

- When A transfers property to B for no consideration, there is a rebuttable presumption that B holds the property on a resulting trust for A. The situation differs slightly in respect of voluntary transfer of land.
- Where A purchases property in the name of B or in the names of A and B there is a rebuttable presumption that B holds on a resulting trust for A. This presumption applies both to personalty and to land.

Lack of consideration:

Eyre CB in **Dyer v Dyer** states: "the trust of legal estate whether taken in the names of the purchasers or others jointly or in the names of others without that of the purchaser; whether one name or several; whether jointly or successive, results to the man who advances the purchase-money. This is a general proposition supported by all the cases, and there is nothing to contradict it..."

Cowcher v Cowcher: "A resulting trust arises where a person acquires a legal estate but has not provided the consideration or the whole of the consideration for its acquisition, unless a contrary intention is provided"

Gifts: In **Chambers p.11** it is stated that "Equity tends to be suspicious of gifts and often asks the recipient to prove that an apparent gift was intended as such. The failure to do so means that it will be held in trust for its provider. In short, **there is a presumption of a resulting trust.**"

The distinction between land and personalty in voluntary trusts

Personalty

Fowkes v Pascoe: Woman bought X and purchased in her own name and Pascoe was her daughter-in-law's son. She had effectively transferred property into his name. There was a dispute as to who owned the property. Did the investment bounce back? Pascoe showed evidence that he lived in her own; he was financially dependent on her and she was very wealthy. He was able to build a picture that her intention, contrary to what Equity says, that the money was to benefit him.

Re Vinogradoff: Granddaughter did not show evidence....

Land

s.60(3), Law of Property Act 1925: "In a voluntary conveyance a resulting trust for the grantor shall not be implied merely by reason that the property is not expressed to be conveyed for the use or benefit of the grantee". Problem is that there are different ways of reading this but there is a little bit of evidence to go off:

Hodgson v Marks: Widow. She bought a house. However years later, she takes in John Evans as a lodger. He developed a good relationship with landlady. She trusted him and had confidence in him. He told her he was in the insurance business and can trust him with financial matters. She transferred the whole house to him. He then sold the house to a third party and the third party tried to evict the woman. **Held**: Because of the way he dealt with the property, although the transfer was made, he held the property on a resulting trust for her. Did not mention s.60.

Lohia v Lohia: Addressed s.60. First hearing: this was an issue. In fact the High Court stated they did not have to give a definitive view of s.60.

J.Mee, 'Resulting Trusts': He looked at the situation in 1985 he thinks having analysed the context and case law, a resulting trust does not arise automatically. He states an oral trust can be used. He admits, even when you go through all of it, when you look at the subsection, it makes it very difficult to come to a conclusion.