

# PROPERTY PRACTICE QUESTIONS

## ANSWER 23

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**Caveat:** The outline of the answer below provides guidance regarding the main issues which you should address in your answer. The answer is *not* designed to be a model answer.

### Laura v. Mary

- Texas follows *pure notice* recording system approach
  - ***The second grantee wins if at the time she bought the house:***
    - *She had no **actual** notice of the first grantee's interest*
      - At the time she bought the house, Mary had no actual notice of Laura's interest because the house was empty and had a "for sale" sign in front of it.
    - *She had no **constructive** notice of the first grantee's interest*
      - *The deed was not recorded*
        - At the time she bought the house, Mary had no constructive notice of Laura's interest because Laura had not yet recorded her deed.
  - ***It does not matter if the first grantee recorded the deed first***
    - Laura's argument that she should win because she bought and recorded the deed to the house first, will fail because the requirements for "pure notice" are satisfied and Texas follows the pure notice approach.
  - ***Rationale: the first grantee is to blame because she should have timely recorded her deed***

- Had Laura recorded her deed before Mary bought the house, Laura would have won because Mary would have had constructive notice of Laura's interest

**Laura v. Kathy**

- Kathy was not a bona fide purchaser because she did not pay value for the house
- However, Kathy could still win if she qualifies for the protection under the **shelter doctrine**:
  - *Even if the grantee did not pay value for the real property, she still has valid rights to it if her grantor was a bona fide purchaser*
    - Kathy did not pay value for the house, she acquired it from Mary as a gift
    - Mary is a bona fide purchaser because she had no actual or constructive notice of Laura's interest at the time she bought the house and she also paid value (*see discussion in Laura v. Mary*)
- Kathy will be protected by the shelter doctrine, because she acquired the house from Mary, the bona fide purchaser