

## ↳ Doctrine of Presumption & Advancement.

- ↳ When a purchaser or transfer of property without consideration is made by a father or person in loco parentis, or in the name of a child, a presumption arises. And the presumption is that it was for the benefit of the child. Such presumption is known as advancement.
- ↳ This doctrine applies to cases of parent & child, husband & wife, of mother & child & even to illegitimate child, but not to a man and his mistress.
- ↳ This ~~maxim~~ <sup>doctrine</sup> is recognized by Succession Act (doctrine of presumption & Advancement) & the Trust Act.

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## 104. Equity Act in Personam.

- ↳ The maxim in a sense comprises the whole of equity, it lays down the procedure rather than any substantive law.
- ↳ At the common law a judgement of damages was enforced against the property of the defendant. The assets of the defendant could be attached in order to execute the decree awarded to the plaintiff.
- ↳ In England there was a distinction drawn between the Jurisdiction of the law of courts and that of chancery courts. Courts of Equity had power over persons which ~~was~~ arose from the ability, on authority of the crown,



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to hold a violator in contempt, & take away his or her freedom until he or she purged himself or herself of his or her ~~an~~ contumacious behaviour. This distinction helped preserve a separation of powers between the 2 courts.

110. Where there is equal equity, the law shall prevail.

→ When 2 parties claim the same property and the court cannot decide that one of them has a better right to the property, the Court of Equity will leave it to the ~~other~~ other court to decide.

→ This maxim applies where there are 2 or more competing interests, one legal and the other equitable. Where the claims of both parties are fair and meritorious precedence will be given to the legal interest.

→ This maxim was developed in connection with interest in land. When a purchaser acquires property bona fide without notice of a defect in the vendor's title, the equities are equal and the legal estate will prevail. If the purchaser takes title with the notice of the defect the earlier title, if valid, will prevail.



12. where there are equal equities the first in order of time shall prevail.

↳ The maxim means that when 2 parties both have a right to possess a same property, the one who acquired an interest first should prevail in equity.

↳ This maxim is concerned with the priority that is to say which of interests prevail in the time of conflict.

↳ The General Rule is that interest take effect in order of their creation but as regards equitable interests, there may be defeated if a bona fide purchaser acquires a subsequent legal estate without notice of the equitable one. ~~overriding the~~ ~~bona fide~~

↳ For the purchaser of the legal estate to gain the priority, it is he must show off that he is bona fide. The purchaser would be interrogated as to the valuable consideration where he has given the opportunity to his bona fide & to prove the ~~presence~~ presence of the absence notice.

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