



COURT OF CHANCERY  
OF THE  
STATE OF DELAWARE

SAM GLASSCOCK, III  
MASTER IN CHANCERY

NEW CASTLE COUNTY COURTHOUSE  
500 N. KING STREET, SUITE 11400  
WILMINGTON, DELAWARE 19801  
AND  
CHANCERY COURT COURTHOUSE  
34 THE CIRCLE, P.O. BOX 581  
GEORGETOWN, DE 19947

Date Submitted on Exceptions: July 30, 2004  
Final Report: November 18, 2004

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*Re: Taylor v. Jones*  
*C.A. No. 1498-K*

Dear Counsel:

This matter involves a petition to impose a resulting or constructive trust on a piece of real property in Kent County. The respondent moved for summary judgement, which was denied. The matter was tried on September 16, 2004 and March 16, 2004. I issued bench report finding that equity required that a resulting trust be found to exist in favor of the petitioner. Exceptions were taken

and briefed. I have reviewed the exceptions to my bench report of September 16, 2004 and March 16, 2004, together with Mr. Malmberg's response. I address below the legal exception raised. The factual exceptions are denied, for reasons I believe adequately stated in my bench reports. I adopt the bench reports, together with this letter, as my final report.

The legal exception involves my finding that a resulting trust should attach to the property in favor of the petitioner. The respondents argue that no such trust may attach, as a matter of law, because of the transfer of title from the respondent Mrs. Jones, individually, to Mr. and Mrs. Jones, by the entirety. Since the latter entity (the marital unit) was not involved in the situation giving rise to the trust, argue respondents, the marital unit is insulated from liability or the imposition of any trust.

Since I found that the original transfer to Mrs. Jones was in trust for the petitioner, the resulting trust attached at the time the property was placed in Mrs. Jones name. Mr. Jones was aware of and involved in the situation which gave rise to the trust, before and at the time he received the gratuitous transfer of title as an owner by the entirety. The fact that he and his wife then became liable on a loan, for their personal benefit, secured by the property, does not make him a purchaser

for value. As the recipient of the gift of legal title from his wife, with knowledge of the situation giving rise to the trust, Mr. Jones together with his wife could take no more title than the donor, Mrs. Jones, possessed. Therefore, Mr. Jones and his wife hold the legal title, by the entirety, for the benefit of the petitioner, subject to the resulting trust. Equity requires the imposition of a remedy consistent with the bench report.

I have not received a response to Mr. Malburg's contentions in the reply brief as to how that remedy should be structured. Therefore, I will convene a brief argument by telephone on the proper form of the final order in this matter. The time for taking exceptions to this final report shall not begin to run until the conclusion of that argument.

Sincerely,

*/s/ Sam Glasscock, III*  
Master in Chancery

efiled.