LAND LAW

# **Skills Exercise Problem**

# Instructions

You should read the below problem facts, and the legal principles which follow. You are not expected to do any further reading, or to do any additional research in your textbooks into understanding the legal principles (these principles will be covered in lectures and in your preparation for Tutorial 2).

You should consider how you would approach this problem if you were required to answer it, using the legal principles provided. Your approach will be tested in the online skills exercise.

# Problem Facts

## George is the registered proprietor with absolute title of 2 Acacia Avenue, which he purchased to £70,000 in 1997. George provided £40,000 of the purchase money, his sister, Henrietta, provided £20,000 and the remaining £10,000 was provided by George’s wife, Jennifer.

## George has now agreed to sell 2 Acacia Avenue to Lionel. Henrietta and Jennifer are in Australia for six weeks visiting an old school friend.

Advise Lionel whether he will take subject to the interests of Henrietta and Jennifer.

# Principles of Law

A person who contributes to the purchase price of property gains an equitable interest in that property and the owner then holds the property on trust for himself and the contributor.

A spouse has a right of occupation in the matrimonial home.

In registered land, a person’s interest will bind a purchaser if it has protected by entry on the register. An interest will bind a purchaser without being entered on the register if it satisfies the definition of an overriding interest. One overriding interest is defined in Schedule 3, para 2 to the Land Registration Act 2002 as:

“ (1) – An interest belonging at the time of the disposition to a person in actual occupation of the land, so far as relating to land of which he is in actual occupation, except for - ….

(c) an interest –

1. which belongs to a person whose occupation would not have been obvious on a reasonably careful inspection of the land at the time of the disposition, and
2. of which the person to whom the disposition is made does not have actual knowledge at that time;

(2) For the purposes of this paragraph, a person is only to be regarded as in actual occupation of land if, he or his agent or employee, is physically present there.”