

Rice v Rice (1853) 61 E R 646

<http://lawcasesummaries.com/knowledge-base/rice-v-rice-1853-61-e-r-646/>

Facts

- The vendors sold a house for a sum
- Before that sum was paid in full, they conveyed title to the purchaser
- The purchaser then absconded, and mortgaged the property to the mortgagee, who had no idea of the circumstance

Issue

- Whose equitable interest is better?

Held

- The rule should be, *when two equitable interests are the same in all respects except time, then qui prior est tempore potior est jure.*
- Time considerations should be a last resort. You must look at whether one interest is better.
- When determining which equitable interest is “better”, the Courts must look at; the nature and condition of their respective equitable interests, the circumstances and manner of their acquisition, and the conduct of each party
- The possession of the title gives better equity generally. There are exceptions to this though
- The vendors armed the purchaser by giving them title
- The mortgagee is *bona fide*

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