

1) Briefly describe the plot of *Sen v Headley*:

It is all about the validity of deathbed gift of house in London, while the donee (*Sen*) in the time of delivery partially did not know and partially did not understand that it already took place.

2) Can be an immovable subject of deathbed gift in England?

Yes, even though it there was contrary meaning before this case (*Sen v Headley* is judgment of high importance, it is the most quoted case in *Borkowski's* book on deathbed gifts).

3) Which source of Roman law is quoted by the Court of Appeal?

I 2, 7, 1 (i. e. the *Institutions of Justinian*, book 2, title 7, fragment 1).

4) According to Roman law, deathbed gifts are valid if are made in contemplation of death and the death must subsequently really take occur. What is the third requirement added by English law?

Delivery of the subject (or of essential indicia thereto).

5) Are deathbed gifts allowed in your country (note: e. g. in socialist countries, it was forbidden, as a result it is forbidden in some ex-socialist countries even nowadays). If so, what are the requirements for its validity (the 2 as in Rome, the 3 as in England, or other)?

Czech Republic (§ 2063 CzechCC) distinguishes two types. One is regulated in the same manner as if it were legacies (so *quarta Falcidia* is applied). The other requires 1) donee's acceptance, 2) donor's expresses waive of right to revoke, and 3) the deed must be done in writing.

6) Are there any other limitations or specifics of deathbed gifts in your country?

According to § 2057 CzechCC, the deed must be always in writing provided its subject is a registered immovable (in the Czech Republic, all buildings apart from totally worthless ones are registered, so each situation like *Sen v Headley* would require written form).

7) Does the value of the subject of the deathbed gift matter in English law?

As far as I know, it does not (I agree, the interpretation of the extent is quite strict, but there is probably no regulation such as "gifts above amount XY" or "representing certain part of the estate" are not allowed). It might have some importance in tax law.

8) Does the value of the subject of the deathbed gift matter in Roman law?

Yes. The rules of *quarta Falcidia* were applied on deathbed gifts as well since the times of the emperor *Septimius Severus*. In this case, it would mean that *Headley* as the person who would be the heir provided there was no other juridical act (testament, deathbed gift, etc.), could retain one quarter of the house and *Sen* would receive three quarters of the house.

Even though the deathbed gifts were taken over by English law from the Roman law, which should have meant the *quarta Falcidia* would be applied, it was not. Theoretically, we might say that the English law took over the institute of deathbed gifts in the state before *Septimius Severus*. But more

likely, we may say that the taking over of deathbed gifts was not done fully, but partially, i. e. without the limitations of quarta Falcidia.

- 9) In the presentation, it is mentioned that the purposes of enacting quarta Falcidia is to protect heir and to help the legatees, who were dependant on the acceptance of the heritage. Can you think of some other people, for whom the heir's acceptance of heritage might be important (especially in Ancient Rome)?

The creditors of the estate (because if there is no heir, there is nobody who could be sued to pay the debts which are already due). Apart from that, it is important also for the testator as it would be sort of shame or bad reputation for him to die without successor, which also means there will not be anyone who will conduct private religious ceremonies of the testator and his family (this was very important for the Romans).

- 10) Is there anything like quarta Falcidia in your country (applied either on legacies, trusts/fideicommissa, deathbed gifts, etc.)?

Today, there are not many countries applying the rule – as far as I know, it is only the Czech Republic and Catalonia. This rule also influenced the right of forced heirship (even though both the institutes are separate, they are complementary to each other and in some countries even merged during the historical development).