LAWSTUDENTS · BARE ACT OVERVIEW

The Transfer of Property Act, 1882

Civil Law · Property Law

1. Objective and Scope

The Transfer of Property Act, 1882 governs the transfer of immovable property between living persons (inter vivos). It supplements the general law of contract in matters relating to sale, mortgage, lease, exchange and gift of immovable property.

2. Key Concepts

- **Section 5** — defines 'transfer of property' as an act by which a living person conveys property to one or more other living persons.
- **Section 6** — what may be transferred; certain interests (e.g. a mere right of re-entry, an easement) cannot be transferred apart from the dominant heritage.
- **Sections 54–57** — sale of immovable property, defined as a transfer of ownership in exchange for a price.
- **Sections 58–104** — mortgages of immovable property, including simple mortgage, usufructuary mortgage, and mortgage by conditional sale.
- **Sections 105–117** — leases of immovable property, including the rights and liabilities of lessor and lessee.
- **Doctrine of lis pendens (Section 52)** — property that is the subject matter of pending litigation cannot be transferred so as to affect the rights of the other party to the litigation.

3. Exam-Focused Summary

- Distinguish a lease (Section 105) from a licence (under the Easements Act).
- Explain the doctrine of part performance (Section 53A) and the protection it gives a transferee in possession.
- List the different kinds of mortgages recognised under Section 58.