



ACTIVITY 92

Payments giving rise to resulting trusts (allow 30 minutes)

Using the internet, please find and read the Court of Appeal decision in *Curley v. Parkes* [2004] All ER (D) 344. Then we would like you to answer the following questions:

A house is purchased by Susan in her sole name. Her boyfriend, Jake, has made various payments in relation to the house and wishes to claim an equitable interest under a resulting trust.

- 1 **At what point in time must payments towards the purchase price be made in order to give rise to an equitable interest under a resulting trust?**
- 2 **Would the following payments give rise to an equitable interest under a resulting trust?**
 - (a) contributions to the monthly mortgage repayments
 - (b) a payment of £500,000 to build an extension
 - (c) payment of a deposit when a binding contract to buy the house came into existence
 - (d) a payment of £10,000 which Jake lent to Susan when she lost her job and needed to clear her bills.

COMMENT

- 1 In *Curley v. Parkes*, it was held that in order to generate an equitable interest under a resulting trust, the payment towards the purchase price must be made at the time of acquisition of the property.
- 2 The payments mentioned in (a) and (b) would not give rise to an equitable interest under a resulting trust because they were made after the acquisition of the house. In contrast the payment of the deposit mentioned in (c) would have been made at the time of acquisition and would thus create a resulting trust.

Constructive trusts are an alternative means of establishing an equitable interest in a house. They are considered in Units 12 and 13.

The loan mentioned in (d) would not give rise to an equitable interest in the house. Jake simply has a contractual right to repayment of the sum lent.