

## Real Estate Transactions

### Course Overview

Lots of real estate transactions end up in court of equity.

### Property Overview:

Transfer of any property right you must satisfy SOF:

1. Writing, signed by party(ies) to be charged
  - a. purchase and sale k = all parties b/c mutual promises both of which must be upheld and therefore both must sign, conveyance of a deed = only one party b/c grantor signs deed (Charged w/all warranties, right to convey, etc...)
2. Legal description of the property (to the exclusion of any other),
3. Price
  - a. Optional b/c absence of which = imputation of FMV by court.
4. Some juris. will require date of closing for purchase and sale k.
  - a. Look for intent in both P&S and deed

If SOF not satisfied, may claim (although probably won't win in court of law), could win in a court of equity b/c:

1. Partial performance- can take the transaction out of the SOF.
  - a. Payment of all/part of purchase \$
  - b. Substantial improvements
  - c. Possession
  - d. Some courts require 2 of above, some require 3 look to particular juris.
2. Promissory Estoppel (promise, reliance, legal detriment)
  - a. Detrimental reliance
  - b. Unjust Enrichment

Doctrine of Equitable Conversion- The law considers done what ought to have been done??

1. Executory K (ready to be performed, all material conditions have been met, this definition gets 'massaged' a lot) is a condition precedent to Equitable Conversion
  - a. Vendor has bare legal title until closing (personal interest)
  - b. Vendee has equitable title (realty interest)
2. Burden of Fortuitous Loss (Fl has accepted this doctrine): Should the k become executory equitable title passes (and there is no insurance) to the vendee the vendor holds bare legal title until closing.
  - a. a.k.a the burden of fortuitous loss falls on the vendee therefore anything happens to the property and the buyer is screwed.
  - b. May k around b/c you **may k anything that isn't illegal, fraudulent or against public policy**, k that vendor remains responsible after execution of the k and prior to the closing.
    - a. If death occurs before closing: