

PROPERTY PRACTICE QUESTIONS

ANSWER 12C

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- 1) **D** (The rule in Shelly's case deals with the heirs of the grantee who have a remainder in the same property as the grantee.)
- 2) **C, D**
- 3) **Taker is unborn**
Taker is unascertained
Taking is subject to a condition precedent
- 4) **A, D**
- 5) **Reversion**
Right of re-entry/ Power of Termination
Possibility of reverter
- 6) **T**
- 7) **T**
- 8) **Remainders**
Executory Interests
- 9) **F**
- 10) **Trustee**
- 11) **Settlor**

12) T

13) A, B

14) Executory interests (springing or shifting)

Contingent remainders

Vested Remainder subject to open/subject to partial divestment

15) Doctrine of Equitable Approximation

16) Rule Against Perpetuities

17) Destructibility of Contingent Remainders

18) A Determinable Interest

19) A Condition Subsequent Interest

20) The Statute of Uses

21) *Quia Emptores*, Substitution

22) C

(Without the RAP analysis, Alex has a shifting executory interest, because his interest will divest Andrea's interest;

Because it is an executory interest, RAP analysis is in order;

Alex's interest will not vest until the contingency occurs, i.e. until a man lands on Saturn. It is not clear at the time of grant whether a man will land on Saturn within the life in being at the time of the grant + 21 years + 9 months. Therefore, RAP is violated.)

23) C

(Arthur has a fee simple subject to an executory limitation because the Humane Society will untimely divest his interest upon the occurrence of the condition;

The Humane society has a shifting executory interest because it will divest the estate of another transferee and not the grantor.)

24) D (Because reversion is what the grantor retains when he grants a life estate. After the expiration of the life estate, the interest will revert back to the grantor.)

- 25) **D** (Because a possibility of reverter is what the grantor retains when he grants a determinable interest.)
- 26) **C**
(Rob has a life estate because of the words “for life;”
Ted’s heirs have a contingent remainder, because Ted is alive, and we don’t know who the person’s heirs are until that person dies.)
- 27) **D, E**
(Bridget’s children have a vested remainder subject to open, because although their interest is vested, it remains open or subject to partial divestment for as long as Bridget is alive and can have more children;
Bridget has an indefeasibly vested remainder, because the vesting of her interest is not dependent upon occurrence of any condition.)
- 28) **D** (because the grant gives an interest to Harry and then takes it away by the possibility of the condition subsequent.)
- 29) **A, B, D**
(Amy has a term of years because the grant specifies the number of years for which she has the grant;
Bonnie has a vested remainder subject to total divestment because her vested interest is subject to a condition subsequent, i.e. Bonnie’s pregnancy;
Carol has an executory interest because upon occurrence of the contingency she will prematurely divest Bonnie of her estate. Carol’s interest is shifting because she would get it from another transferee, Bonnie, and not the grantor.)
- 30) **K** (because of the words “so long as.”)
- 31) **J** (because of the language “and the heirs of her body.”)
- 32) **I** (because of the “if...then” construction of the condition subsequent.)
- 33) **E** (because the measuring life is Mark’s and not Becky’s.)
- 34) **I** (because of the “provided that” language of the condition subsequent.)
- 35) **H** (“issue of his body” language indicates that it is a fee tail, whereas the word “male” designates the fee tail as male.)

36) M

(Because Mary's estate is granted for a specified number of years; Mary's estate is subject to an executory limitation because it may be untimely divested by Hector upon the occurrence of a condition, i.e. her marriage.)

37) G

(Words "for life" indicate that Veto has a life estate; Veto's life estate is subject to an executory limitation because upon the non-occurrence of the condition by the specified time, i.e., Veto not marrying, Veto's life estate will be untimely divested by Al.)

38) C (because "her heirs" are words of limitation that indicate a fee simple absolute.)

39) B (because of the words "for the natural term of his life.")

40) F (because the estate is granted for a fixed number of years.)

41) C

(The Battered Women's Shelter has an executory limitation because upon the occurrence of the condition, i.e. the annexation of the property to the City of New Braunfels, the Battered Women's Shelter will untimely divest the daughter's estate;

It is a shifting executory limitation because it divests another transferee and does not spring from the grantor;

Note that the Battered Women's Shelter's interest is not subject to RAP analysis, because the Battered Women's Shelter is a charitable organization.)

42) C

43) A, B

(Because one of the elements of the executory interest is that it is not a remainder, look for the elements that a remainder cannot have;

A: A remainder cannot divest a prior estate, thus if a future interest unnaturally ends a prior estate and goes to the third party, then it will be an executory interest;

B: A remainder must follow the present estate without a gap in between. Thus if there is a gap, it must be an executory interest.)

44) Common Law

45) *Cy Pres*

46) T

47) T

48) T

49) D

50) H

(Alison's interest is a remainder because it does not divest Manard's life estate and follows it without any gaps;

It is contingent upon a condition precedent because Alison cannot take unless she has graduated from medical school by the time Manard dies.)

51) I (because the grant gives the interest to Alex and then takes it away by the possibility of a condition subsequent, i.e. Alex's death.)

52) G

(Laura's interest is not a remainder because it does not immediately follow Alex's life estate, there is a one year gap;

Laura has a springing executory interest because it will spring to Laura from the grantor, since after Alex' death the interest will revert back to the grantor for one year subject to an executory limitation by Laura's upcoming interest.)

53) D

(Nancy has an executory interest because upon the occurrence of the condition, i.e. if the property being used for a commercial purpose, Nancy's interest will untimely divest Becky's fee simple;

Nancy's interest is a shifting one, because it shifts from another transferee, and does not spring from the grantor.

However, the interest violates RAP because there is no way to know whether the property will or will not be used for commercial purposes within the perpetuities period.)

54) B (because Stan's interest naturally follows Brad's interest without any gaps and it is not subject to any conditions precedent or subsequent.)

- 55) **D** (because we don't know whether in 21 years and 9 months from the lives in being a woman will be elected president of the United States.)
- 56) **F** (Alison's heirs are unascertained because we don't know who the person's heirs are until that person dies. Alison is still alive.)
- 57) **H** (George's children have a remainder because their interest does not prematurely divest Sarah's life estate and follows it without any gaps; Their interest is contingent upon a condition precedent because in order to take, they have to join a basketball team by the time of Sarah's death.)
- 58) **E** (Because Ted may have more children and they may partially divest the estate of the children currently alive.)
- 59) **G** (Because Manard's interest will divest the grantor of his interest after some period of time during which no other transferee has a present interest.)
- 60) **A** (Because Ben's children's ability to take is contingent upon their birth.)