

Brady v Stapleton (1952) 88 CLR 322

<http://lawcasesummaries.com/knowledge-base/brady-v-stapleton-1952-88-clr-322/>

Facts

- A man became bankrupt but beforehand, transferred shares to another man in order to keep them from the creditors
- The 2nd man, who had his own shares, knew this was happening
- The 2nd man then transferred them to the man's wife

Issue

- Which shares were transferred?

Held

- ALL the shares could be used to satisfy the creditors
- If a man mixes trust funds with his own, the whole will be treated as trust property, except where it is clearly distinguishable
- Grey horse/black horse – equity imposes a charge on the horse or horses.
- The right to trace only ceases when the new property cannot be identified
- Trust property can be traced even when it is an 'indistinguishable mass' – in this case a charge can be brought over the whole amount

Law case summary from www.lawcasesummaries.com