

Glossary

A priori Latin—from the start.

Administrator the person appointed by the court to deal with the estate of a person who has died without making a will.

Administratrix feminine of the above.

Ambulatory literally movable or mobile, but here it means that the testator can always make a new will, which supersedes older wills.

Anti-vivisectionists those opposed to experiments upon live animals.

Assignment transferring a right or interest in property to another.

Bailment the person given the property, the bailee, has possession of the property. The bailor has a superior right and can retake possession. It is not intended that the bailee should keep the property.

Beneficiary the ultimate person who would enjoy the property. Beneficiaries could include a trustee.

Bequest personal property left in a will.

Bona vacantia Latin—literally means unoccupied property. More loosely translated it means ownerless goods. The government, or Crown, claims property that has no identifiable owner.

Cestuis que trusts beneficiaries.

Charge a loan secured on property, e.g. a mortgage. If the loan is not repaid, the loaner may claim the property.

Choses in action a type of property that has no physical existence. A valuable, personal right.

Codicil an amendment or addition to an earlier will. The codicil must also be signed and witnessed, just like the main will.

Consideration each party to a contract must promise something of value. The consideration need not be adequate, i.e. of equal value to the promise made by the other party, but it must be of some financial value.

Conveyance the formal legal document, a deed, required to transfer the legal estate in land.

Covenant a legally binding promise, made in a deed.

Cy-près French—near to or close to.

De minimis Latin—too small to matter.

Debenture a loan secured on the assets of a company. If the loan is not repaid, the assets can be sold by the person who made the loan.

Deed a formal legal document, that has to be signed, witnessed, and delivered.

Delivered the person making the deed must hand it over to the person to whom it grants rights, with the intention that it is legally binding.

Denizens inhabitants.

Devise land left in a will.

Devisee person to whom real property (land) is left in a will.

Donee person to whom a gift is made.

Donor person who makes a gift.

Ex instanti Latin—loosely translated it means ‘there instantly’.

Equitable certain rights are regarded as equitable. The basis is historical. They were once rights recognized by the Court of Chancery.

Estate the period for which a person is entitled to hold property. Estate usually refers to land. Under s. 1 of the Law of Property Act 1925 only two legal estates are recognized in law: the fee simple and the term of years.

Estate the total of personal property available for distribution on bankruptcy or death.

Estoppel the principle that a person cannot deny what they have represented to another.

Executor the male person appointed in the will to carry out the deceased’s instructions in the will, in particular to dispose of his/her property according to the will.

Executrix feminine of the above.

Fiduciary a person in a position of trust or confidence, who may act on behalf of their principal. The position of the fiduciary is similar to that of the trustee and the position of the principal is similar to that of the beneficiary.

Gilt-edged stock also known as gilts. These are fixed interest loan securities issued by the UK government. They are regarded as particularly safe investments.

‘Homer nodded’ even the best of us sometimes make mistakes. The ‘Homer’ referred to is the ancient Greek poet.

Impotent does not have its modern meaning of sexually incapable. It means disabled or ill.

In loco parentis Latin—in the place of the parent. It means the person who assumes parental responsibility for the child.

In personam Latin—literally means ‘against the person’. The Court of Chancery used to order parties to do something, such as to return property, and if they did not do it they were punished for contempt of court. This might involve fines, imprisonment, or seizure of assets.

Innocent volunteer volunteer means that the person has provided no consideration in return and therefore cannot enforce a promise made by another. Innocent means that they are unaware that they have received someone else’s property.

Inter vivos Latin—literally ‘between the living’. A gift made while someone is still alive.

Interest the period for which a person is entitled to hold property. Since the Law of Property Act 1925, all interests in land that are not regarded as legal estates are recognized only in equity, as equitable interests, e.g. a life interest.

Intestacy statute lays down the near relatives to whom their property goes.

Intestate when a person dies without making a will.

Joint will the husband and wife make similar or identical wills. This could be in one document as in *Dufour* or, more usually, the husband and wife each make a separate will.

Land the statutory definition of land can be found in s 205(1) (ix) of the Law of Property Act 1925 and includes not only land, but buildings, parts of buildings, rights over mines and minerals, and other rights, privileges, or benefits in, over, or derived from land.

Legal certain rights are regarded as legal. The basis is historical. They were once rights recognized by the common law courts.

Legatee a person left personal property in a will.

Licence permission to do some act which otherwise could not lawfully be done. A licence often refers to land and is permission to do what would otherwise be a trespass. A licence does not grant an estate or interest in the land.

Lien a right to keep possession of property belonging to another person until a debt owed by that person is discharged (Oxford English Dictionary).

Locus standi Latin—the right to bring a case to court.

Malus animus Latin—an evil mind.

