

The plaintiffs will be required to file an amended complaint pursuant to this Opinion. We, therefore, do not find it necessary to address ourselves in any great detail to defendants' preliminary objections in the nature of a motion to strike and for a more specific pleading. However, for the benefit of counsel we do note:

1. "The test as to impertinent matter is that of relevancy to the issue before the Court." *Whiteman vs Sarmento*, 22 D&C 2d, 384, 388 (1960). We find it difficult to detect relevancy in paragraphs 8(a), (b), (f), (g), (h), (j), (k), (l) and (p) absent greater specificity.

2. Greater specificity in the pleading of noise and its effect on the plaintiff and occupants of her property is highly desirable.

3. If plaintiff proposes to rely upon the Washington Township Junk Yard Ordinance as establishing standards or for any other purpose, the fact should be pleaded and a copy of the Ordinance or applicable sections thereof incorporated in the complaint.

ORDER

NOW, this 2nd day of May, 1977, the defendants' demurrers are sustained. The defendants' preliminary objection alleging an adequate remedy at law is dismissed.

The plaintiff is granted twenty (20) days from date hereof to file an amended complaint.

Exceptions are granted the parties.

CORMANY v. BASS, ET AL., C.P. Franklin County Branch, E.D. Vol. 7, Page 123

Equity - Uniform Fraudulent Conveyances Act - Fair Consideration - Debt

1. Under Section 3 of the Uniform Fraudulent Conveyances Act, 39 P.S. 3354, there is fair consideration when in exchange for a lawful obligation an antecedent debt is satisfied.

2. A "debt" within the meaning of Section 1 of the aforementioned act includes an executory promise to reconvey real property.

Robert C. Schollaert, Esq., Attorney for Plaintiff

Courtney J. Graham, Esq., Attorney for Defendants

OPINION AND DECREE NISI

Eppinger, P.J., August 24, 1978:

William D. Bass, Jr. (William) wanted to open a pizza shop of his own. His grandparents, Charles E. Bass and Phoebe D. Bass were willing to help him. To do this, they would have to mortgage their property. But considering their advanced age, the bank declined to accept the mortgage.

William suggested that the grandparents convey the property to him, he would mortgage it and get a loan for \$20,000. Later when his business was successful he would refinance the loan, pledging his business as security and reconvey the property to his grandparents. They did as he requested, accepting his oral promise to reconvey to property to them. William's business was not a success. He defaulted on the loan and the property was sold at Sheriff's Sale. William assigned all of his interest in the proceeds after payment of judgment debts to his grandparents.

William's grandparents were not the only ones persuaded to help him. Ruth M. Cormany (Mrs. Cormany) co-signed a note with William for \$7,000.00. When William defaulted on this loan, Mrs. Cormany paid the balance due and sued William on the note and obtained a default judgment for \$5,371.20. Alleging William's assignment of his interest in the fund in the hands of the Sheriff was invalid, Mrs. Cormany filed an action in equity asking the Court to set aside the assignment to the extent necessary to satisfy her judgment. The matter was submitted to the chancellor to be decided upon the record, including the depositions that had been filed.

Section 4 of the Uniform Fraudulent Conveyances Act of May 21, 1921, P.L. 1045, 39 P.S. Sect. 354 states:

Every conveyance made and every obligation incurred by a person who is or will be thereby rendered insolvent, is fraudulent as to creditors, without regard to his actual intent, if the conveyance is made or obligation is incurred without fair consideration.

William's assignment of his interest to his grandparents made him insolvent. So this act applies. The question is whether the assignment was made for a fair consideration.

There is a fair consideration under Sect. 3 of the Act, 39 P.S. Sect. 353 when, in exchange for such obligation an antecedent debt is satisfied. Debt is defined in Section 1 of the

Act, 39 P.S. Sect 351 as "[a]ny legal liability, whether matured or unmatured, liquidated or unliquidated, absolute, fixed, or contingent."

The conveyance by the grandparents to William was not a gift. It was to permit him to start the pizza shop. He had an obligation to reconvey the property to them when the mortgage was paid. The property was sold at Sheriff's sale, and the mortgage has been paid. However, William cannot reconvey the property because title has passed from his hands. The only thing left for him to do is to turn over to his grandparents what is left of the property, the balance of the proceeds after the mortgage and lien judgments.

In these circumstances we do not find that William had an intent to defraud Mrs. Cormany, but intended to settle his liability to his grandparents to the point he was unable to do it. Their losses in the transaction have been substantial.

In *Lake v. Hurst*, 6 Chester 82, 86 (1953), the Court held that "...an executory promise to pay is a consideration supporting a transfer, under the terms of the (Uniform Fraudulent Conveyances) Act." Here the consideration for the original transfer was William's executory promise to reconvey. In making this promise he incurred a legal liability, creating a debt within the terms of the Act.

DECREE NISI

NOW, August 24th, 1978, the prayer of plaintiff's complaint is denied. The costs shall be paid by the plaintiff.

This is a decree nisi and shall become absolute unless exceptions are filed thereto within 10 days after notice of the filing of this adjudication.

IN RE CHILD X, C.P. J.D., Franklin County Branch, No. 69 Juv. 1975

Juvenile Court - Statute of Limitations - In Re Gault

1. The Statute of limitations for adult criminal proceedings is not applicable to juvenile proceedings.
2. The statutory limitation of actions is a matter of legislative grace rather than one of right.
3. The legislature's failure to expressly incorporate the criminal statute of limitations into the Juvenile Act, Act of Dec. 6, 1972, P.L. 1464, No. 333,

Sect. 1, 11 P.S. 50-101 et. seq., indicates an intent not to apply the limitations to juvenile proceedings.

4. The United States Supreme Court's extension of procedural safeguards of adult criminal prosecutions to juvenile proceedings in *In re Gault*, 387 U.S. 1, 87 Sup. Ct. 1428, 18 L. Ed. 2d 527 (1967), does not imply that juveniles in delinquency proceedings must be treated exactly as are adults in criminal proceedings.

5. Pre-accusatorial delay may constitute grounds for dismissal if the delay (1) under the circumstances is unreasonable, and (2) causes prejudice to the defendant's case.

John R. Walker, District Attorney, Counsel for the Commonwealth

John McCrea, III, Esq., Counsel for the Child

OPINION AND ORDER

Eppinger, P.J., July 30, 1976:

On April 11, 1975 a juvenile hearing was held on a petition dated February 19, 1975, filed against Child X. It was averred in the petition that X had committed the offense of larceny on or around June 26, 1972. Based on these averments, X moved for dismissal of the hearings on the ground that the statute of limitations for larceny had elapsed prior to the filing of the petition. The court reserved ruling on the motion and continued the case pending a decision on the motion. The case was argued April 1, 1976.

The issue raised by X is whether the statute of limitations for criminal proceedings is applicable to juvenile proceedings. If the answer is in the affirmative, the relief sought must be granted because the petition clearly shows that the alleged offense occurred in excess of the statutory period in which a criminal complaint in larceny must be brought. Act of April 6, 1939, P.L. 17 Sect. 1, 19 P.S. 211.

In disposing of this question the court is aware of the fact that the Juvenile Act does not specifically incorporate the criminal statute of limitations. Act of December 6, 1972, P.L. 1464, No. 333, Sect. 1., 11 P.S. 50-101 et. seq. Moreover, the parties have not cited, nor has our research revealed, any Pennsylvania case decisive on this issue. A survey of decisions in other jurisdictions is likewise of no assistance. Only California, by implication, assumes that the limitations would be applicable in juvenile court by providing that the filing of a