

Williams & Glyn's Bank Ltd v Boland [1981]

Evidence

The following application was dealt with two cases related to one issue. Two wives paid initial monies and further mortgage payments to buy a spousal house. Based on this, each of them was the owner of the premises to the extent that was equal to the amount of the sums they had invested. Two houses were imparted to the wives in the names of their legitimate husbands. Both houses were pledged to the bank by the latter on legal grounds. After the couples had ceased payments, the representatives of the bank started to process documentation to confirm the ownership of the premises. At this period of time, the wives were still living in the house.

Problematics

The main point of this case is connected with the question of whether the advantage a wife gets upon living in a house can take the primary interest according to the Land Registration Act 1925, which regulates the issues connected with registered and legitimate hypothec.

Resolution

The House of Lords stated that the primary interest of the wife, who was living in a house owned by her husband, exceeds the legal responsibility. First of all, based on the facts, the Court claimed that both wives have to be treated with respect since they both were living in the house. Thus, they had to be protected correspondingly. Secondly, the Court stated that the Land Registration Act 1925 in consideration of collective property, admits the rights of the residents. Also, it was admitted that the mate may have an unbiased interest in living in the spousal house that was the property of the bank and that such interest is considered to be primary. Moreover, it has to be taken into account, as it is stated in 70 (1) of the Act, that the legal interests of the legitimate holder were more important compared to the legal payment. The Court paid attention to the necessity of the banks to investigate the cases connected with the tenants in more detail rather than to protect their interests as it is done by the Act. As a result, the Court claimed that the interests of the wives were prior to the legitimate payment of the bank.

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