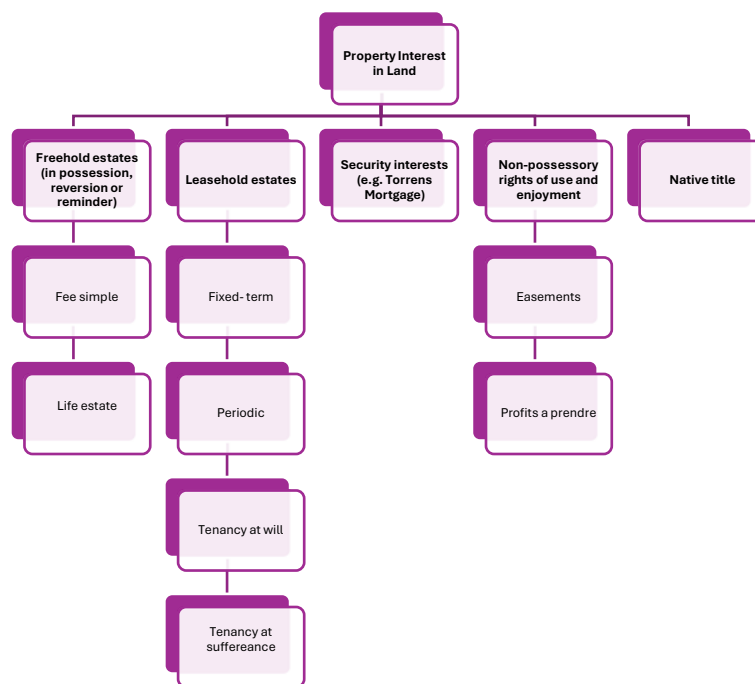


		Requires proof of causing damage.	
--	--	--	--

Week 1: Land Titles, registration, formalities and consensual transactions

Property interest in land:



- **Freehold estates:** Free hold estates is the best form of property rights given to a person. This is full ownership. There are two types of freehold estates:
 - fee simple estate: You own the land forever. You can sell it, gift it, leave it in a will.
 - life estate: You can use the land for your lifetime, but after you die it returns to someone else, you don't own it forever and you can't give it away in a will.

The difference between a free simple estate and a life estate is that the person who has a life estate has present possession rights to a property but cannot devise any further rights. When the person passes away, the title of the property will revert back to the original owner of the property.

- **Leasehold estates:** Leasehold estates is a lower form of estate, but also grants proprietary rights. These are temporary rights. There are different types of leases:
 - Fixed term: Where the time period is fixed. Usually, you start with a fixed term lease and then convert to a periodic lease.

I. Indefeasibility of Title (Torrens System)

This category focuses on the core principles of the Torrens system, statutory fraud, and the exceptions to indefeasibility.

Abigail v Lapin (1934) AC 491 (PC)

Principle Illustrated	Earlier Unregistered Equitable Interest vs. Later Unregistered Equitable Interest,
Facts,	The Lapins (L) executed a transfer of land to H as security for a loan, granting signed transfer documents but failing to lodge a caveat to protect their equitable interest (equity of redemption). H then fraudulently mortgaged the land to Abigail (A), who acted in good faith. A lodged a caveat before L.,
Issue,	Did L's earlier equitable interest lose priority due to postponing conduct (negligence/failure to protect their interest), thereby elevating A's later equitable interest?.,
Decision/Outcome,	The Privy Council held that L's equity was postponed . Lord Wright stated the test: the holder of the compromised interest must have been guilty of some act or default that prejudiced their claim. By failing to caveat and leaving the signed transfer with H, L created the conditions for the fraud and induced A's reliance. The first in time rule was shifted.,
Principle,	Priority between equitable interests depends on the overall conduct and equitable behaviour of the parties. The first in time prevails only if the merits are equal; otherwise, the earlier interest may be postponed if their actions (like failure to lodge a caveat combined with other factors) misled the later interest holder into acting to their detriment.,

AGC v De Jager (1984) VR 483

Principle Illustrated,	Statutory Fraud (Attestation Error/Forgery),
Facts,	AGC (the mortgagee) presented a mortgage document for registration that contained a forged signature. The primary issue was whether AGC's actions constituted statutory fraud, given that AGC itself did not commit the forgery. AGC had failed to take appropriate actions to verify the mortgage was duly executed.,
Issue,	Did the presentation of a document for registration, knowing it had a forged signature, constitute statutory fraud?.,
Decision/Outcome,	The court held that AGC was guilty of statutory fraud. Although they did not forge the signature, the fact that they did not take appropriate steps to verify the execution and subsequently presented the void document for registration was sufficient.,

I. Indefeasibility and Torrens System

This category covers the core principles of the Torrens system, the statutory exceptions to indefeasibility, and the regulation of title registration and priority.

Statute	Section	Principle Illustrated
Real Property Act 1900 (NSW) (RPA)	General	Must be familiar with its provisions, as it regulates Torrens title land in NSW.
RPA	s 41	Instruments not effectual until registered: No dealing shall be effectual to pass any interest in land until it is recorded in the Register.
RPA	s 42	Estate of proprietor paramount: Registered proprietor holds their interest absolutely free from all other unregistered interests, subject to some exceptions. General provision is that unless an interest is registered, it does not exist.
RPA	s 43	Relates to notice ; states that knowledge of an unregistered interest shall not of itself be imputed as fraud.
RPA	s 46A	Registered proprietor may create an easement by registering it as such in the approved form; specifically excludes prescriptive easements.
RPA	s 89(3)	Permits the court to declare whether or not any land is affected by an easement.
Transfer of Land Act 1958 (Vic) (TLA)	s 30(2)	Presumes a joint tenancy where two or more people are registered as proprietors of Torrens land, provided the four unities exist and there are no contrary words.
TLA	s 34(1)	First in time rule: Establishes that priority between registered interests is determined by the order of registration.
TLA	s 40	Instruments not effectual until registered: No instrument shall be effectual to create, vary, extinguish, or pass any interest until registered.
TLA	s 41	Certificate to be conclusive evidence of title: No folio shall be impeached or defeasible by reason of any informality or irregularity.
TLA	s 42(1)	Estate of proprietor paramount: Registered proprietor holds land subject to recorded encumbrances, and is absolutely free