

Jones v Lock (1865) 1 Ch App 25

<https://lawcasesummaries.com/knowledge-base/jones-v-lock/>

Facts

- Jones had a son with first wife and infant son with second wife.
- Jones gave his infant son a cheque for £900. Cheque was payment for discharge of mortgage.
- Jones died before formally amending the will; the rest of the estate was to go to the children of Jones' first marriage.
- The infant's mother sought that £900 out of estate as it was transferred to his son. The cheque had not been endorsed (signed on back).
- Attempted to argue declaration of trust of cheque in favour of infant son.

Issue

- Was there an express trust for £900 in favour of the infant son?

Held

- No, there was no express trust.
- The evidence showed an intention to make a gift of the cheque to the infant, not to declare a trust. Equity will not perfect an imperfect gift.
- Voluntary settlements are only valid when the settlor has done everything which, according to the nature of the property, is necessary to be done to transfer the property and render the settlement binding upon him. Intention not carried into effect.
- If one intends to use one method and fails, equity will not save the failed gift and treat it as some other type of gift.
- There had been no declaration of trust, only a loose conversation. The testator did not intend to deprive himself of all property, or to declare himself a trustee of the money for the child.

Quotes

"If the settlement is intended to be effectuated by one of the modes... the court will not give effect to it by applying another of those modes. If it is intended to take effect by transfer, the court will not hold the intended transfer to operate as a declaration of trust, for then every imperfect instrument would be made effectual by being converted into a perfect trust."