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**FACULTY OF JURIDICAL SCIENCES**

**E- CONTENT**

**COURSE: BALLB-Vth Sem**

**SUBJECT: EQUITY AND TRUST**

**SUBJECT CODE: BAL 506**

**NAME OF FACULTY: DR. ANKUR SRIVASTAVA**

# Lecture-21





## **LECTURE-21**

### **Maxim:**

### **He who seeks equity must do equity:**

The basis of this maxim is that if the plaintiff seeks an equitable remedy or wishes to obtain any equitable relief, he must be prepared to act fairly towards the defendant. The following examples may be given:

### **The doctrine of election:**

Where a donor by deed or will gives his own property to E and in the same instrument purports to give E's property to X, E will not be able to claim the whole of the gift to

him unless he allows the gift to X to take effect. See Snell, Principles of Equity, 26th ed., (1960) pp. 532- 542.

### **Notice to redeem a mortgage:**

If a mortgagor wishes to exercise his equitable right to redeem, he must give reasonable notice of his intention to the mortgagee.

### **Consolidation of mortgages:**

This is the right of a person in whom two or more mortgages are vested to refuse to allow one mortgage to be redeemed unless the other(s) are also redeemed. This may be seen from a hypothetical illustration: X has made two loans of 2,000 to Y, the first loan being secured by a mortgage of Blackacre (worth 3,000). The second by a mortgage of Whiteacre (also worth 3,000). If the value of Blackacre subsequently decreased to 1,000 while Whiteacre increased to 5,000, it would be unfair to allow Y to redeem Whiteacre and leave Blackacre unredeemed. Equity will thus allow X to

consolidate and will not permit Y to redeem Whiteacre unless he is prepared to redeem Blackacre also.

### **Illegal loans:**

The application of the maxim to illegal loans is exemplified by the case of **Lodge v. National Union Investment Co.** (1907) 1 Ch. 300. X borrowed money from Y, a moneylender and mortgaged certain securities to him. The contract was illegal and void since the moneylender was not registered under the English Moneylenders Act 1900. When X sued Y to recover the securities, it was held that an order for delivery up would only be made if X were prepared to “do equity” by repaying the amount of the loan.

### **MCQs**

1. **He who seeks equity must do equity means: if the plaintiff seeks an equitable remedy or wishes to obtain any equitable relief, he must be prepared to act fairly towards the defendant.**
  - i. True

- ii. False
  - iii. Cannot say
  - iv. None of these
2. **Where a donor by deed or will gives his own property to E and in the same instrument purports to give E's property to X, E will not be able to claim the whole of the gift to him unless he allows the gift to X to take effect.**
- i. True
  - ii. False
  - iii. Cannot say
  - iv. None of these
3. **The application of the maxim to illegal loans is exemplified.**
- i. True
  - ii. False
  - iii. Cannot say
  - iv. None of these
4. **If a mortgagor wishes to exercise his equitable right to redeem, he must give reasonable notice of his intention to the mortgagee.**
- i. True
  - ii. False
  - iii. Cannot say
  - iv. None of these

**5. Consolidation of mortgages: This is the right of a person in whom two or more mortgages are vested to refuse to allow one mortgage to be redeemed unless the other(s) are also redeemed.**

- i. True**
- ii. False**
- iii. Cannot say**
- iv. None of these**

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