



FACULTY OF JURIDICAL SCIENCES

COURSE: BALLB/BBALLB VI Semester

SUBJECT: Law of Property

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Lecture-38



WHAT IS QUASI-EASEMENT?

Quasi easement means such easements that are not essential but whose existence is implied. In other words, it can be said that *quasi* the easement is not highly “essential” but it is deemed to be necessary for the reasonable enjoyment of the property after its being separated from the main property.

According to Clause (b) of Section 13 of the Easements Act, if such an easement is apparent and continuous and necessary for enjoying the said subject as it was enjoyed when the transfer or bequest took effect, the transferee or lessee shall unless a different the intention is expressed or necessarily implied, be entitled, to such easement.

According to clause (d) of Section 13 of the Easements Act, if such an easement is apparent and continuous and necessary for enjoying the said property as it was enjoyed when the transfer or bequest took effect, the transferor or legal representative of the testator, shall, unless a different intention is expressed or necessarily implied, be entitled, to such easement.

According to Clause (f) of Section 13 of the Easements Act, if such an easement is apparent and continuous and necessary for enjoying the share of the latter as it was enjoyed when the partition took effect, the shall, unless a different intention is expressed or necessarily implied, be entitled, to such easement.

Apparent and continuous easements which are necessary for the enjoyment of the dominant tenement in the State in which it was enjoyed at the time when it was severed from servient tenement are called *quasi*-easements. Before such severance they are only the ordinary rights of property and assume the character of rights of the easement on such severance only provided they fulfil certain specified conditions, namely:-

1. They are apparent;

2. They are continuous; and

3. They are necessary for the enjoyment of the tenement for which they are claimed.

Difference between easement of necessity and *quasi* easement

Difference between easement of necessity and *quasi* the easement is as follows:-

(i) In case of easement of necessity, the easement is deemed to be highly essential whereas in case of *quasi* easement it is deemed to be necessary for the reasonable enjoyment of the dominant heritage.

(ii) In the case of easement of necessity, its purpose is highly necessary whereas in case of a *quasi* easement, its purpose is not highly necessary but it is only relative.

(iii) In the case of easement of necessity, the two properties are vested only in one person and thereafter segregated whereas in case of *quasi* easement after segregation of properties its continuous use is not necessary.

(iv) In case of easement of necessity, it is not considered to be necessary that they should be continuous and apparent whereas in case of *quasi* easement it is considered to be necessary that they should be continuous and apparent.

Acquisition of Easement

Under Section 15 of the Indian Easement Act, 1882, provisions for acquisition by prescription have been given. According to which,-

(i) When the access and use of light or air and for any building have been peaceably enjoyed therewith, as an easement, without interruption, and for twenty years; and

(ii) where support from one person's land or, things affixed thereto, has been peaceably received by another person's land subject to artificial pressure, or by things affixed thereto, as an easement, without interruption, and for twenty years; and

(iii) where a right of way or any other easement has been peaceably and openly enjoyed by any person claiming title thereto, as an easement, and as of right, without interruption; and for twenty years,

the right, to such access and use of light or air, support or other easements shall be absolute.

Each of the said periods of twenty years shall be taken to be a period ending within two years next before the institution of the suit wherein the claim to which such period relates is contested

Illustrations

(i) A suit is brought in 2010 for obstructing a right of way. The defendant admits the obstruction but denies the right of way. The plaintiff proves that the right was peaceably and openly enjoyed by him, claiming title thereto as an easement and so of right, without interruption from 1st January 2009 to 1st January 2010. The plaintiff is entitled to the easement.

(ii) In a like suit, the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that the plaintiff on one occasion during the twenty years had admitted that the user was not of right and asked his leave to enjoy the right. The suit shall be dismissed for the right of way has not been enjoyed "as a right" for twenty years.

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1. *Quasi* easement means such easements that are not essential but whose existence is implied.

- (a) True
- (b) False
- (c) Can not say
- (d) None of the above

2. *Quasi*-easement is

- (a) that which is not being an easement of absolute necessity, came into existence by presumed grant or operation of law.
- (b) one without which the property in question cannot be enjoyed at all.
- (c) one which is acquired by virtue of local custom.
- (d) one that may be imposed by anyone in the circumstances, and to the extent, in and to which he may transfer his interest in the heritage on which the liability is to be imposed.

3. Find the correct difference between easement of necessity and *quasi* easement

- (a) In case of easement of necessity, the easement is deemed to be highly essential whereas in case of *quasi* easement it is deemed to be necessary for the reasonable enjoyment of the dominant heritage.
- (b) In the case of easement of necessity, its purpose is highly necessary whereas in case of a *quasi* easement, its purpose is not highly necessary but it is only relative.
- (c) In the case of easement of necessity, the two properties are vested only in one person and thereafter segregated whereas in case of *quasi* easement after segregation of properties its continuous use is not necessary.
- (d) All of the above

4. Provisions for acquisition by prescription have been given

- (a) 15
- (b) 16
- (c) 18
- (d) 19

5. Right which cannot be acquired by prescription

- (a) A right for over 5 years.
- (b) A right which has the effect of destroying the servient tenement.
- (c) A right to the free passage of light or air to an open space or ground.
- (d) A right to underground water not passing in a definite channel.