

Calverley v Green (1984) 155 CLR 242

<http://lawcasesummaries.com/knowledge-base/calverley-v-green-1984-155-clr-242/>

Facts

- A house was purchased by a defacto couple as joint tenants
- Man required woman's name to purchase
- However the man paid for everything himself
- Later separated; woman sought ½ the property
- Man argued she held her interest on resulting trust

Issue

- Was a resulting trust created?

Held

- Yes, in the resulting contributions
- But the woman did contribute by being a party
- Historically the law of presumptions arose bc of the legal limitations imposed on certain groups of people.
- Where a person purchases property in the name of another, or in 2 names, the question whether the person who provided no money acquires beneficial interest depends on the intention of the purchaser.
- But it is presumed they did not intend for them to get an interest and therefore there is a presumed resulting trust
- Unequal shares = presumption the owners hold in trust proportions as purchased
- Criticised advancement in relation to de facto but said that it is for the court to change
- Repayment of mortgage is not taken as a contribution to the purchase

Law case summary from www.lawcasesummaries.com