**Maxim 3**

**He who seeks equity must do equity**

The maxim means that to obtain an equitable relief the plaintiff must himself be prepared to do ‘equity’, that is, a plaintiff must recognize and submit to the right of his adversary. A person, who seeks relief under the principles of equity, must do whichever is equitable. One who violates the rights of other cannot claim his right until he fulfills his obligation toward others. At first plaintiff has to discharge his duty toward others then he may pray for remedy or relief. The principle involved in this maxim is that anyone seeking assistance of a Court of Equity must as a condition to obtaining relief do justice as to the matter regarding which the interference of the Court is prayed for. While giving relief Court looks upon the corresponding rights of defendant and duties of plaintiff.
In the case of **Deeks vs Strutt (1974),** it was pointed out that: “This is a rule of unquestionable justice, which, however decides nothing in itself, for you must first inquire what are the equities which the defendant must do, and what the plaintiff ought to have”.
**Application:**

1. Illegal Loans:
It was first propounded in Lodge v. National Union Investment Co. Ltd (1907), facts of which are as follows:
B borrowed money from M by mortgaging certain securities to him. M was unregistered moneylender. Under the Moneylenders Act, the contract was illegal and therefore void. B sued M for the return of securities. The Court refused to make an order except upon the terms that B should repay the money, which had been advanced to him. This decision was based on the principle of this maxim.
2. 2. Doctrine of Election:
A donor A gives his own property to B and in the same instrument purports (intention, claim) to give B’s property to C. B will be put to an election. He either to retain his own property or reject the benefit under the instrument or to accept the benefit granted to him by the donor, and allows the gift of his own property made by A to C to take effect. But in no case can B choose to keep the benefit granted to him and at the same time retain his property referred to in the instrument.
3. Equitable estoppel:

The rule of evidence or doctrine of law, which precludes (prevent, exclude) a person from denying the truth of same statement formerly, made by him.
Rahima obtains a judgment of paternity in family court, showing that Karim is the father of her baby. Later, Rahima seeks an order for Karim to pay child support. Because the issue of paternity has already been established by the court, Karim is collaterally estopped from claiming he is not the father in an attempt to avoid his child support obligations.

1. Wife’s equity to a settlement:

There was time when in England at Common Law the wife could not hold independently any property. This was the effect of marriage. Woman’s property was merged with that of her husband. She had no property of her own. Equity court imposed on the husband that he must make a reasonable provision for his wife and her children.

1. Set off (conflicting claims in one proceeding):

A judgment-debtor is entitled to set off a decree which he has against his decree-holder and this right of set off he can also exercise against the transferee of the decree-holder.

A holds a decree against B for Taka. 5000/-. B has decree against A for Taka. 3000/-. C is a transferee from A of his decree. C cannot execute the decree against B for more than Taka. 2000/-.

1. Restitution of benefits on cancellation of transaction:

 It is proper justice to return the benefits of a contract which was voidable, and, equity enforced this principle in cases where it granted relief of rescission of a contract. A party cannot be allowed to take advantage of his own wrong.

 **Limitation:**1. Where there it seems inequitable.2. Also it cannot be applied to Acts of Parliament3. No one can go against the statute.4. Where liability is imposed by the statute.5. Where there is statutory prohibition.8. Where there is fraud.9. Where public interest suffers.

**Recognition:**

(i) Under Section (19-A ) of the Contract Act, 1872 if a contract becomes voidable and the party who entered into the contract voids the contract, he has return the benefit of the contract
(ii) Section 35 (Election when necessary) of the Transfer of Property Act,1882, embodies the principle of election.
(iii) Sec 51 and 54 of the Transfer of Property Act, 1882, prescribed restitution of benefits.
(iv) In Order 8, Rule 6 of the Code of the Civil Procedure, 1898, the doctrine of Set-off is recognized