

# Contents

Foreword	xi
Preface to the Second Edition	xiii
Preface to the First Edition	xv
Table of Cases	xvii
Table of Legislation	xxvii
<b>1. Introduction to Property – Generally</b>	<b>1</b>
A. Overview	1
B. Organization	2
C. Definition	2
D. Possession and Bailment	4
E. Possession and the Finder Doctrine	5
F. Classification of Property	6
<b>Part 1: Real Property</b>	<b>9</b>
<b>2. Estates</b>	<b>13</b>
A. Freehold Estate	13
i. Fee Simple	13
ii. Fee Tail	15
iii. Life Estate	15
B. Co-ownership – Types	15
i. Joint Tenancy	16
ii. Tenancy in Common	18
C. Co-ownership – Creation	19
D. Co-ownership – Determination	20
<b>3. Licence and Leasehold Estate</b>	<b>23</b>

A. Introduction	23	o. Fixtures	57
B. Licence – Types	24	o. Adverse Possession	61
i. Bare Licence	25		
ii. Licence Coupled with an Interest	26	<b>Part 2: Encumbrances</b>	<b>65</b>
iii. Contractual Licence	26		
C. Leases – Definition	27	7. Servitudes	67
i. Exclusive Possession	27	A. Easements	68
ii. Fixed Duration	29	B. <i>Profit à Prendre</i>	69
D. Leases – Types	29	C. Creation of Servitudes	70
i. Fixed-term Lease	30	i. By Statue	70
ii. Periodic Lease	30	ii. By Express Grant	70
iii. Tenancy at Will	30	iii. By Express Reservation	71
iv. Tenancy at Sufferance	31	iv. By Implied Grant	71
E. Leases – Formal Requirements	32	a. Under the rule in the case of <i>Wheeldon v Burrows</i>	71
F. Obligations of Landlords and Tenants	33	b. Arising by Necessity	72
i. Landlord's Implied Covenants	34	c. Servitudes of Common Intention	72
ii. Tenant's Implied Covenants	36	d. Implied Reservation	73
iii. Usual Covenants	37	e. Presumed Grant (Prescription)	73
iv. Remedies for Breach of Covenants	38	(1) Prescription at Common Law – User since Time Immemorial	74
4. Alienation and Determination of Lease	39	(2) Doctrine of Lost Modern Grant	74
A. Alienation of Leases	39	(3) Prescription Act 1832	75
B. Determination of a Lease	39	D. Extinguishment of Servitudes	75
i. Lapse of Time	39	i. Legislation	75
ii. Notice	40	ii. Express Release	75
iii. Surrender	40	iii. Implied Release	75
iv. Merger	41	iv. Unity of Possession and Ownership	76
v. Forfeiture	41	v. Effluention of Time	76
a. Relief against Forfeiture	42	vi. Alteration in the Dominant Tenement	76
b. Waiver	43	E. Restrictive Covenants	77
vi. Estoppel	44		
vii. Distress	44	3. Mortgages	81
C. Domestic Leases	45	A. Mortgages	81
i. Landlord's Procedures under the Former Provisions	47	B. Legal Mortgage	82
ii. Tenant's Procedures under the Former Provisions	48	C. Equitable Mortgage	84
iii. Landlord's Grounds for Opposition under the Former Provisions	49	D. Landholding in Hong Kong – Leasehold Mortgage	85
iv. Lands Tribunal's Procedures under the Former Provisions	52	i. Mortgagee's Rights and Remedies	86
D. Commercial Leases	54	a. Damages	86
E. Transfer of Deposits	55	b. Entry into Possession	86
		c. Foreclosure	87

d. Exercise of the Power of Sale	88
e. Receivers	89
ii. Mortgagor's Rights and Remedies	90
<b>Part 3: Conveyancing</b>	93
9. Leasehold Ownership in Hong Kong	95
10. Multi-storey Buildings in Hong Kong	99
A. Ownership Schemes	100
i. Consent Scheme	100
ii. Non-consent Scheme	101
B. Incorporated Owners	101
C. Deed of Mutual Covenant	102
11. Sale and Purchase Agreements	105
A. General Legal Considerations	105
B. Preliminary Agreements/Provisional Agreements	108
i. Role of the Estate Agent	109
ii. Contents of Preliminary Agreements	109
iii. Enforceability of Preliminary Agreements	110
C. The Formal Sale and Purchase Agreement	115
i. Generally	116
ii. The Contents of the Sale and Purchase Agreement	117
D. Remedies	124
i. Specific Performance	125
ii. Repudiation and Rescission	125
iii. Action to Recover Damages	126
iv. Other Remedies	130
a. Forfeiture of Deposit	130
b. Liquidated Damages – Payable by Seller	131
c. Liquidated Damages – Payable by Buyer	132
d. Exclusion of Common Law Remedies	133
E. Assignment	133
i. Formal Requirements and Practices	133
ii. Confirmations	135
iii. Nominations	136
iv. Covenants and Obligations	137
v. Mortgages	138
vi. Co-ownerships and Multi-storey Buildings	138
F. Completion	139

i. Completion Practices	139
ii. Stamp Duty	141
iii. Land Registration	141
iv. Title Registration	144
Notes	147
References	205
Index	207