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Law of Equity & it's Principles

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ABSTRACT

The law of equity is a set of legal principles that seek to provide fair and just outcomes in situations where strict application of the law may lead to injustice. The general principles of equity are rooted in notions of fairness, justice, inclusion, accessibility, responsiveness, and empowerment. These principles guide decision-making and policy development in various fields, including law, economics, and social justice. The principles of equity emphasize the importance of treating individuals fairly, providing equal opportunities, and addressing the unique needs and experiences of different groups. Equity is based on the idea that every individual and community should have access to the resources they need to thrive, and that policies and practices should be designed to reduce unfair advantages and disadvantages. Overall, the law of equity seeks to promote a just and equitable society, where everyone has a fair chance to succeed and reach their full potential.

Keywords: law of equity, legal principles, fairness, justice, inclusion.

I. INTRODUCTION

The Common Law is one system of law, while equity is another. It has several guidelines, precepts, and cures. So, in order to comprehend the tenets upon which the Law of Equity is founded, we must comprehend how it came to be, as well as the justifications for its necessity in the face of an existing legal structure—the Common Law. The corpus of customary law known as common law has its roots in London's Curia Regis (King's Court). The majority of English Common Law was created by judges and was based on judicial precedents and judgements. The following two primary factors led the nation to recognise the necessity for the Law of Equity:

- In Common Law, damages were the sole viable remedy. As a result, in cases when monetary recompense was inappropriate, a reasonable and equitable remedy could not always be provided by Common Law. This solution didn't always have a big influence on how the cases ended.
- A writ, which is a legal document that states why and on what legal grounds a person is being sued, is required to begin a civil action under Common Law. When a matter was

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not covered by a writ, issues occurred. When the practise of creating writs for each new case was abandoned in the 13th century, cases that were not previously covered by writs were not continued.

The principles of equity are a set of fundamental values that guide decision-making and policy development in various fields, including law, economics, and social justice. The following are some key principles of equity:

- **Fairness:** Equity requires treating people fairly, regardless of their background or circumstances. This principle means that everyone should have an equal opportunity to succeed, and that policies and practices should be designed to reduce unfair advantages and disadvantages.
- **Justice:** Equity is closely tied to the concept of justice, which means ensuring that individuals are treated justly and that they receive what they are entitled to. This principle involves taking into account the historical context of inequities and recognizing that some groups have been disadvantaged in the past and may need additional support to overcome those disadvantages.
- **Inclusion:** Equity means creating an inclusive environment where everyone feels valued and has a sense of belonging. This principle recognizes that everyone has unique strengths and perspectives, and that diversity is a strength to be celebrated.
- **Accessibility:** Equity requires ensuring that everyone has equal access to resources and opportunities. This principle involves identifying and removing barriers that prevent individuals from accessing the resources they need to succeed.
- **Responsiveness:** Equity means being responsive to the needs and experiences of different groups. This principle involves listening to and engaging with individuals and communities to understand their unique needs and perspectives and adapting policies and practices accordingly.
- **Empowerment:** Equity involves empowering individuals and communities to participate fully in decision-making processes that affect their lives. This principle recognizes that individuals and communities are the experts on their own experiences and should be given the tools and resources to take an active role in shaping policies and practices that affect them.

II. BRIEF HISTORY

The history of the law of equity can be traced back to medieval England, where the legal system

was based on common law. Common law was based on precedents and legal decisions made by judges, and its application was often inflexible and rigid. As a result, there were many situations where the strict application of common law led to unfair or unjust outcomes.

To address this, a separate court of equity was established, with the power to issue remedies that were not available under common law. The court of equity was presided over by a chancellor, who was often a priest or a scholar rather than a trained lawyer. The chancellor had the power to issue injunctions, orders for specific performance, and other equitable remedies, based on the principles of fairness and justice.

Over time, the court of equity became an integral part of the English legal system, and its principles were incorporated into the law of many other countries. In the United States, the law of equity was initially administered by separate courts of equity, but these were eventually merged with the common law courts to form a unified system of law.

In India, the law of equity is followed through various legal mechanisms, including statutes and case law. The principles of equity are embodied in various Indian laws, including the Indian Contract Act, the Indian Trusts Act, and the Specific Relief Act, among others.

The Indian legal system recognizes the importance of equitable principles, and courts in India have the power to provide equitable remedies to individuals or entities who have suffered harm or injustice. These remedies can include injunctions, specific performance orders, and orders for restitution or damages.

In addition, the Indian judiciary has developed a rich body of case law that applies equitable principles to specific situations. Indian courts have relied on principles of equity to provide relief to individuals who have been subject to fraud, undue influence, or other forms of injustice. For example, Indian courts have used equitable principles to order specific performance of contracts, to set aside unconscionable agreements, and to provide relief in cases of breach of trust or fiduciary duty.

