

Law 2112- Doctrine of fixtures exam template

Introduction;

The issue in this scenario invokes the doctrine of fixtures and concerns whether [insert item] act as chattels or fixtures. Since there is no mention of whether these objects have been classified as chattels or fixtures under a contract, common law dictates that the doctrine of fixtures tests must be applied. [Insert party A] would prefer a construction that allows the items to be classed as chattels [insert consequence]. However, [insert party B] would prefer the items to be declared as fixtures [insert consequence]. If applicable ... to address this question the courts would rely upon the precedent of *NAB v Blacker* that a system of multiple parts can have each element considered separately.

Presumptions;

- As the [insert object] isn't affixed to the land but rests on its own weight it is presumed to be a chattel and the party asserting otherwise, so [insert party] bears the onus of proof (NAB).
- Alternatively, as the [insert object] is affixed to the land it is presumed to be a fixture and the party asserting otherwise, so [insert party] bears the onus of proof (NAB).

Degree of annexation;

The courts must consider the degree of annexation which relates to how the object is connected to the land and to what extent: a higher degree of annexation pointing towards the object being a fixture.

1. The courts will consider an array of factors from *NAB v Blacker* such as the effect of removal on the land. Note: severe effect = fixture.
 - [Party A/B] may analogise to *Belgrave Nominees* where the removal of the bolted air conditioner would cause severe damage to the land pointing towards it being a fixture.
 - However, if applicable [party A/B] could distinguish *Belgrave Nominees* as the air conditioner was attached to the roof and thus in this scenario it would cause less damage as it wouldn't be structural to the building.
2. The courts must also assess the mode and structure of annexation relating to the strength of the attachment and what is used to affix the item.
 - If applicable: similar to *Belgrave nominees* the item was attached with 4 bolts/similar to *Leigh v Taylor* the item was attached with nails [insert factual matrix] and hence this enhances a finding of a fixture.
 - [Party A/B] may rely upon the fact that this is only circumstance of the case and not always the most important as shown in *Leigh v Taylor* where a tapestry hung on the wall with a multitude of nails was determined a chattel due to considerations of purpose.
3. The courts must also consider the effect of removal on the object as severe effect indicates a fixture and vice versa.
 - If applicable [Party A/B] would argue that as it is bolted/heavily attached to the ground this implies it would be difficult to remove and requires pressure that could damage [insert item] pointing towards it being a fixture.

4. The final factor that must be analysed is the cost of removal because if the cost of removal exceeds the value of replacing the item or the item itself this points towards a finding of a fixture.
 - [Party A/B] would argue that the cost of removal is low as it would incur minimal labour which enhances the ability of the [insert item] to be considered a chattel.
 - In response [Party A/B] could rebut that this item isn't very expensive and the cost of labour due to the hours needed to remove it may exceed the value of this camera.
 - Thus, as this factor is contentious it cannot be concluded to assist either side.

Overall, on balance it appears that the degree of annexation points towards/away from the [item] being a fixture which assists [Party A/B's] case.