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UNIVERSITY**

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FACULTY OF JURIDICAL SCIENCES

E- CONTENT

COURSE: BBALLB-Vth Sem

SUBJECT: EQUITY AND TRUST

SUBJECT CODE: BBL 506

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Lecture-12





LECTURE-12

Maxim:

Equity follows the law:

Equity never challenged the Common Law as the basis of all the laws of the land. Indeed, Equity could not have existed without the Common Law, since the Chancellor originally merely interfered here and there in order to do justice between the parties where the Common Law failed to provide a remedy. It was only later that Equity developed into a distinct body of rules and principles. Most of these principles would be meaningless if divorced from the rules of Common Law on to which they are engrafted and supplement.

Thus, for instance, whilst regarding the beneficiaries under a trust as the equitable owners of the property, Equity never denied the legal title of the trustee and, therefore, stops short of enforcing the trust against a bonafide purchase of the legal estate from the trustee without notice of the trust, thereby acknowledging the paramount of the legal estate.

- (i) Equity adopted the Common Law doctrine of estates. Any estate or interest known at law (e.g. fee simple, fee tail and life interest) can exist as an equitable interest under a trust.
- (ii) Equitable interests devolve on intestacy in the same way as legal estates, so that the eldest son takes all the land as heir, to the exclusion of his younger brother and sisters.
- (iii) Equity follows the Common Law rules governing joint tenancies.
- (iv) Equity follows the Common Law rules relating to

mistake in the formation of contracts (whilst supplementing these by means of equitable remedies).

But where Common Law rules were archaic or excessively rigid, Equity refused to follow them. Thus, for instance, the technical rules relating to legal contingent remainders were never applied to equitable interests; nor was there escheat of equitable interest on intestacy.

The meaning of the maxim may be summed-up by saying that Equity has never disturbed Common Law rules, nor claimed to override them. Equity only interferes where there is some important circumstance disregarded by the Common Law and where the lack of a remedy at law will cause injustice to a party.

Thus, wherever equitable principles are at variance with legal ones, this is due not to Equity's denial of the validity

of the legal rule, but rather to Equity's assertion that a gap exists in the law which it is Equity's duty to fill.

MCQs

- 1. Equity never challenged the Common Law as the basis of all the laws of the land.**
 - i. True**
 - ii. False**
 - iii. Cannot say**
 - iv. None of these**

- 2. Equity follows the Common Law rules governing joint tenancies.**
 - i. True**
 - ii. False**
 - iii. Cannot say**
 - iv. None of these**

- 3. Equity has never disturbed Common Law rules, nor claimed to override them.**
 - i. True**
 - ii. False**
 - iii. Cannot say**
 - iv. None of these**

- 4. Wherever equitable principles are at variance with legal**

ones, this is due not to Equity's denial of the validity of the legal rule, but rather to Equity's assertion that a gap exists in the law which it is Equity's duty to fill.

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

5. Equity adopted the Common Law doctrine of estates.

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