

University of Maryland

LAW DEPARTMENT

INTERMEDIATE CLASS EXAMINATION

Monday, May 25th, 1925

FROM 3-6 P. M.

EQUITY I

Pledge to be added and signed:

I pledge my honor that I have neither given nor received assistance, nor used unfair means during this examination.

1. (a) Apart from statute,—what is the one thing always necessary in order that a court of equity may decree upon a bill brought before it?

(b) What is meant by jurisdiction *in rem*?

(c) How does an equity court get jurisdiction *in rem*?

2. A father sent his daughter to the local agent of a fire insurance company to effect insurance on a house recently bought by him. The policy was written and delivered but (due to carelessness on the part of the agent) it contained, as the assured, the name of the daughter instead of the name of the father.

The house was destroyed by fire some months afterwards, when an examination of the policy disclosed the error and the company refused to pay the loss.

Advise the father as to his rights and state the most effective way of enforcing them.

3. X. bought a lot in a suburban development near Baltimore. Intending to erect a bungalow thereon, he located the building, through error, on the adjoining lot owned by Y. The house was about half completed when Y. discovered the situation and promptly brought ejectment for his lot against X.

Advise X. of the proper action for him to take and state how the court will deal with the matter.

4. A will directed that testator's entire estate should be sold by his executor and the proceeds equally divided between testator's wife and son.

The only real estate owned by the testator at his death was the farm on which he lived. Shortly after his death his son borrowed \$1,000 from X. and to secure its repayment executed to X. a mortgage on his (the son's) interest in the farm.

The executor sold and conveyed the farm to Y., who took possession of it and then filed a bill against X. for a decree vacating the mortgage as a cloud upon his (Y's) title.

Will Y. succeed and why?

5. At the hearing of a bill for specific performance of a contract for the sale of real estate, brought by vendee against vendor, the following facts develop:—that the vendor (after the contract of sale was made but before the bill was filed) conveyed the property in question to a *bona fide* purchaser for value and without notice of the contract, that the latter did not, however, record his deed until after the bill was filed; and that the plaintiff had no knowledge of such transfer until the hearing.

What will the court do with the case in such circumstances?

father
done what intended

Ejectment
X value of house
or right to remove

Y

B.F. purchaser
protected
money damage
for vendor

6. In 1850 land in this State was "bargained, sold, enfeoffed, aliened, released and conveyed unto X. and his heirs * * * to have and to hold said land upon trust for the sole use and benefit of Y. and his heirs." The deed recited a consideration of \$5 and imposed no active duties upon the trustee. Y. thereafter contracts to sell the land to Z., but the latter refuses to pay the purchase money and accept a conveyance on the ground that Y. cannot convey to him a legal estate in fee.

Bargain + Sale

Will Y. succeed on a bill for specific performance against Z.? Discuss.

Y

7. Explain briefly the difference:

- (a) Between express and implied trusts;
- (b) Between resulting and constructive trusts.

8. X., for a consideration of \$2,000, conveyed certain real estate in Baltimore to Y. "upon trust to permit the same to be forever used as a church by the Emmanuel Congregation which now worships there."

The congregation (an unincorporated body) becomes indebted to various persons and the property is ultimately directed to be sold by decree of an equity court in a proceeding to which all possible parties in interest are parties.

The proceeds of sale are claimed by

- (1) X.
- (2) Y.
- (3) The creditors of the congregation.
- (4) The individual members of the congregation who contributed the \$2,000 purchase price.

Decide between these claimants and give your reasons?

9. A resident of Maryland by his will bequeathed \$10,000 to his widow to be disposed of by her as follows:—one-half of said sum to such religious or charitable corporations as she might select, and the other half to such of testator's grandchildren as she might select. The will contained a residuary clause and the testator left ten grandchildren surviving him.

The widow died shortly after her husband without making any attempt to exercise the power. The executor under the will files a bill in equity to construe the will and determine the disposition of the fund.

The person who had power to

Decide the matter and give your reasons?

Residuary estate

10. (a) Explain the difference between a mortgage and a conditional sale (option to grantor to repurchase) ?

(b) In determining whether an instrument is a mortgage or a conditional sale, what circumstances are generally relied on by the Court to show the intention of the parties?

11. Give a brief historical account of the right of the assignee of a chose in action to enforce its payment at law.

WARD B. COE.