

Capital University Law School
Property 1-A
Professor Cohen
Fall 2005

Released Essay Question

Margaret purchased a one-of-a-kind antique watch from a Staffordshire Watch Purveyors (“Staffordshire”), a reputable dealer in antique watches. Staffordshire had good title to the watch, which had belonged to the 11th Duke of Gloucester, before selling it to Margaret. At the sale, Staffordshire gave Margaret a receipt marked “paid” which, while lacking Margaret’s name, identified the seller as Staffordshire, the watch and the price (\$7,000 – a steal) and contained a brief hand-written description of the watch’s history and the fact that it had belonged to the 11th Duke of Gloucester. Staffordshire put the receipt and the watch, carefully cushioned with Styrofoam peanuts, into a sturdy box.

Margaret brought the box home, took out the watch and displayed it prominently in her living room. A few years later, one of the hands fell off of the watch. Because Staffordshire did not do repairs, Margaret put the watch back in the original box, which still contained the receipt, and brought the watch to Anderson Antique Restoration. The establishment did not sell antiques but simply restored and repaired them. Jason Anderson, the owner, agreed to try to fix the watch. He gave Margaret a claim check for the watch and told her to come back in a few weeks. Jason was so impressed with the watch, he asked Margaret if he could display it in the shop window after it was fixed and until she returned, simply to attract attention. Margaret agreed. Jason immediately set to work and was able to repair the watch in a few days. He then placed the watch in the window, accompanied by the receipt explaining the history of the watch. At one point, Margaret walked past the store and saw the watch, but remembering her agreement, simply kept walking. The next day, Sam came to the shop buy a watch. Sam saw the watch in the window, read the story of the watch on the receipt, and became so excited that he simply had to have the watch. Sam offered Jason \$10,000 for the watch. Jason paused for a moment, and then sold the watch to Sam for \$10,000.

On learning of the sale, Margaret was furious. She tracked down Sam and demanded that he return the watch, insisting that Anderson had no right to sell it. Sam refused to return the watch, stating that it was an irreplaceable part of his collection. Margaret sued Sam for return of the watch.

How should a court resolve the lawsuit between Margaret and Sam? Be sure to consider the arguments that both parties may make, and to IRAC your answer, stating applicable legal rules and connecting them to the facts. ***If you think some but not all of the elements of a relevant legal doctrine are satisfied, discuss the doctrine and analyze which elements are and are not met.***

DO NOT GO BEYOND THE CALL OF THE QUESTION IN YOUR ANSWER.