

Constructive Trust

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Issue

Explain the concept of a "constructive trust" as it pertains to property conveyed via a "quitclaim deed."

Summary

A quitclaim deed is a deed used to transfer (convey) interest in real property to another party with no guarantees. In its simplest terms, it is a deed without any warranties or promises about the property legally described in it. Among other issues, the property could have liens on the deed, judgments against it, or disputes over the title. In Connecticut, a quitclaim deed must be recorded with the clerk of the town in which the property is located.

There are circumstances under which a person who has transferred a title to real property to another person, by quitclaim deed or other means, may go to court to seek an order to have the property returned. Some of the circumstances include situations where a property was transferred by mistake, undue influence, duress, or fraudulent misrepresentation. The remedy the court employs in these cases is called a "constructive trust."

Quitclaim Deed

"A deed entitled 'Quitclaim Deed', when duly executed, has the force and effect of a conveyance to the releasee of all the releasor's right, title and interest in and to the property described therein except as otherwise limited therein, but without any covenants of title" ([CGS § 47-36f](#)).

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*"[A] constructive trust arises where a person who holds title to property is subject to equitable duty to convey it to another on the ground that he would be unjustly enriched if he were permitted to retain it." – *Gulack v Gulack*, 30 Conn.App. 305 (1993)*

A constructive trust is a civil remedy issued by courts to prevent unjust enrichment. Under a constructive trust, the person who has obtained the title to a specific property by quitclaim or other means has a legal duty to transfer it to another, to whom it rightfully belongs, on the grounds that keeping it is unfair and would unjustly enrich the person if he or she were allowed to do so. A constructive trust is created by a court whenever the title to a property is held by a person who, in fairness, should not be permitted to retain it. Courts use the constructive trust as a remedy to compel the defendant to convey the title to the property to the plaintiff.

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