

Bona fide meant acting 'in good faith'. 'A bona fide purchaser was explained in *Pilcher v Rawlins*⁵, as "an absolute, unqualified, unanswerable defence". 'The person with an equitable interest would only have an enforceable right against the traceable assets received in return for the land.'⁶

The term 'purchaser for value' includes a lender as well as a buyer. A purchaser for value is a person who buys land with money or money's worth, but this does not include someone who has inherited the land or been given the land for free, such as a gift. The purchaser must have purchased a legal estate and they must not have had any notice of the interest.

There are three types of notice: actual notice (purchaser knew/was told about the interest); constructive notice (found in section 199(1)(ii)(a) Law of Property Act 1925 (LPA) ie knowledge that the purchaser would have had if s/he had done what he should have done); and imputed notice (as defined in section 199(1)(ii)(b) LPA 1925 ie bound by what your agent knows). In *Hunt v Luck*⁷ it was clearly stated that the purchaser must make necessary relevant enquires, inspections and searches, and if he does not, as a purchaser s/he will be bound by what they would have discovered had they done so. Although the chances of not knowing about an interest either actually, constructively or imputedly are rare, 'in *Kingsnorth v Tizard*⁸ it was held that the bank had imputed notice of surveyor's constructive notice of Mrs T's interests, so the bank was bound by it and Mr's T's interest presided over bank's interest'⁹

'The idea of the law was to do everything possible to ensure that people were not be deprived of their stakes in their homes without being fully informed and true consent given, yet it stopped short of simply determining that equitable rights were always binding.'¹⁰

The position pre-1926 was that estates and interests were enforceable between the original parties as a matter of contract, but the ability to enforce an interest against a successor in title to the original landowner depended entirely if the interest was legal or equitable. If it was a legal right, then the new landowner was bound even though they did not know about it. The owner of the interest was absolutely secure, but this was harsh on the purchaser of the land. If interest was an equitable right then the new landowner was bound by it unless they could show that it is ED (as illustrated in *Pilcher v Rawlins*¹¹), but this is rare. Here, the owner of the interest is now vulnerable as ED is not bound by it and the interest is lost and unenforceable forever as explained in the *Wilkes v Spooner*¹² case. It is because of this that the registration rules are now in place.

⁵ [1872] 7 Ch App 259.

⁶ Wikipedia (2014) *Unregistered Land in English Law*. Available from: http://en.wikipedia.org/wiki/Unregistered_land_in_English_law [Accessed 09/11/2014].

⁷ [1902] 1 Ch 428.

⁸ [1986] 1 WLR 783.

⁹ BPP land law lecture (2014), *Introduction to Enforcement* (n 3).

¹⁰ Wikipedia (2014) *Unregistered Land in English Law* (n 6).

¹¹ [1872] 7 Ch App 259.

¹² [1911] 2 KB 473.