III. MAXIMS ASSOCIATED WITH EQUITY

"*Equitas sequitur legem*" - This maxim means that equity follows the law, emphasizing the importance of aligning equitable decisions with established legal principles.

"*Ubi jus, ibi remedium*" - This maxim means that where there is a right, there is a remedy, emphasizing the importance of providing relief or compensation for harm suffered by individuals.

"*Qui sentit commodum, sentire debet et onus*" - This maxim means that whoever enjoys a

benefit ought to bear the burden associated with that benefit, emphasizing the importance of sharing both benefits and burdens equally.

"In pari delicto potior est conditio possidentis" - This maxim means that when parties are equally at fault, the party in possession of property or resources has the stronger claim, emphasizing the importance of recognizing existing rights and interests.

"Nemo debet bis vexari pro eadem causa" - This maxim means that no one should be twice troubled for the same cause, emphasizing the importance of avoiding double jeopardy or multiple punishments for the same offense.

"Vigilantibus et non dormientibus jura subveniunt" - This maxim means that the law aids the vigilant, not those who sleep on their rights, emphasizing the importance of taking proactive steps to protect one's rights and interests.

IV. PRINCIPLES OF EQUITY

Even though the equity system of law is not as established as the common law system, it adheres to a set of maxims that capture its core principles.

Equity will not allow a wrong to go unpunished.

Whenever there is a right, there is a cure, as the Latin proverb "Ubi Jus Ibi Remedium" states. According to the adage, whenever the common law grants a right, it also provides a remedy for when that right is violated. It must be remembered that this rule only applies where the court has jurisdiction over both the right and the remedy. Injunctions and specific performance are other forms of potential remedies under the Law of Equity. In *Ashby v. White*, an eligible voter who was denied the opportunity to cast a ballot sued the returning officer. This case deals with the tenet of this maxim, which is that if someone is given a right, he is also given a remedy.

Equity adheres to the law.

"Aequitas sequitur legem," another way to state this axiom, states that equity will not permit a remedy that is in conflict with the law. This maxim states that equity does not replace the law but rather supports it. Law and equity, which are complementary to one another, regulate the court's discretion. The law must be upheld anywhere it can be. This maxim is constrained in situations when the law does not apply directly. Yet, the law in contemporary England and Wales adheres to equity. According to Section 49(1) of the Senior Courts Act of 1981, in the event of a dispute between the rule of law and equity, equity shall be applied.

Anyone seeking equity must act ethically

According to this adage, the plaintiff must carry out his obligations in accordance with the concept of equity since they are likewise subject to the court's authority. This maxim is concerned with the plaintiff's potential future behaviour. As this maxim says that the plaintiff must also acknowledge and yield to his opponent's right, it is applicable to the side seeking equitable redress. In the case of *Lodge v. National Union Investment Company Limited*, where Lodge had borrowed money from an unregistered moneylender in order to pursue a claim to recover the securities, this maxim came into play. As a result, the court declined to issue an order unless it was stipulated that Lodge would pay back the money that had been advanced to him. Moreover, the following legal laws apply this maxim:

- According to Section 19A of the Indian Contract Act, the plaintiff is required to reinstate any advantages resulting from the contract that he has revoked.
- According to the theory of election, which is outlined in Section 35 of the Transfer of Property Act, a benefit under a legal instrument must be embraced along with all of its requirements and conditions.
- The theory of consolidation of mortgages permits the lender to pool the assets that were secured by the borrower and to realise those secured assets against the total amount owed when the borrower has mortgaged various properties to secure various debts and fails on one of those loans.
- Order 8, Rule 6 of the CPC, the doctrine of set-off, states that when two litigating parties owe each other money, the amount owing to one party must be offset by the identical amount owed to the other party, with only the leftover money being claimed.

Everyone who seeks equity must do so with pure intentions.

According to this theory, which refers to the parties' prior interactions, the party asking the court for justice cannot itself have committed an unjust act in the past. This adage has to do with the plaintiff's prior actions. The adage does not apply to the plaintiff's general conduct; rather, the defence of dirty hands is only appropriate where there is a connection between the applicant's wrongdoing and the right that he seeks to protect.

In the case of *D & C Builders Ltd v. Rees*, this concept was affirmed since the plaintiff had unfairly exploited the defendant's construction company's precarious financial situation and had not approached the situation with clean hands.

The plaintiff cannot request equity if he has engaged in fraud or deceit pertaining to the specific

case. A plaintiff's unfair behaviour will exclude him from the equitable remedy of particular performance of a contract, according to Sections 17, 18, and 20 of the Specific Relief Act, which also accept this idea.

Delays undermine equity.

