

An individual who was domiciled in State A throughout her life deeded land in State A to a charity organized under the laws of State B but retained a right of entry if the land was not used for a charitable purpose. Later in her life, the individual transferred the right of entry to a creditor. The individual then devised her entire estate to her son shortly before she died. Recently, the charity ceased to use the land for a charitable purpose. The son and the creditor are domiciled in State B.

The law of State A, adhering to the common law, does not permit an inter vivos transfer of a right of entry. The law of State B permits a right of entry to be transferred during the owner's life.

The son has initiated a lawsuit in a state court in State B seeking a declaratory judgment that he is the owner of the land and naming the charity and the creditor as parties in this action.

Is the court likely to rule in the son's favor?

- A. No, because the court in State B must apply the law of State B.
- B. No, because the parties to this action are domiciled in State B.
- C. Yes, because the individual was domiciled in State A throughout her life.
- D. Yes, because the law of State A likely governs this matter.

Explanation:

Conflict-of-laws rule for real property issues

General rule	In cases involving real property, law applied by forum court should be determined by conflict-of-laws rule that would be applied by state where property is located
Exceptions	Document specifies application of specific jurisdiction's laws Issues regarding effect of marriage on interest in land Collateral issues (eg, whether transferor perpetrated fraud) Issues regarding mortgage note (eg, validity of note) Foreclosure-related issues that do not affect interest in land (eg, mortgagee's right to sue mortgagor for underlying debt before foreclosure)

A **conflict-of-laws issue** arises when significant aspects of a legal action are divided between two or more states and there is a conflict as to which state's law applies (as seen here). If such a conflict arises in a case **involving real property**, the general conflict-of-laws rule is as follows:

The **law applied** by the forum court should be **determined by** the **conflict-of-laws rule** that would be applied by the courts of the **situs state**—ie, the state where the property is located.

The conflict-of-laws rule of the situs state typically directs the **application of its own local law** on that issue (ie, the law of the situs) in resolving the matter.

Here, the land is located in State A, so the law of State A (law of the situs) likely governs this matter. Since the law of State A does *not* permit an inter vivos transfer of a right of entry, the individual could not transfer her right of entry to the creditor during her lifetime. Instead, it passed to her son under her will. Therefore, the State B court will likely rule in the son's favor **(Choice A)**.

(Choice B) The fact that the parties to this action are domiciled in State B shows that the State B court has personal jurisdiction over them. But this does not determine which state's law governs the matter.

(Choice C) Although the individual was domiciled in State A throughout her life, the situs of the property (not the domicile of the transferor) determines the law to be applied in this matter.

Educational objective:

When there is a conflict-of-laws issue in a case involving real property, the general rule is that the applicable law should be determined by the conflict-of-laws rule of the state where

the property is located (ie, situs state). This usually results in the application of the situs state's local law on that issue.

References

Restatement (Second) of Conflict of Laws § 223 (Am. Law Inst. 1971) (validity and effect of conveyance of interest in land).

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