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Property Law

This is an innovative examination of the law's treatment of property. It looks at the nature and function of property rights in resources ranging from land to goods and intangibles, and provides a detailed analytical exposition of the content, function and effect of the property rules which regulate our use of these resources, and the fundamental principles which underpin this structure of rules. It draws on a wide range of materials on property rights in general and the English property law system in particular. The book includes the core legal source materials in property law along with readings from social science literature, legal theory and economics, many of which are not easily accessible to law students. These materials are accompanied by a critical commentary, as well as notes, questions and suggestions for further reading.

ALISON CLARKE is Senior Lecturer in Laws at University College London. She has devised and taught innovative property law courses for undergraduate law students and specialised postgraduate courses in property-related areas in insolvency and maritime law. She spent two years seconded to the Law Commission to work on reform of the law of mortgages and formerly practised as a solicitor in a commercial practice specialising in land transactions. She has written widely on theoretical aspects of property, with particular emphasis on communal land rights and evolving patterns of land usage, whilst continuing to maintain links with law in practice by giving lectures and seminars to professional lawyers on ship mortgages and commercial property.

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Preface

Property law tends to be regarded by students as both dull and difficult. The main objective of this book is to demonstrate that it is neither. The book is based on the Property Law seminars we devised and taught in the Faculty of Laws at University College London. Like the seminar course, the book looks at the nature and function of property rights in resources ranging from land to goods and intangibles, and provides a detailed analytical exposition of the content, function and effect of the property rules which regulate our use of these resources, and the fundamental principles which underpin their structure.

We draw on a wide range of materials on property rights in general and our property law system in particular, including core legal source materials on selected topics as well as readings from social science literature, legal theory and economics. Inevitably the coverage is not comprehensive, but we have included notes, questions and suggestions for further reading to provide a starting point for anyone wanting to take matters further. As in any other property law book, we draw on a lot of material from decided cases, but to keep the book at a manageable length we have put most of the edited case extracts we use, together with some other materials, on the associated website, www.cambridge.org/propertylaw/ rather than in the book itself. This has enabled us to use much longer extracts than would otherwise have been feasible, and also to introduce a much wider range of materials.

We have both been involved in teaching all the topics covered in this book, but have taken separate responsibility for different parts of the book: Chapters 1–5, 7–8, 10–15 and 17–18 were written by Alison Clarke, and Chapters 6, 9 and 16 by Paul Kohler.

The content of the book has been greatly influenced by the many stimulating contributions made to seminars by students over the years, and by our colleagues who have taught on the seminar course with us at UCL and elsewhere: our thanks go to all of them, and to our respective families and friends for their help and encouragement.

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Finally, the book is dedicated by Alison to Leo, and by Paul to his partner, Samantha, and his four daughters, Eloise, Tamara, Bethany and Saskia, whose endless disputes on the ownership and possession of each other's clothes has taught him more about the fundamentals of property than any number of cases in the Court of Chancery.

ALISON CLARKE
PAUL KOHLER
November 2004

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