



## FACULTY OF JURIDICAL SCIENCES

COURSE: BALLB/BBALLB VI Semester

SUBJECT: Law of Property

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# Lecture-9



## Concept of Vested Interest:

**Section 19 of the Transfer of Property Act, 1882** states about Vested Interest. It is an interest which is created in favour of a person where time is not specified or a condition of the happening of a specified certain event. The person having the vested interest does not get the possession of that property but has the expectancy to receive it upon happening of a specified certain event.

For example, A promises to transfer his property to B on him attaining the age of 22. B will have vested interest in A's property till the time he does not get the possession of it.

Death of the person who is having this interest will not have any effect over that interest as after the deceased, the interest will vest in his legal heirs.

For example, in the above example, if B dies at the age of 21, then the interest vested in B will pass on to the legal heirs of B and they will be entitled to the property in the prescribed time period.

There are the important aspects of a vested interest as stated above, all these are discussed in detail below:

1. **Interest should be vested:** This is the basic meaning of the provision that lays down that interest should be created in favour of a person where time is not specified or a condition of the happening of a specified certain event. A person should profess to transfer a particular property in order for this interest to be created.
2. **Right to enjoy property is postponed:** When interest is vested in a person, he does not immediately get the possession of that property and hence cannot enjoy that property.

But any person who is not a major and has a guardian is only entitled to the vested interest after he attains majority.

For example, X agrees to transfer the property 'O' to Y and directs his guardian Z to give him the property when he attains the age of 22. Y gets vested interest once he attains the age of 18.

1. **Time of vesting:** The interest is vested right after the transfer is initiated. Nothing can stop the interest from vesting in the person in favour of whom the transfer is to be made.
2. **Contrary Intention:** The transferor can specify a particular time as to when the interest will be vested in the person who will receive the property.
3. **Death of the transferee:** If the transferee dies before getting the property in his possession, the interest vested in him will now vest in his legal heirs and they will get the possession of that property once the condition is fulfilled.

In the case of [Lachman v. Baldeo \(1919\) 21 OC 312](#), a person transferred a deed of gift in favour of another person but directed him that he will not get the possession of that property until the transferor himself dies. The transferee will have a vested interest even though his right of enjoyment is postponed.

### **Characteristics of Vested Interest:**

- 1) Vested interest creates a present right that is in effect immediately, although the enjoyment is postponed to the time prescribed in the transfer. It does not entirely depend on the condition as the condition involves a certain event.
- 2) Death of transferee will not render the transfer invalid as the interest will pass on to his legal heirs.
- 3) Vested interest is a Transferable and heritable right.

**Section 20** of the Transfer of Property Act, 1882 states about vested interest to an unborn child. The interest in the property will be vested in him once he is born. The unborn child may not get the right of enjoyment of the property immediately after having vested interest.

## MCQ

### **1. The provision of vested interest is provided in:**

- (a) section 18 of the Transfer of Property Act, 1882
- (b) section 19 of the Transfer of Property Act, 1882
- (c) section 20 of the Transfer of Property Act, 1882
- (d) section 21 of the Transfer of Property Act, 1882.

### **2. According to the provisions of section 19 of the Transfer of Property Act, 1882**

- (a) the vested interest is not defeated by the death of the transferee before he obtains possession
- (b) vested interest is defeated by the death of transferee before he obtains possession
- (c) no such provision is made
- (d) none of the above.

### **3. Characteristics of Vested Interest is/ are**

- (a) Vested interest creates a present right that is in effect immediately, although the enjoyment is postponed to the time prescribed in the transfer. It does not entirely depend on the condition as the condition involves a certain event.
- (b) Death of transferee will not render the transfer invalid as the interest will pass on to his legal heirs.
- (c) Vested interest is a Transferable and heritable right.
- (d) All of the above

### **4. A person transferred a deed of gift in favour of another person but directed him that he will not get the possession of that property until the transferor himself dies. The transferee will get:**

- (a) Vested interest
- (b) Contingent interest
- (c) Can not say
- (d) None of the above

### **5. A promises to transfer his property to B on him attaining the age of 22. B will have vested interest in A's property till the time he does not get the possession of it. Death of the person who is having this interest will not have any effect over that interest as after the deceased, in his legal heirs will get:**

- (a) Vested interest
- (b) Contingent interest
- (c) Can not say
- (d) None of the above