

An uncle was the record title holder of a vacant tract of land. He often told friends that he would leave the land to his nephew in his will. The nephew knew of these conversations. Prior to the uncle's death, the nephew conveyed the land by warranty deed to a woman for \$100,000. She did not conduct a title search of the land before she accepted the deed from the nephew. She promptly and properly recorded her deed. Last month, the uncle died, leaving the land to the nephew in his duly probated will. Both the nephew and the woman now claim ownership of the land. The nephew has offered to return the \$100,000 to the woman.

Who has title to the land?

- A. The nephew, because at the time of the deed to the woman, the uncle was the owner of record.
- B. The nephew, because the woman did not conduct a title search.
- C. The woman, because of the doctrine of estoppel by deed.
- D. The woman, because she recorded her deed prior to the uncle's death.

### Explanation:

In general, a grantor can only convey title to property that he/she owns. But when unowned property is conveyed by [warranty deed](#), that conveyance will become effective if the grantor later acquires title due to the **doctrine of estoppel by deed** (ie, after-acquired title). This doctrine causes the grantor's **after-acquired title** to **automatically transfer** to the grantee. The grantee can then choose to accept that transfer or reject it (and sue for damages).

Here, the nephew conveyed the land to the woman for \$100,000 by warranty deed. Since the uncle (not the nephew) owned the land at that time, the conveyance was ineffective. But it became effective—and title automatically transferred to the woman—when the nephew later acquired title under the uncle's will **(Choice A)**. And since the woman accepted that transfer by claiming ownership, she has title to the land.

**(Choice B)** A grantee has no obligation to conduct a title search before accepting a deed or claiming ownership of property. Therefore, the woman's failure to search the land records is immaterial.

**(Choice D)** [Recording](#) protects property owners from *subsequent* ownership claims. Here, the woman recorded the deed before the uncle's death and before the nephew acquired title to the land under the uncle's will. But since she acquired title after the nephew, the recording would not protect her from his *earlier* ownership claim.

### Educational objective:

The doctrine of estoppel by deed (ie, after-acquired title) effectuates a conveyance of unowned property by warranty deed when the grantor later acquires ownership of that property. The grantor's ownership interest automatically transfers to the grantee, who can then accept or reject the transfer.

### References

23 Am. Jur. 2d Deeds § 278 (2018) (estoppel by deed).

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