

Maxims for Equity

1. EQUITY FOLLOWS THE LAW

Meaning

The maxim indicates the discipline which the Chancery Courts observed while administering justice according to conscience. As has been observed by Jekyll, M.R: "The discretion of the court is governed by the rules of law and equity, which are not to oppose, but each, in turn, to be subservient to the other." Maitland said, "*Thus equity came not to destroy the law but to fulfill it, to supplement it, to explain it.*" The goal of equity and law is the same, but due to their nature and due to historic accident they chose different paths. Equity respected every word of law and every right at law but where the law was defective, in those instances, these Common Law rights were controlled by recognition of equitable Rights. Snell therefore explained this maxim in slightly different way: "*Equity follows the law, but not slavishly, nor always.*"

Application and cases

At common law, where a person died intestate who owned an estate in fee-simple, leaving sons and daughters, the eldest son was entitled to the whole of the land to the exclusion of his younger brothers and sisters. This was unfair, yet no relief was granted by Equity Courts. But in this case it was held that if the son had induced his father not to make a will by agreeing to divide the estate with his brothers and sisters, equity would have interfered and compelled him to carry out his promise, because it would have been against conscience to allow the son to keep the benefit of a legal estate which he obtained by reason of his promise. This decision was held in *Stickland v. Aldridge*. Equity follows the law and even if by analogy law can be followed, it should be followed.

Limitation

- i) Where a rule of law did not specifically and clearly apply
- ii) Where even by analogy the rule of law did not apply

Recognition

Bangladesh has not recognized the well-known distinction between legal and equitable interests. Equity rules in Bangladesh, therefore, cannot override the specific provisions of law. As for example, every suit in Bangladesh has to be brought within the limitation period and no judge can create an exception to this or can prolong the time-limit or stop the rule from taking effect on principles of equity. Such a decision was held in Indian *Appa Narsappa Magdum* case.

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Table of Contents The Maxims Of Equity Pearson Uk

1. Understanding the eBook The Maxims Of Equity Pearson Uk
 - The Rise of Digital Reading The Maxims Of Equity Pearson Uk
 - Advantages of eBooks Over Traditional Books
2. Identifying The Maxims Of Equity Pearson Uk
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an The Maxims Of Equity Pearson Uk
 - User-Friendly Interface
4. Exploring eBook Recommendations from The Maxims Of Equity Pearson Uk
 - Personalized Recommendations
 - The Maxims Of Equity Pearson Uk User Reviews and Ratings
 - The Maxims Of Equity Pearson Uk and Bestseller Lists
5. Accessing The Maxims Of Equity Pearson Uk Free and Paid eBooks
 - The Maxims Of Equity Pearson Uk Public Domain eBooks
 - The Maxims Of Equity Pearson Uk eBook Subscription Services
 - The Maxims Of Equity Pearson Uk Budget-Friendly Options
6. Navigating The Maxims Of Equity Pearson Uk eBook Formats

- ePub, PDF, MOBI, and More
 - The Maxims Of Equity Pearson Uk Compatibility with Devices
 - The Maxims Of Equity Pearson Uk Enhanced eBook Features
7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of The Maxims Of Equity Pearson Uk
 - Highlighting and Note-Taking The Maxims Of Equity Pearson Uk
 - Interactive Elements The Maxims Of Equity Pearson Uk
 8. Staying Engaged with The Maxims Of Equity Pearson Uk
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers The Maxims Of Equity Pearson Uk
 9. Balancing eBooks and Physical Books The Maxims Of Equity Pearson Uk
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection The Maxims Of Equity Pearson Uk
 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
 11. Cultivating a Reading Routine The Maxims Of Equity Pearson Uk
 - Setting Reading Goals The Maxims Of Equity Pearson Uk
 - Carving Out Dedicated Reading Time
 12. Sourcing Reliable Information of The Maxims Of Equity Pearson Uk
 - Fact-Checking eBook Content of The Maxims Of Equity Pearson Uk
 - Distinguishing Credible Sources
 13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
 14. Embracing eBook Trends
 - Integration of Multimedia Elements
 - Interactive and Gamified eBooks

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