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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-13





## **LECTURE-18**

### **Maxim:**

### **Where there is equal equity, the law shall prevail:**

This maxim governs the position where there are competing interests in property, one of which is a legal interest, the other equitable. Where the claims of both parties are equally fair and meritorious, precedence will be given to the legal interest. The operation of the maxim may be seen in the following hypothetical illustration:

A acquires an equitable charge over Blackacre (A fictitious piece of land), (worth 4million) as security for a loan of 1.5 million. B later takes a legal mortgage of Blackacre (still

worth 4million), also to secure a loan of 1.5 million. B had no notice of A's equitable charge when he lent the money, and now the value of Blackacre has dropped to 2 million. Here B is entitled to be paid the full amount of his loan (1.5 million) from the proceeds of sale of Blackacre. A must be content with what is left (500,000.00), since B's legal estate takes priority over A's equitable interest.

If, on the other hand, before he lent the money, B had received notice of A's equitable charge, B would not gain priority over A, and the position would be reversed, since there would not be equal equity. Equity will not allow the carelessness or imprudence of B in lending the money, knowing of a prior charge on the property, to defeat the interest of A, the innocent party.

### **MCQs**

- 1. Where there is equal equity, the law shall prevail**
  - i. True**

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

**2. The abovementioned maxim governs the position where there are competing interests in property, one of which is a legal interest, the other is not equitable.**

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

**3. Blackacre means:**

- i. A fictitious piece of land
- ii. A non- fictitious piece of land
- iii. Cannot say
- iv. None of these

**4. The law shall prevail Where there is equal equity, the law shall prevail**

- i. Is a maxim
- ii. An Act
- iii. Cannot say
- iv. None of these

**5. . Where the claims of both parties are equally fair and meritorious, precedence will be given to the legal interest.**

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

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