

END OF EXAM

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1. Yes, the deed executed and recorded by Abby is a valid conveyance of the property to Courtney and Madison. At issue is whether the description of the land is sufficient.

Under Texas law, a conveyance of real property must be made in writing and it must contain a sufficient property description. The property description does not need to be exact but the property needs to be readily determinable. If the grantor only owns one piece of property in a county, then the general description of the land in own in such county will be sufficient. The deed must also be recorded, this may either be by having two witnesses sign the deed, having it notarized, or having it recorded in the county clerk's office. The deed must contain who the property will go to and if there are any encumbrances on the property, these must be listed.

Here, Abby executed a deed to Courtney for life and then to Madison in fee simple and described the land as "the 100-acre tract of land and the house that I own in Travis County, Texas." Since Abby only owned one piece of property in Travis County, this property description will be sufficient because it is readily determinable. The deed was orally accepted by Courtney and Madison and the deed was recorded in the county clerk's office. The deed contained a description of three encumbrances of the property which put Courtney and Madison on notice of them. Furthermore, Courtney and Madison did not have receive a copy of the deed or sign the deed for the conveyance to be valid. Recordation of a deed is presumed to be acceptance. Therefore, the deed executed and recorded by Abby was a valid conveyance of the property to Courtney and Madison.

2. Courtney is entitled to the rent and royalty payments.

Under Texas law, the life tenant is entitled to the income made off of the property during their tenancy. Under the open mines doctrine, if there is a lease already in place on the land when a life tenant takes title, the life tenant is entitled to all the income off of the lease. However, if the oil and gas lease was not taken before the conveyance was made, both the life tenant and the remainderman must sign the lease or it would be invalid. Furthermore, the life tenant may not take out an oil and gas lease on her own because it would constitute waste.

Here, Courtney is the life tenant and the premises is being leased to a tenant. Therefore, Courtney is entitled to the rent payments from the lease of the land. Furthermore, Abby created the oil and gas lease before she conveyed the property to Courtney and Madison. Under the open mines doctrine, since the lease was in place before the conveyance the life tenant is entitled to all the proceeds from the lease, including the royalty. If Abby had given herself a non-participating mineral interest or royalty interest, Abby would be entitled to the royalty. But since Abby did not retain anything, the entire royalty goes to Courtney. However, if the oil and gas lease expires and Courtney wants to re-lease the land, she must have Madison's approval and the income from the lease would be apportioned. Therefore, Courtney is entitled to the rent and royalty payments.

3. Abby and Courtney are responsible for replacing the lock and Courtney is responsible for replacing the worn out carpet.

Under Texas law, the landlord is statorily obligated to make all necessary repairs to keep the premises safe and habitable for the tenant. When a prior landlord conveys the premises to a new landlord, the prior landlord is liable to the tenant under privity of contract and the new landlord is liable to the tenant under privity of estate. Therefore, both the prior and the new landlords can be held responsible for keeping the premises safe and habitable to the tenant. The life tenant is responsible for keeping the property in reasonable repair and if they do not, they are liable to the remainderman for waste.

Here, Abby had leased the house to Wyatt and then conveyed the land to Courtney and Madison. Since Abby was the original landlord, she is liable to Wyatt under privity of contract and since Courtney is the life tenant, the new landlord, she is liable to Wyatt under privity of estate. Because Texas law requires the landlord to keep the premises safe and habitable by statute, Courtney, as the current landlord, is responsible for fixing the broken lock in order to keep the premises safe and in livable conditions for the tenant. Therefore, if Courtney does not make the repairs to the lock, Wyatt can go after Abby to make the repairs. Even though worn out carpet does not make the premises uninhabitable, Courtney still has an obligation to replace the carpet because she is the life tenant and is responsible for keeping the property in reasonable repair. Therefore, Abby and Courtney are responsible for replacing the lock and Courtney is responsible for replacing the worn out carpet.

4. Courtney is responsible for paying the interest and the taxes.

Under Texas law, the life tenant is responsible for paying taxes and interest on the property. The remainderman may pay the taxes and interest to prevent the termination of their interest by foreclosure of the property, but she is not required to do so. The remainderman is responsible for paying the principal of the mortgage and the life tenant is responsible for the interest.

Here, Abby took out a loan on the property before the conveyance and conveyed the land to Courtney and Madison subject to the Bank's lien. Courtney must pay the interest and taxes on the property because she is the life tenant and is required by law to do so. Madison may pay the interest and taxes to prevent a loss of her interest due to foreclosure but she is not required to do so because she is the remainderman. Therefore, Courtney is responsible for paying the interest and the taxes.

END OF EXAM
