

Equity law

Mohammad parvej

Institute of law

Mo. 8839246901

3. He who seeks equity must do equity

- The meaning of this maxim is that to obtain an equitable relief the plaintiff must himself be prepared to do equity. That is a plaintiff must recognize and submit to the right of his adversary, because you must do unto your neighbor what you wish him to do unto you. There must be reciprocity.
- A court of law can not impose term and condition on the parties suing if they are entitled to ad decision the law must take its own course ; but prcacitce of the chancery court was different in that while giving equitable relief it imposed such terms ont the applicant which are agreeable to the conscience, because equity acts on the conscience of the party.

- The maxim lays down a bare abstract principle. What those terms could be was left to the discretion of the court.
- Snell points out that “this is a rule of unquestionable justice which however, decides nothing in itself” for you must first inquire what are the equities which the defendant must do and what the plaintiff ought to have”
- The example of this maxim

Illegal loans

Doctrine of election

Consolidation of mortgage

Notice to redeem mortgages

- Wife equity to settlement
- Equitable estoppels
- Restitution of benefits on cancellation of transaction
- Set off
- Waiver

- In Indian law context it is recognize by the Indian law, under Indian contract act section 19A if a person contract entered in to under influence are voidable and therefore a party to a contract who has the option of getting the contract declared void will have to return the benefits so obtained to the party form whom he obtained it under such contract.
- In Mohri bibee Vs. Dharmodas Ghose it was held that to raise and equity o that kind there must b and obligation express of implied to repay.
- In G.N. Devan V habibunissa 1987 sup SCC688 it was held that the shortfall of land wat to be suffered by both the parties in equal proportions in order safeguard their interests.

- It is perfectly open to a court in control of a suit for specific performance to extend the time for deposit. The specific performance, said the supreme court, is an equitable relief and he who seeks equity can be put on terms to ensure that equity is done to the opposite party even while granting the relief.
- The final end of law is justice, and so the means to it too should be informed by equity, that is why he who seeks equity shall do equity.
- In Clerk V. Ruthanvaloo it was decided that equitable set off can be pleaded in India. Conditions for a legal set off are considered in order 8 rule 6 of The CPC

- This maxim has some limitations as follows;
- A- in order that Equity courts can stretch their helping hands to a defendant by applying this maxim, the demand for an equitable relief must arise from a suit that is pending, That is to say it should arise from the same transaction or the same subject matter, to cases where it arose from two different suits, the maxim will not apply.
- B- This maxim is applicable to a party who seeks an equitable relief. Those who wish to prosecute and exercise their legal rights and ask for legal relief from a court of equity will not be allowed to avail the benefit of this maxim.