1966

Equity: Final Examination (January 1966)

William & Mary Law School

EQUITY Final Examination - January 1966

I.

Swankville, a residential suburb of Washington, D. C., has a north-south artery called Byrd Avenue. A large tract of land on the east side of that Avenue had been owned by McCullough, who died in 1935. Soon after his death, his heir, Marshall, conveyed to Baxter two portions of that tract -- parcels nos. 1 & 2. In describing parcel no. 1, the deed used as a boundary reference "the southern side of a seventy-foot-wide street, newly established;" in describing parcel no. 2, the deed, similarly, used as a boundary reference "the said northern side of the first-mentioned newly-established seventy-foot-wide street." At the time of conveyance of parcels 1 & 2 to Baxter, the grantor owned the fee to the land which separates them, that on which the "newly established...street" was located, that land being part of the original McCullough tract.

In 1955, Marshall conveyed to Brickley, a developer, the bed of that "newly established...street"; this, Brickley intended to use as an attractive access from Byrd Avenue to other land, which was separated from that Avenue by several parcels that abutted the Avenue, including those of P, and which he was in the process of turning into residential development to be called Heatherly Estates.

In 1955, Brickley recorded a plat entitled "Final Street and Road Plan of Heatherly Estates"; on that plat, the "newly established...street" is labelled "Heatherly Boulevard." The plat contains a clause, signed by Brickley, stating that the streets shown thereon, including Heatherly Boulevard, are dedicated for the general use of the travelling public and the abutting property owners.

In 1956, Baxter conveyed these two parcels to P,a resident of Boston, Mass., by deeds using the exact language of the deeds to him, quoted above.

In 1959, Brickley, as a part of the development of Heatherly Estates, paved the center thirty-foot-wide strip of Heatherly Boulevard for use of automotive and other traffic to the Estates; the two flanking twenty-foot-wide strips he had planted with trees, that soon grew to form an impenetrable, continuous, hedge on the entire Boulevard side of each of P's parcels. This left these parcels with access only from Byrd Avenue. Brickley also built two large, curved, brick walls, each about twenty feet long, to flank the Avenue entrance to the Boulevard; these, of course, would have barred entrance to P's parcels, for their length, even had the trees not done so. The total cost to Brickley of these two decorative but obstructive works was $10,000; $7,000 for the trees, and the balance for the walls.

Under the 1954 zoning law, P's property abutting the Boulevard is zoned residential; it is well-suited for that purpose, but P recently lost an advantageous sale of it for want of access from the Boulevard side. Brickley has refused to create such an access or to allow P to do so, and, indeed, totally denies the existence of the easement for access over the Boulevard that P claims; he maintains that the dedication evidenced by the plat is invalid as it was never legally completed, and that P's predecessor in title impliedly recognized the absence of easement by leasing the bed of what is now the Boulevard from Brickely's predecessor in title.

P petitions here for relief appropriate to secure to him the easement he claims. What arguments can be made on each side? What decree should result, and how, if at all, should it be shaped or conditioned in the traditional equity manner?

II & III

X, owner of a tract of land, devised it to his son, Y; his residuary legatee was Z, X's wife. After making the devise, X was approached by B, who indicated that he might be interested in buying the land in question for a price that sorely tempted X, but has since proved to be a bargain for the lucky purchaser. B did not make X a firm offer, however; instead, he obtained an exclusive option, binding on X, under which B could buy the land at the price earlier mentioned at any time within three months from the date of the option.

A month later, however, X died, leaving the will unchanged. A month after X's death, B chose to exercise the option, and was resisted by Y in his efforts to do so. Three questions:

1. What parties and rights are involved in this situation, and how would a case in equity involving it be decided under the majority U. S. view?
2. How would the result differ, were the situation to arise, and be decided in England?
3. What result, were B to have died instead of X, before the option was exercised, in a contest for the option right between B's legatees and devisees?

In answering, assume where relevant the nonexistence of statutes designed to do away with the need for parties formerly required to do complete justice in situations like these.

IV.

Earlier this year, D persuaded his son, P, to lend him his 1965 Ford car (in good condition for its age, but not exceptional), and assign to him the title, upon the false representation that he merely wanted to use the car for a trip to Mexico, but might have to show the title to the customs officials at the border. D then sold the car to B for $3500.

D, a keen equestrian, was pleased to find that $3500 was just enough to pay for a Morgan stallion he had long admired. He bought the horse with the sale proceeds of P's car, and promptly had it registered in his own name. It is his only asset. Furthermore, he has no income as such, for he lives upon the crumbs from a discretionary trust. He has many large debts.

P, disillusioned and angry, seeks your advice on how best to recover for this loss. What legal or equitable remedies should be considered, even if to be discarded? Which of these are theoretically available? Which, if any, will be of any practical value? Why?

To answer this question, you may have to assume at least one additional fact.

V.

The National Woman's Party is a nonstock nonprofit corporation, organized under the laws of the State of X for the purpose of securing complete equality for women. Its governing body is the National Council, composed entirely of Party members duly elected or appointed to serve on it; neither Council nor other Party members are paid any form of compensation for Party services. It owns the building, called "Headquarters." The building is worth more than $100,000, and contains "a valuable and unique library, working facilities for... members, and facilities for meetings and formal and informal gatherings of members necessary to the work of the National Woman's Party. Said headquarters and its facilities have in the past been used and open to use by all members."

In January, 1960, a dispute arose within the Party, in consequence of which some members termed others "insurgents," and other things. Certain of the defendants, purporting to act as the National Council of the Party, promptly adopted the following resolution:

"Resolved, that all elected and appointed members of the National Council who have identified themselves with the insurgent group be asked to resign and that failure to acquiesce within ten days of receipt of a letter to this effect will be construed as a resignation.

"Be it further resolved that all members of the insurgent group be temporarily excluded from Headquarters during pendency of a decision on the question in dispute, and barred from participation in all Party membership functions."

The by-laws of the Party provide that its National Council shall have control and management of its affairs. Petitioner, a member of the Party and of the National Council, is one of those excluded under the above resolution as "insurgents."; She asserts that the resolution was ultra vires, and, in any case, she received neither a letter of the sort contemplated in the resolution nor notice of the meeting in which the resolution was adopted. She now seeks relief appropriate to her injury, namely, deprivation of the rights of membership in the Party.

What result in a sound, modern court of equity, and why? Also, why do you suppose the petitioner, in her pleadings, made reference to the "valuable and unique library..." in Party Headquarters?

VI.

On March 15, 1962, Sarah Parker, aged 75, entered into a written contract with her niece, Jane Parker, by which Jane agreed to live in the home of Sarah and care for her until her death, and Sarah agreed in consideration of Jane's services and care to devise all her real estate to Jane on her (Sarah's) death. Jane accordingly moved into her aunt's home on March 16, 1962, and rendered the agreed services until Oct. 16, 1964, when Jane died. On Oct. 30, 1964, Sarah conveyed all her real estate to her third cousin, D, the conveyance reciting that it was in consideration of D's agreement to live with Sarah and care for her until her (Sarah's) death. D knew at the time of the conveyance of the prior contract with Jane. D lived with Sarah and cared for her until the death of Sarah, which occurred on May 3, 1965. The estate left by Sarah will just suffice to pay her debts and funeral expenses. P, the executor and sole heir of Jane, now asks you whether he has any claim against either D or E, Sarah's administrator, arising out of Jane's good-faith performance of her contract until her death. What would you advise?