

# Turkey v Awadh [2005]

The question of presumed illegal influence is raised in this case involving real property.

## Evidence

A married couple from Saudi Arabia mortgaged a house to purchase a new dwelling in London. The couple rented their house to the wife's father and his wife. In the meantime, the two couples lived in the mortgaged house. Sometime later, the young couple decided to transfer the house to the father on the condition that he paid £93,000 and paid off the mortgage, plus the debt obligations for this house immediately. When the father paid the money and discharged the loan with some of the debt obligations, he demanded the house to be transferred to him as agreed.

## Problematics

The young couple claimed that the father had an illegitimate influence on them as he gave untrue information about his payments. They demanded that the case should be claimed void because of the father's corruption.

## Resolution

The court of appeal discharged the young couple's complaint. To prove the illegitimate influence, relationships of trust and confidence must be established between the two parties. Then, the father's transaction must raise questions, i.e. the transaction must imply some extent of the illegitimate influence of the father. If the presumption of illegitimate influence is raised, the father should prove that the illegitimate influence was not present. If the plaintiff engages into the agreement by his or her own will, this discharges any illegitimate influence. As the father and daughter communicated closely, the transaction raised questions. The father would not have an opportunity to reject the presumption of illegal influence as the young couple could not access impartial legal advice. The transaction also could be explained in a different way, so the father could demand the action described in the agreement.

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