

In the House of Lords

Re Bumptious: Gullible -v- Loud

By his will made in January 1994, the Rt Hon Sir Ken Bumptious MP, left the freehold estate of a valuable house in London's Mayfair to his close friend and fellow Cabinet Minister, Barry Loud MP, "upon trust for such person or persons as may be notified by me to him during my lifetime."

In March 1994, Bumptious confided to Loud that he was having an illicit affair with his research assistant, Jenny Gullible, that she had given birth to his child, and that he wanted to make some provision for her and the child in the event of his death. He told Loud of the wording of the will he had recently made and that the Mayfair house was being left to Loud on trust for Gullible. Loud agreed to respect the wishes of Bumptious. While visiting a constituent's farm in November 1996, Bumptious was killed by a blow to the head from a deranged cow.

Because of objections raised by the widow, Lady Bumptious, Loud took out a summons to determine whether the defendant, Gullible, was entitled to the house or whether it formed part of Bumptious's residuary estate.

In the High Court, Carriage J., held that the intended half-secret trust was void for two reasons:

1. communication of the trust took place after the will was made: *Re Keen* [1937] Ch 236 applied; and
2. the trust was an express trust which, as it concerned land, was required by section 53(1)(b) of the Law of property Act, 1925, to be evidenced in writing: *Re Baillie* (1886) 2 TLR 660, *Rochefoucauld v. Boustead* [1897] 1 Ch 196 applied.

Gullible appeal to the Court of Appeal was dismissed and she now appeals to the House of Lords.

This problem is taken from the quarter final of the Observer-ESU-Lovell White Durrant Mooting Competition 1996-97, and was provided courtesy of the English Speaking Union.