

Personal Property Law (1) (Chattels v Fixtures)

Process:

Chattels v Fixtures:

- 1) **Is it personal property?** (definable, identifiable, capable of being transferred and is permanent or enduring in nature) and is it tangible/ intangible - *National Provincial Bank v Ainsworth*
- 2) **What presumptions apply? Was it an initially/still is a chattel or has been converted to a fixture through annexation?**
 - **Chattel:** There is a presumption an item is a chattel if it can be rested on its own weight and not otherwise attached to the land or building - *Belgrave Nominees Pty Ltd v Barlin-Scott Airconditioning (Aust) Pty Ltd – can be rebutted by NAB*
 - **Fixture:** There is a presumption that chattels that are annexed to land so that they are treated in law as part of the land *Reid v Smith – can be rebutted by NAB*
 - **Fixture:** It is presumed that objects that are affixed to the land or buildings, to any extent, are fixtures and part of the land (*Segal v Osborne/ Re May Bros Ltd*)
 - ** remember to specify these presumptions can be rebutted by the NAB test**
- 3) **Modern test:** *NAB Ltd v Blacker* - all the relevant facts and circumstances must be considered (with degree and object of annexation tests remaining relevant) (*Apply NAB v Blacker*)
- 4) **Degree of annexation:** *Holland v Hodgson* - degree to which item was physically attached to the land or fixture, How much of the item is attached, How firmly or strongly the item is attached, Whether item is merely resting by its own weight or is fixed with bolts, welded, nailed etc. (*Wiltshier; Belgrave Nominees*)
- 5) **Object of annexation:** *Leigh v Taylor* - purpose for which an item was attached to a fixture or land, Whether the purpose of attachment was for better enjoyment of the land or for better enjoyment of the object itself, Whether the item was attached for a temporary or permanent purpose, What was the purpose of any physical annexation e.g. was it to merely stabilise the item or actually secure it? Nature of the item, and the nature of landowners' title
- 6) **If it is a chattel**, it can be removed from the land, if it is a fixture then it can be treated as part of the land and cannot be removed (*Reid v Smith*)
- 7) **Conclusion - All other relevant circumstances, e.g. Cost of removal, whether it's removal will damage the property** - *NAB Ltd v Blacker, Holland v Hodgson*

Whether removal would cause damage to remaining structure or to the item itself, Whether cost of removal would exceed the value of the removed item

- (Therefore, based on the modern test in *NAB* and the degree and object of annexation X is likely a Chattel/fixture.)