

### Relevant Extract of the Specific Relief Act 1877.

3. **Interpretation clause.** In this Act, unless there be something repugnant in the subject or context,—

“obligation” includes every duty enforceable by law:

“trust” includes every species of express, implied, or constructive fiduciary ownership:

“trustee” includes every person holding, expressly, by implication, or constructively, a fiduciary character:

#### *Illustrations*

- (a) Z bequeaths land to A, “not doubting that he will pay there out an annuity of Rs. 1,000 to B for his life”. A accepts the bequest. A is a trustee, within the meaning of this Act, for B, to the extent of the annuity.
- (b) A is the legal, medical, or spiritual adviser of B. By availing himself of his situation as such adviser, A gains some pecuniary advantage which might otherwise have accrued to B. A is a trustee, for B, within the meaning of this Act, of such advantage.
- (c) A, being B's banker, discloses for his own purpose, the state of B's account. A is trustee, within the meaning of this Act, for B, of the benefit gained by him by means of such disclosure.
- (d) A, the mortgagee of certain leaseholds, renews the lease in his own name. A is a trustee, within the meaning of this Act, of the renewed lease, for those interested in the original lease.
- (e) A, one of several partners, is employed to purchase goods for the firm. A, unknown to his co-partners, supplies them, at the market price, with goods previously bought by himself when the price was lower, and thus makes a considerable profit. A is a trustee for his co-partners, within the meaning of this Act, of the profit so made.
- (f) A, the manager of B's indigo-factory, becomes agent for C, a vendor of indigo-seed, and receives, without B's assent, commission on the seed purchased from C for the factory. A is a trustee, within the meaning of this Act, for B, of the commission so received.
- (g) A buys certain land with notice that B has already contracted to buy it. A is a trustee, within the meaning of this Act, for B, of the land so bought.
- (h) A buys land from B, having notice that C is in occupation of the land. A omits to make any inquiry as to the nature of C's interest therein. A is a trustee, within the meaning of this Act, for C, to the extent of that interest.

“Settlement” means any instrument (other than a will or codicil as defined by **the Indian Succession Act (X of 1865)**<sup>1</sup>) whereby. The destination or devolution of successive interests in moveable or immoveable property is disposed of or is agreed to be disposed of :

Words defined in Contract Act, 1872 and all words occurring in this Act, which are defined in the Contract Act, 1872 (IX of 1872), shall be deemed to have the meanings respectively assigned to them by that Act.

4. **Savings.** Except where it is herein otherwise expressly enacted, nothing in this Act shall be deemed-

- (a) to give any right to relief in respect of any agreement which is not a contract;

- (b) to deprive any person of any right to relief, other than specific performance, which he may have under any contract; or
- (c) to affect the operation of the Indian Registration Act on documents.

**39. When cancellation may be ordered.** Any person against whom a written instrument is void or voidable, who has reasonable apprehension that such instrument, if left outstanding, may cause him serious injury, may sue to have it adjudged void or voidable; and the Court may, in its discretion, so adjudge it and order it to be delivered up and cancelled.

If the instrument has been registered under the Indian Registration Act, the Court shall also send a copy of its decree to the officer in whose office the instrument has been so registered; and such officer shall note on the copy of the instrument contained in his books and fact of its cancellation.

#### *Illustrations*

- (a) A, the owner of a ship by fraudulently representing her to be seaworthy, induces B, an underwriter, to insure her. B may obtain the cancellation of the policy.
- (b) A conveys land to B, who bequeaths it to C and dies. Thereupon D gets possession of the land and produces a forged instrument stating that the conveyance was made to B in trust for him. C may obtain the cancellation of the forged instrument.
- (c) A, representing that the tenants on his land were all at will, sells it to B, and conveys it to him by an instrument, dated the 1st January 1877. Soon after that day, A fraudulently grants to C a lease of part of the lands, dated the 1st October, 1876, and procures the lease to be registered under the Indian Registration Act.<sup>3</sup> B may obtain the cancellation of this lease.
- (d) A agrees to sell and deliver a ship to B, to be paid for by B's acceptances of four bills of exchange, for sums amounting to Rs, 30,000 to be drawn by A on B. The bills are drawn and accepted, but the ship is not delivered according to the agreement. A sues B on one of the bills, B may obtain the cancellation of all the bills.