

## CHAPTER 10 (EVALUATE WHAT YOU'RE READING – YOUR IDEAS MATTER):

### Practice Exercises:

1. The following case, *Lindh v. Surman*, 560 Pa. 1, 742 A.2d 643 (1999), has been taken from *PROPERTY AND LAWYERING*, a first-year Property casebook by James L. Winokur, R. Wilson Freyermuth, and Jerome Organ.<sup>1</sup> The case is included in the same section of the casebook that was explored in the Practice Exercises to Chapter 6 of this book: “Chapter 3: Transfer by Gift.”

The first sentence of the case reads as follows: “In this appeal, we are asked to decide whether a donee of an engagement ring must return the ring or its equivalent value when the donor breaks the engagement.”

Do you have any emotional reactions to that sentence? Have you been engaged, come close to being engaged, thought about being engaged, or been denied the opportunity by law to marry? Are you a romantic at heart? More practical than romantic about relationships? Is marriage an economic arrangement, at least in part? Do you think the tradition of a man giving a diamond ring to his fiancé is outdated? Inequitable? How do you think these prior experiences or beliefs might influence how you read this case?

*This case offers a good opportunity to respond “from the heart” about your reactions to the legal question: “who keeps the engagement ring if an engagement is broken?”*

2. Read the case (appearing at p. 160 of the main text) as reprinted (with additional edits) from the casebook.

3. Can you state succinctly the “conflict” facts as you understand them? Do you think the court did a good job of presenting these facts objectively and clearly? Were you surprised, given how these facts were presented, with the result the court reached?

*The conflict facts, presented with a careful sense of balance by the court, appear to be that Rodger, a divorced, middle-aged man, proposed to Janis and backed out on her on two occasions. Rodger sued after the second break-up, seeking recovery of a very expensive engagement ring.*

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<sup>1</sup> JAMES L. WINOKUR, R. WILSON FREYERMUTH & JEROME M. ORGAN, *PROPERTY AND LAWYERING* 219-224 (2002) (additional edits not included in casebook).

RUTH ANN MCKINNEY, *READING LIKE A LAWYER* (2d ed. 2012) (© 2020 Carolina Academic Press)

*Given the court's careful presentation of Janis's feelings and the arguably morally questionable behavior of Rodger, I was surprised to find that the court ultimately allowed Rodger full recovery of the ring.*

4. In the fourth paragraph, the court includes a lengthy quote from *Pavlicic v. Vogtsberger*, a 1957 case decided by the Pennsylvania Supreme Court. How did you react to that court's use of the "embarking on the sea of matrimony" image, including its conclusion that a woman's refusal to marry is analogous to a ship's "refusal to leave the harbor"? Do you think that is an appropriate image to invoke in 1999? (Note that your answer to this question is personal – there is no right or wrong answer to this question).

*While there is no "right or wrong" answer to this question, I would predict that most students would find this image to be chauvinistic, objectifying, and outdated. Not all students will feel this way, but many will. The point of the question is that students should have feelings about cases and about the language and images a court chooses to use, but those feelings don't have to eclipse your understanding of the legal issues raised in the case.*

5. In the fourth paragraph, the court states: "We begin our analysis with the only principle on which all parties agree: that Pennsylvania law treats the giving of an engagement ring as a conditional gift." Was this a helpful statement? Is it clearly written? Do you agree with the content of the statement?

*This seems like a blessedly clear statement of the law and is very helpful.*

6. Assuming all parties do agree that an engagement ring is a "conditional" gift, what does the plaintiff (Mr. Lindh) think that condition is?

*Mr. Lindh thinks the condition is marriage.*

What does Ms. Surman think that condition is?

*Ms. Surman thinks the condition is her willingness to marry him (her acceptance of his offer of marriage).*

Do you personally, apart from the precedent for Pennsylvania included in the body of the opinion, agree with Mr. Lindh or with Ms. Surman (in other words, not knowing what the parties discussed between themselves, what would you personally think their agreement – assuming they even had an agreement – might have been)?

*Opinions will be all over the map on this question, and may well have to do with students' own personal lifestyle choices and the assumptions about marriage that they were raised with or continue to find relevant.*

7. Near the middle of the opinion, the court notes that the “question of whether the donor is entitled to return of the ring where the donor admittedly ended the engagement” has not previously been decided in Pennsylvania. What rule does the court eventually adopt?

*The court eventually decides that it is irrelevant who ends an engagement – if the marriage doesn't occur, the “condition precedent” for the giving of the ring is not met and the ring returns to its original owner.*

8. Why does the court believe the rule it adopted is the better rule?

*The court believes it would be unwise, as a matter of public policy, for the courts to get into the kind of finger-pointing fact finding that would result if the rule turned on who ended the engagement.*

9. Do you agree (a) with the result; and (b) with the court's reasoning in reaching this result?

*Opinions, again, will vary markedly on these points. I, personally, think the facts in this case tipped heavily in Ms. Surman's favor and that the court could easily have found that Mr. Lindh broke the engagement with no provocation and that she was entitled to keep the ring as a gift for having reinitiated contact with him after the first break-up. The thought that the gift of a diamond ring has to continue to hold special “engagement” connotations seems antiquated to me. In this day and age, a gift is a gift. If the court was concerned about initiating never-ending “finger-pointing” debates, it could have adopted a high standard of proof, such that the gift recipient was entitled to keep the ring if she presented “clear and convincing evidence” that she was not at fault in the break-up.*

10. If you had been a judge on this bench, would you have let Ms. Surman keep this ring or would you have required her to return it (or its value) to Mr. Lindh? What rule would you have

adopted to support your decision? Were there any facts in this case that swayed you strongly one way or the other? Was there any precedent cited that strongly influenced you one way or the other?

*If the evidence was as presented by the court in this opinion (which contained no evidence that Ms. Surman was at fault for the break-up), I would have let Ms. Surman keep the ring, reasoning that she had given up something (perhaps her pride? Her free time? Her independence?) to reconnect with Mr. Lindh and that she was entitled to keep the ring on those grounds as long as she did not cause the present break-up. At some level, perhaps I see the ring as an “apology ring,” not an “engagement ring.” It’s entirely possible that the facts do not support my view, but rather that there was more here than meets the eye concerning why Mr. Lindh continued to break up with her. I think I was influenced by the fact that there is no indication that she attempted to keep the first engagement ring.*

*I was also influenced by the language in the Ruehling case, which seems to imply that a marriage does not always have to take place in order for a recipient of an engagement ring to keep the ring. I note, however, that the remaining Pennsylvania authority on this point is secondary authority, not case law or statutory law itself.*

11. This was apparently not an easy case even for seasoned judges to decide. There were two dissents filed in this case. If you are curious and would like to read them, go to our publisher’s website for [Reading Like a Lawyer](#).

12. How long did it take you to read this case? Was this case easier or harder to read and understand than the San Francisco fire case you read in the Practice Exercise at the end of the last chapter?

*Again, hopefully by now students are persuaded that time is an essential part of expert reading skills in law and they are responding appropriate to these time-related questions.*

*Many students will find this case easier to read because they can relate to the facts easier. Some students may find the case harder to read because they may have had emotional reactions to the facts and legal issues raised in the case. A good legal reader can acknowledge and then separate personal reactions to the facts of a case and focus on the interesting legal issues raised.*