"Vigilantibus non dormientibus aequitas subvenit," which roughly translates to "Equity supports the watchful and not those who sleep on their rights," is the Latin maxim for this notion. Laches is the legal term for unreasonable delay in asserting a claim. The claims might be dismissed as a result of laches. A party must thus bring an action within a reasonable amount of time. There are some circumstances in which the law of limitations is specifically applied; in these instances, there is a specific legal scenario in which a time period that has been clearly defined has passed and the party is no longer permitted to file a lawsuit.

The court may use the defence of acquiescence in cases of laches and deny the plaintiff's request for an equitable remedy if it determines that he has consented to the defendant's dubious activities. In the case of *Chief Young Dede v. African Association Ltd.*, the equitable principle of acquiescence and laches was first used.

Equity is equality.

The Latin proverb *Aequitas est quasi aequalitas*, which means equality is equity, captures this idea. According to this adage, equity aims to equalise the rights and obligations of the parties to a dispute as much as is practical. The regular law may favour one party over the other, but the equity court, if feasible, equalises the playing field for all parties.

Equity looks to the intent rather than the form

This principle, which permits the provisions of a contract to be construed by taking into consideration the intention of the parties, is the basis upon which an equitable remedy was founded. Due to the common law's rigidity and inability to adjust favourably to time demands, it was once believed that the form rather than the content of a contract was more significant. Equity, on the other hand, considers the spirit of the agreement rather than its language. The notion that the purpose of a contract is to fulfil it and not the compensation is established in the provision for relief from penalty and forfeitures, which specifies that the compensation must be commensurate to the damage and not profit the recipient (Section 74 of the Indian Contract Act provides for claiming reasonable compensation). If a party to a contract for the sale of land fails to finish within a certain timeframe, equity gives the party a fair amount of time to fulfil the deal (*Parkin v. Thorold*).

Equity looks on that as done which ought to have been done

According to this axiom, in situations where people are compelled to execute any act of legal consequence by agreement or by law, equity will view that act as having been completed as it should have even before it really occurred. This idea gives rise to the legal concept of equitable conversion, which allows the buyer to acquire the property's equitable title even before the transaction has been formally completed.

Equity imputes an intention to fulfil an obligation

According to this axiom, if a person is needed to do one act but performs another, the latter act will be regarded as a sufficient approximation to the first act's performance. For instance, if a debtor leaves a legacy to his creditor that is equal to or larger than the debt he owes, equity would view that legacy as fulfilling the person's commitment to pay the debt.

Equity acts in personam

According to this adage, a person rather than a piece of property is covered by equity. The difference between the Court of Common Law and Chancery Courts in England was that the former had jurisdiction over both persons and property, whilst the latter solely dealt with individuals. The Equity court's ability to declare the offender in contempt of court and impose appropriate sanctions gave rise to their coercive power. As the law of equity applied to people rather than things, it could also be applied to things that were outside of a jurisdiction as long as their owner was doing so. In *Penn v. Lord Baltimore*, the plaintiff who took a boundary dispute case to an English Court, despite the land being located in Maryland, USA, received a particular performance order. The court's jurisdiction was applicable to the parties because they were both English and resided in England.

Where the equities are equal, the first in time prevails

The individual whose equity is tied to the property earliest in time will be entitled to precedence over others in cases where the legal estate is not present and the dispute only involves equitable estate. Several equitable interests are referred to as equities in this context. As a result, the initial interest, or the first in time, will prevail if two shares are equal. If A provides an equitable mortgage to X, for instance, and then grants the identical mortgage to Y later, X's mortgage will take precedence.

Where the equities are equal, the law prevails

The legal remedy will take precedence if neither party has been harmed nor both are in an equitable position. In the event that both parties have identical causes, equity shall not offer any

special relief. As a result, in certain situations, the parties must file a lawsuit rather than an equitable action.

V. CONCLUSION

In conclusion, the principles of equity are essential in promoting fairness and justice in various fields of human endeavor. These principles emphasize the importance of treating individuals fairly, providing equal opportunities, and addressing the unique needs and experiences of different groups. By promoting inclusivity, accessibility, responsiveness, and empowerment, equity seeks to reduce unfair advantages and disadvantages, and to create a society where everyone has a fair chance to succeed and reach their full potential. Therefore, it is important to apply these principles in decision-making and policy development to ensure that justice and fairness are upheld in all aspects of human life.

The goal of the equity laws, which have developed via precedent, is to provide parties with equitable rights and remedies. The judge's judgement and comprehension of the fair and reasonable reasons have primarily guided the equity judgements. Both equity and law have a long history and continue to be important today. Justice depends on both the rule of law and equity. When the text of the law must be respected because the rigidities of the law endanger justice, fairness wins out. Justice therefore depends on both, and in order to administer justice, both must be consulted.
