

Equity & Trusts

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Saunders v Vautier	1
<p>Relevance: Ending a trust</p> <p>Relevant facts: Testator bequeathed £2,000 worth of stock in the East India Company on trust for Vautier; trust meant to accumulate until he turned 25; at the age of 21 (age of maturity at the time) he requested access to capital and dividends.</p>	
<p>Ratio: If all beneficiaries together are in existence and ascertained, over 18 and of sound mind, all agree, and are together absolutely entitled, they have the right to terminate the trust.</p>	

Jaffa v Taylor Gallery	2
<p>Relevance: Formalities – Chattel</p> <p>Relevant facts: Transfer of a picture to trustees was valid without physical delivery, as the deed setting up the trust vested title in them (one trustee lived in Northern Ireland and it would have been absurd to require the painting to be taken round all the trustees before title passed).</p>	
<p>Ratio: Title to chattels is passed by physical delivery of the asset to the transferee, or by deed.</p>	

Milroy v Lord	1
<p>Relevance: Formalities – Failed gifts</p> <p>Relevant facts: Testator owned shares in a company, wanted Lord to hold them on trust for his niece (Milroy) and signed a deed transferring them to Lord; Lord failed to comply with all the formalities, upon Testator's death the shares were still in his name; held that the transfer failed.</p>	
<p>Ratio: There are three ways to give something: (1) legal transfer of title to recipient (2) transfer of title to a trustee for a beneficiary (3) a self-declaration of trust.</p> <p>However, equity will not perfect an imperfect gift by presuming it to be a trust; it will not assist a volunteer.</p>	

Re Beaney	3
Relevance: Gifts – Requirements – Mental capacity	
Relevant facts: Mother was suffering from senile dementia; made gift of her house – her only substantial asset – to one daughter, effectively disinheriting her two other children; held that the degree of understanding required was high, and that she did not have the degree of understanding necessary to make the gift valid.	
Ratio: The donor must be able to understand the nature of the transaction and the degree of mental capacity needed will vary depending on the nature of the gift.	

Richards v Delbridge	3
Relevance: Gifts – Requirements – Formalities	
Relevant facts: Grandfather owned a lease; attempted to transfer it to Grandson by writing his intention on the back of it; it was not the correct way to transfer the lease (should have been done by deed); gift failed.	
Ratio: Where the donor has failed to use the correct method of transferring ownership, the gift will fail. The court will not 'save' an invalid gift by categorising it as a trust (supports Milroy v Lord)	

Re Rose	1
Relevance: Gifts – Requirements – Formalities Exception – Every Effort test	
Relevant facts: Mr Rose executed appropriate form of transfer, transferring shares in a company to his wife on 30 March 1943; handed transfer and share certificate to wife, who then sent them to the company; she was registered as new shareholder on 30 June 1943; Mr Rose died; if gift was transferred before 10 April no duty was payable; held that the gift was perfected in equity when the documents were sent to the company (before 10 April).	
Ratio: Where the donor has failed to transfer legal title, the transfer may be regarded as complete in equity if the donor has put the property beyond his recall, i.e. he has done everything in his power to transfer the legal ownership to the donee and the only outstanding matters are to be dealt with by third parties.	

Mascall v Mascall	2
Relevance: Gifts – Requirements – Re Rose exception	
Relevant facts: Donor handed over a deed of transfer to the donee, which would have been sufficient for the donee to become the registered legal owner; donor later changed his mind and wanted to reclaim the property; held that the gift was perfected in equity even though the donee had not yet become registered as legal owner.	
Ratio: If a donee needs to get an order from a court of equity in order to complete his title, he will not get it; if he has under his control everything necessary to constitute his title completely without any further assistance from the donor, the donee needs no assistance from equity and the gift is complete.	

Pennington v Waine	1
Relevance: Gifts – Requirements – Formalities Exception - Unconscionability	
Relevant facts: Aunt asked P to transfer shares to her nephew so that he could become director of the company; signed a stock transfer form, sent it to P who placed it on the company's file; P informed the nephew and told him no action was required on his part; nephew signed form agreeing to be director, which he signed and returned; Aunt later died but the transfer of shares had not actually been finalised; held that the gift was complete in equity.	
Ratio: Where the intention is to make an immediate gift and it would have been unconscionable for the donor to recall the gift, it will be considered complete in equity.	

Strong v Bird	1
Relevance: Gifts – Requirements – Formalities Exception – Donee as executor	
Relevant facts: Bird borrowed money from his stepmother; she paid him rent and agreed to pay a reduced rent until loan was repaid; paid reduced rent only twice then went back to paying full rent until her death; Bird appointed as executor and her next-of-kind attempted to recover debt from Bird; held that loan was a gift.	
Ratio: Where the following four conditions are met, upon the death of the intended donor the gift will become a perfect gift and the donee can claim the property in priority to those entitled to the rest of the estate which the donor has left on death: <ol style="list-style-type: none"> 1 The donor intends to make an immediate gift to the donee, but the gift is invalid because he fails to comply with the appropriate formality for transferring the legal title to the relevant property. 2 The intention must be to make an immediate gift, not one in the future; 3 The intention must continue unchanged until the donor's death and there is evidence of this; 4 The donor dies, and the 'donee' is appointed the donor's executor or administrator (the donor's personal representative) 	

Re Freeland	2
Relevance: Gifts – Formalities – Strong v Bird application – Immediate gift	
Relevant facts: Donor stated intention to give a car to the donee 'as soon as I can get it on the road'; held it was not an immediate gift and the rule in Strong v Bird did not apply.	
Ratio: For Strong v Bird to apply, the intention must be to make an immediate gift, not one in the future.	

Re Gonin	2
Relevance: Gifts – Formalities – Strong v Bird application – Continued intention	
Relevant facts: Mother allegedly attempted to give a house and garden to her daughter, but failed to sign a deed; subsequently sold a part of the garden; held to indicate that she still considered herself the owner (one of the reasons gift failed).	
Ratio: For a gift to be perfected under Strong v Bird, the intention to make the immediate gift must continue unchanged until the donor's death; where there is evidence to the contrary the gift will fail.	

Choithram International v Pagarani	1
Relevance: Trusts – Requirements – Declaration of trust with self as trustee	
Relevant facts: Pagarani made oral statement that he was giving all his wealth to the Choithram International Foundation and orally instructed the companies' accountant to transfer all his wealth from his various companies; Pagarani was one of the trustees; died before the appropriate documents could be finalised; some of his children claimed the gift was unenforceable; held that as he was himself a trustee, an oral declaration and the fact that the shares were vested in him as trustee was sufficient to constitute the trust.	
Ratio: Where a donor makes a gift which could also amount to a declaration of trust with self as trustee, his conscience will be affected as soon as the gift has been declared and he will not be able to resile from it; he will be under the duty to hold the gift as a trust.	

Knight v Knight	1
Relevance: Trusts – Requirements	
Relevant facts: Knight made a settlement passing on his properties; left property to his brother and male descendants but also specified: 'I trust to the liberality of my successors to reward any others of my old servants and tenants according to their deserts, and to their justice in continuing the estates in the male succession, according to the will of the founder of the family, my above-named grandfather'; held to be uncertain.	
Ratio: A valid trust requires: certainty of intention, certainty of subject matter, and certainty of objects.	