

Two friends planned to incorporate a business together and agreed that they would own all of the corporation's stock in equal proportion.

A businesswoman conveyed land by a warranty deed to "the corporation and its successors and assigns." The deed was recorded.

Thereafter, the friends had a disagreement. No papers were ever filed to incorporate the business. There is no applicable statute.

Who owns the land?

- A. The businesswoman, because the deed was a warranty deed.
- B. The businesswoman, because the deed was void.
- C. The two friends as tenants in common, because they intended to own the corporation's stock in equal proportion.
- D. The two friends as tenants in common, because they were the intended sole shareholders.

## Explanation:

### Deed requirements

Requirements	Valid	Invalid
<b>Written &amp; signed by grantor</b>	Any written instrument signed by grantor	Oral (except permissible gift) Signed only by grantee
<b>Identifies grantor &amp; grantee</b>	Separate grantor & grantee (except concurrent estates) Identifiable by name or description	Ambiguous/unidentifiable grantee(s) Nonexistent grantee
<b>Identifies land</b>	Identifiable by reasonable certainty—eg: Government survey Metes & bounds Street, lot, house number	Ambiguous description (but extrinsic evidence admissible) Undefined part of larger parcel
<b>Includes words of transfer</b>	"Convey" "Transfer" "Grant" "Sell"	"Lease" "Rent" "License"

A deed is a document that conveys an interest in real property from the owner (grantor) to another (grantee). But to be valid, a **deed must**:

be in writing and signed by the grantor

**identify the grantor and the grantee**

contain words of transfer (eg, "deed over," "transfer," "give") *and* describe the property interest being transferred.

If the deed refers to a **nonexistent grantee** (eg, a corporation that has not been legally formed), the **deed is void** and the property interest remains with the grantor.

Here, two friends planned to incorporate a business together. But since that corporation was never legally formed, the warranty deed that purported to convey the businesswoman's land to that corporation (a nonexistent grantee) was void. Therefore, no title was conveyed and the businesswoman still owns the land.

**(Choice A)** A deed to a nonexistent grantee (as seen here) is void. Therefore, the **type of deed** (ie, general warranty, special warranty, quitclaim) that was used in the failed conveyance is irrelevant.

**(Choices C & D)** Since the corporation was never legally formed (nonexistent grantee), the deed was void and the businesswoman retained ownership of the land. But had the corporation been legally formed, the property would have been owned by the corporation—not the two friends as tenants in common. Therefore, the two friends' intent to own the corporation's stock in equal proportion and be the sole shareholders is immaterial.

**Educational objective:**

A deed must (1) be in writing and signed by the grantor, (2) identify the grantor and the grantee, (3) contain words of transfer, and (4) describe the property interest being transferred. Therefore, a deed to a nonexistent grantee (eg, a corporation that has not been legally formed) is void.

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