

Nelson v Nelson (1995) 184 CLR 538

<http://lawcasesummaries.com/knowledge-base/nelson-v-nelson-1995-184-clr-538/>

Facts

- A woman built a house but put it in the name of her daughter and son so she could obtain a low interest loan as she had no other property
- Daughter tried to claim her half of the property.
- She knew it had been made for an illegal purpose.

Issue

- Did the mother have an interest? Is she precluded because of the illegal arrangement?

Held

- The attitude of the CL is contained in the principle that the court won't enforce a cause of action that is founded upon an illegal act
- Having achieved an illegal end, the transferor can't then repudiate
- However this was not a breach of the act, it was fraud for obtaining benefit on a false basis
- Also need to prevent injustice etc
- Therefore, recognized equitable interest due to her intention, even though it was illegal

Law case summary from www.lawcasesummaries.com