

Last year, a buyer and a seller entered into a valid contract for the sale of a parcel of real property. The contract contained no contingencies. The seller was killed in a car accident before the parcel was conveyed, but the closing eventually took place with the conveyance by a deed from the personal representative of the seller's estate.

The personal representative of the seller's estate wants to distribute the proceeds of the real property sale. The seller's will was executed many years ago and was duly admitted to probate. Paragraph 5 of his will leaves all of the seller's real property to his son, and Paragraph 6 leaves the residue of the estate to the seller's daughter. No other provisions of the will are pertinent to the question regarding to whom the proceeds of the sale should be distributed.

What will determine who receives the proceeds?

- A. Whether Paragraph 5 refers specifically to the parcel of real property that was sold or simply to "all of my real property."
- B. Whether the closing date originally specified in the contract was a date before or after the seller's death.
- C. Whether the jurisdiction has adopted the doctrine of equitable conversion.
- D. Whether the sale was completed in accordance with a court order.

Explanation:

The **doctrine of equitable conversion** controls the ownership and risk of loss of real property during the **executory period**. Under this doctrine, the buyer receives equitable title to the property once the parties enter a specifically enforceable land-sales contract (eg, one with no contingencies). In contrast, the **seller** retains legal title to the property and **acquires the equitable right to** receive the **purchase price** upon closing.

The buyer's equitable title is treated as a *real* property interest that is freely alienable, subject to the seller's equitable right to the purchase price. In contrast, the seller's right to the sale proceeds is treated as a **personal property** interest. Therefore, when the seller in this case died before closing, the doctrine of equitable conversion gave the right to the sale proceeds to his daughter, the beneficiary of his residuary estate.

(Choice A) Whether Paragraph 5 refers specifically to the parcel sold or simply to "all of my real property" is of no consequence since the seller's interest in the sale proceeds is a personal property (not real property) interest. The son had only a legal interest in the parcel that transferred to the buyer upon closing.

(Choice B) The sale proceeds would have passed to the daughter regardless of whether the closing date was scheduled before or after the seller's death.

(Choice D) The right to the sale proceeds depends on who had equitable title to the proceeds—not on the manner in which the sale was completed.

Educational objective:

Under the doctrine of equitable conversion, the buyer acquires equitable title to the property (*real* property interest) and the seller acquires an equitable right to the sale proceeds (*personal* property interest). These interests will be distributed accordingly if either party dies before closing.

References

27A Am. Jur. 2d Equitable Conversion § 13 (2020) (equitable conversion of interests under land-sale contract).

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Equitable conversion under land-sale contract