Marriage settlement a trust is established, on marriage, to provide for the husband and wife and the children that they hope to have. Commonly, the husband and wife would covenant,

in a deed with the trustees, that they would transfer any property that they acquired in the future to the trust. The spouses and the children of the marriage may enforce the promise in the covenant despite the fact that the children do not provide any consideration, i.e. they do not promise anything in return.

Mirror wills the husband and wife make joint wills in separate documents.

Mortgage a loan secured on property, eg a mortgage. If the loan is not repaid, the loaner may claim the property.

Negotiable instrument a promise to pay money that itself can be transferred or sold, eg a cheque or bill of exchange.

Old boys ex pupils of a school.

Option a contractual right to acquire property on payment of consideration. A contractual right is a form of property that has economic value and can be bought and sold, just like any other kind of property.

Overreaching the purchaser only wants to buy the legal estate in the land and does not want to be concerned with who might be the beneficiaries of the trust and what interests they might hold in the property. So, if the purchaser buys from two trustees, the purchaser is not bound by any claims that the beneficiaries might have to the land. Instead, the beneficiaries may claim against the seller of the land for their share of the purchase price.

Parens patriae Latin—father of the country.

Pari passu Latin—literally means spread out equally. The depositors share out what is left in proportion to what was taken from them.

Pecuniary legacy a sum of cash left in a will.

Personal property all property that is not land. This includes moveable and intangible property.

Personal representatives executors or administrators who deal with the property of the deceased.

Power of appointment a beneficiary, or sometimes a trustee, is given the power to choose who inherits the property next. They would name the persons appointed in their will or perhaps in a deed while they are still alive.

Precatory words ‘requesting words’.

Pro tanto Latin—literally ‘for so much’. It means the same as ‘completely’ here.

Probanda Latin—things requiring to be proved.

Probate the executors of the will prove to the court that the document really is the will of the deceased. Unless the will is disputed, this is just a routine, administrative matter.

Propositus Latin—anyone who could come forward to claim.

Proprietary an interest or estate that gives the right to actual property, usually land.

Proprietary estoppel if party A represents to party B that party B has a right to some property held by party A, then if party B relies on this representation and acts to their detriment, party A cannot deny the right of party B.

Protective trust a trust where the main beneficiary holds the property for life, until he is declared bankrupt or gets into debt, etc. Then his life interest ends and the trustees hold the property on a discretionary trust for the former life interest, spouse, and children. A protective trust is well named, because it protects a beneficiary from the consequences of getting into debt.

Real property rights over land, especially freehold rights over land.

Receiver a person appointed to collect debts that are owed.

Residuary what is left of the deceased's property when debts, taxes, and identified gifts have been paid.

Residue what is left of the deceased's estate after specific gifts are taken out.

Settlement this is another word for trust. It often refers to a trust established in order to provide for a family. A settlement is usually made in a deed.

Settlor living person who establishes a trust. One who intends to part with his or her property and leave it for the benefit of others by an instrument executed when he—the settlor—is still alive.

Share capital when a company is formed its promoters decide what value of shares the company will have and will be offered for sale. £250,000 indicates that the company will have a reasonable amount of money behind it. The paid up in cash requirement indicates that the shareholders have actually paid for their shares.

Specific the property is identified.

Spes Latin—hope.

Sub modo Latin—subject to a condition.

Sui juris Latin—the persons referred to have full legal capacity, i.e. they are of full age and are not mentally disordered.

Testator/testatrix dead person who establishes a trust in his/her will. One who intends to part with his or her property and leave it for the benefit of others by an instrument executed when he/she—the settlor—is dead.

Trust an arrangement created for the purpose of transferring property to the beneficiary via the trustee. It usually states the conditions of the trust with regard to the time of its maturity, termination, variation, and so on. A trust arrangement can either be made in writing through a legal instrument or orally.

Trust corporation a company that can act as a trustee. Most banks offer this service and there are many companies specifically formed to act as trustees.

Trust instrument this is the document that sets out the terms of the trust, identifies the trust property, specifies the beneficiaries and their beneficial interests, and names the trustees.

Trustee the middle person, the bridge between a settlor and the person whom the property is to benefit. It is the trustee that the property is 'vested' in, in trust for another.

Value something of financial worth. 'Value' is sometimes used as another word for consideration.

Vest the beneficiary becomes fully entitled, e.g. if the trust said 'to A for life, remainder to the children of A upon marriage', a child of A does not become fully entitled until he/she marries and A dies. When the child marries, his/her equitable interest vests in interest. When A dies, the interest vests in possession.

Vesting the transfer of the legal estate.

Virtute officii Latin—literally, by virtue of their office, meaning that the executor does not hold the property for their personal use, but for the benefit of the beneficiaries.

Ward of court the child is placed under the protection of the court.

Will the document that states to whom the property of the deceased should be distributed. A will must be signed by the testator or testatrix and the signature must be witnessed by two people.