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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

NAME OF FACULTY: DR. ANKUR SRIVASTAVA

Lecture-16





LECTURE-16

RECONVERSION:

Whenever the equitable doctrine of conversion operates, though the subject-matter for conversion has not in fact been converted, in the eye of equity there is notional conversion of that subject-matter, because equity looks on that as done which ought to be done.

Again in certain circumstances, the notional or fictitious and artificial character, which equity has imposed on the subject-matter, is annulled yielding place to the actual state of the property; the state in which it was, before being impressed by the equitable stamp of conversion. At this state there is reconversion.

Definition of reconversion:

Reconversion has been defined as that imaginary process by which a prior notional conversion is reversed or discharged, and the notionally converted property restored in contemplation of equity to its original actual quality. (See Snell's Principles of Equity (27th Ed.) 1960 p.480).

There are two ways by which reconversion may be effected. These are: by act of the Parties or by operation of law. The former depends on the manifestation of intention by the party or parties entitled to reconvert; while the latter reconversion is automatic.

Reconversion by act of parties:

It frequently happens that the beneficial ownership of subject-matter for conversion is vested in one person who is sui juris, not being under any disability and absolutely entitled in that case, he is entitled to take the property in its actual

state. Thus, if money is laid out for the purchase of land, the party who would have the sole and absolute interest in the land when bought, may elect to have the money paid to him and that the money, the subject-matter for conversion, shall not be used for the purchase of land; in that case, a court of equity will not order a contrary decree which might be annulled or rendered vain by the act of the absolute owner.

See **Benson v. Benson** (1710) 1 P. Wms. 130 at 131; 24 E.R. 324. For if the purchase were to be enforced, he might at the same moment sell the land and convert it into money, thereby stultifying the court order, and 'equity like nature does nothing in vain.' See **Seeley v. Jago** (1717) 1 P. Wms. 389; 24 E.R. 438; and **Saunders v. Vautier** (1841) 10 L.J. Ch. 354.

In **Harcourt.v. Seymour** (1851) 2 Sim (NS) 12 at 46; 61 E.R.244, Lord Cranworth V.C. observed that where by a settlement land has been directed to be converted into money, or money to be converted into land, a character is

thereby imposed upon it until somebody entitled to take it in either form chooses to elect that, instead of its being converted into money, or instead of its being converted into land, it shall remain in the form in which it is actually found. The only question in each particular case is whether the person entitled to reconvert has manifested acts sufficient to enable the court to say that he has so elected.

Where more than one person are interested in the subject-matter of conversion, the same principle applies as in the case of an absolute beneficial owner. For example where land is held on trust for sale for the benefit of A and B in undivided shares and they are both of full age and absolutely entitled, provided they agree they can effect a reconversion. See **Re Daveron** (1893) 3 Ch. 421, 425.

However, the case is different where one of the several beneficiaries is not willing to reconvert. In **Holloway v. Radcliffe** (1857) 23 Beav. 163 at 172; 53 E.R. 64, Lord Romilly

M.R states that where the undivided shares relate to money to be laid out in land, a co-beneficial owner who wishes to elect to reconvert his share may do so without the concurrence of the other co-owners; the reason being that such course of action will not in any way be detrimental to the interest of the other co-owners who are not willing to reconvert. Where, however, the undivided shares relate to land directed to be laid out into personalty, if there is to be any reconversion, at all, it must be total, which means all the beneficiaries must concur; a co-owner cannot effect a partial reconversion.

As Lord Romilly observed, it would be repugnant to the principles on which the doctrine of conversion and reconversion rest to hold that one of the legatees of an undivided share in the proceeds of real estate directed to be converted into personalty could without the assent of the others, elect to take his share as unconverted and in the shape of real estate. A more potent reason against partial

reconversion in this case seems to be that it is more profitable to all the beneficiaries to have the land sold in its entirety than to have one part sold and the other part retained which would be the effect if one co-owner is permitted to reconvert his undivided share. However, the validity of this observation may depend on the size of the land laid out for conversion. If it is of such a size that the part sought to be reconverted would not *pro tanto*, make the remaining part less marketable than the entirety, on principle a co-owner, wishing to reconvert, ought to be allowed to do so.

MCQs

- 1. Again in certain circumstances, the notional or fictitious and artificial character, which equity has imposed on the subject-matter, is annulled yielding place to the actual state of the property; the state in which it was,**

before being impressed by the equitable stamp of conversion. At this state there is reconversion.

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

2. There are two ways by which reconversion may be effected. These are: by act of the Parties or by operation of law. The former depends on the manifestation of intention by the party or parties entitled to reconvert; while the latter reconversion is automatic.

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

3. In *Harcourt.v. Seymour* (1851) 2 Sim (NS) 12 at 46; 61 E.R.244, Lord Cranworth V.C. observed that where by a settlement land has been directed to be converted into money, or money to be converted into land, a character is thereby imposed upon it until somebody entitled to take it in either form chooses to elect that, instead of its being converted into money, or instead of its being converted into land, it shall remain in the form in which it is actually found.

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

4. As Lord Romilly observed, it would be repugnant to the principles on which the doctrine of conversion and reconversion rest to hold that one of the legatees of an undivided share in the proceeds of real estate directed to be converted into personalty could without the assent of the others, elect to take his share as unconverted and in the shape of real estate.

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

5. Where land is held on trust for sale for the benefit of A and B in undivided shares and they are both of full age and absolutely entitled, provided they agree they can effect a reconversion.

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