

An environmentalist conveyed his land by quitclaim deed as a gift to his daughter, who did not then record her deed. Later, the environmentalist conveyed the land by warranty deed to a buyer, who paid valuable consideration, knew nothing of the daughter's claim, and promptly and properly recorded. Next, the daughter recorded her deed. Then the buyer conveyed the land by quitclaim deed to his son as a gift. When the possible conflict with the daughter was discovered, the son recorded his deed.

The land at all relevant times has been vacant unoccupied land.

The recording act of the jurisdiction provides: "No unrecorded conveyance or mortgage of real property shall be good against subsequent purchasers for value without notice, who shall first record." No other statute is applicable.

The son has sued the daughter to establish who owns the land.

For whom will the court hold?

- A. The daughter, because she recorded before the son.
- B. The daughter, because the son was a subsequent donee.
- C. The son, because the buyer's purchase cut off the daughter's rights.
- D. The son, because the daughter was a donee.

Explanation:

The priority of competing property interests is determined by the jurisdiction's [recording act](#). In a **race-notice jurisdiction** (as seen here), a *purchaser* has priority over another's earlier property interest if the purchaser:

is **bona fide** (ie, a BFP) because the purchaser obtained an interest in property **without notice** of the earlier interest *and* **recorded first**.

Under the **Shelter Rule**, a person who **receives** a property interest **from a BFP** is entitled to the **same protection** under the recording act as the BFP—even if that person would not otherwise be protected by the recording act.

Here, the buyer's purchase cut off the daughter's rights because the buyer knew nothing of the daughter's prior interest (BFP) and recorded his deed *before* the daughter recorded hers.* And though the son received the land as a *gift* from the buyer (not a BFP) and recorded his deed *after* the daughter recorded hers, the Shelter Rule entitles him to the buyer's protection under this jurisdiction's race-notice act. As a result, the court should rule for the son.

*Had the buyer recorded his deed after the daughter recorded hers, the buyer would not have had priority under the recording act and the daughter would have prevailed.

(Choices A & B) The recording act would not ordinarily protect the son from the daughter's prior claim since he was a donee (not a BFP) and the daughter recorded before him. But since he was gifted the land by a BFP (the buyer) who recorded before the daughter, the son *is* protected from her claim under the Shelter Rule.

(Choice D) The daughter's status as a donee would only matter if she were seeking to establish priority over an earlier competing interest in the land. Since she has the earlier claim here, her status as a donee is irrelevant.

Educational objective:

In a race-notice jurisdiction, a purchaser who lacks notice of an earlier property interest (BFP) and records first will prevail. And under the Shelter Rule, a person who receives a property interest from a BFP is entitled to the same protection under the recording act as the BFP.

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