Maxim 4

He, who comes to equity, must come with clean hands

Equity demands fairness not only from the defendant but also from the plaintiff. It is therefore said that “He who had committed an inequity, shall not have equity.” Before granting equitable remedy, the court will pay special attention to the applicant’s own conduct. For a court of competent jurisdiction to grant an equitable remedy, the applicant must show in his prayer of good intention and proper conduct. The plaintiff must not abuse the court process and comply with the required legal formalities.
Under this maxim the court of equity will refuse to grant any relief to anyone who has been guilty of any unlawful or inequitable conduct related to the matter for which he seeks relief.

Example: A tenant entered into a lease of 21 years with the landlords. He failed to pay rent and the defendant threw him out. The plaintiff moved to the court seeking specific performance but was denied by the court as he failed to fulfill the legal requirement. The plaintiff didn’t come to equity with clean hands.

***Everet v Williams [1725] (also known as the “Highwayman's Case”)***Two robbers were partners in their way. Due to a disagreement of shares, one of them filed a suit against another for account of the profit of robbery. Courts of equity do grant relief in case of partnership but in this particular case the cause of action arose from an illegal occupation and that’s why the court refused to help them. The robbers obtained money from an illegal source and than filed a suit divide the money equally among them. The previous illegal act has made the later legal act remedy less. Plaintiff’s hand was not clean.

***Chasemore vs Richards (1859) & Gloucester vs Grammar school case (1410)***A legal act does not become illegal merely because of the improper motives of its doer.
When a person does something exercising his legal right for commercial purpose without infringing another’s right, no remedy is available even if anybody suffers any loss from such legal action.

Exception:
There are two exceptions to the maxim such as:
1. If the transaction is against public policy.
2. Where party admits his wrongdoing before his unjust plans are carried out, the Court will not stick to the letter of the maxim and will extend its assistance for doing justice.

Recognition
(i) Section 23 of the Trust Act- An infant cannot setup a defense of the invalidity of the receipt given by him.
(ii) Section 17, 18 and 20 of the Specific Relief Act, 1877- Plaintiff’s unfair conduct will exclude him from an equitable relief of specific performance of the contract.

**Distinction between maxim no. 3 and 4**

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| **He who seeks equity must do equity** | **He who comes into equity must come with clean hands** |
| 1. This maxim looks to the present & future. | 1. This maxim looks at the past. |
| 2. It is applicable when both the plaintiff and the defendant have claims of equitable relief against each other. | 2. It is applicable when the defendant has no separate claim to relief and the plaintiff’s conduct is unfair. |
| 3. Present conduct: If you want to acquire property, must give the right of others first then you may demand your right. | 3. Past conduct:The maxim refers before the plaintiff approaching to the Court. Plaintiff must be clean hand before he goes to Court to have equity. |
| 4. It exposes the condition subsequent to the relief sought.Conditions subsequent refers to conditions which occur after the formation of a contract. | 4. It is a condition precedent to seeking equitable relief.Parties often enter into contracts which are subject to the satisfaction of certain outstanding conditions, known as conditions precedent. |
| 5. It refers to the plaintiff’s conduct as the court thinks it ought to be, after he comes to the court. | 5. It refers to the plaintiff's conduct before he approaches the court. |
| 6. The plaintiff has to shape his behavior according to the impositions by the court. | 6. If the plaintiff’s conduct is unfair, it would not entitle him to the relief sought. |