BLOGS

Spes Successionis under Transfer of Property Act

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Definition of Spes Successionis

Section 6 under the Transfer of Property Act contains exceptions to the rule of transferability. The law prohibits the transfer of property under certain circumstances listed under clauses (a) to (i) under Section 6.

Clause (a) of Section 6 of the Transfer Of Property Act excludes the mere chance of an heir apparent succeeding to an estate from the category of transferable property. Spes successionis refers to the expectation of an heir to succeed to the property of a deceased person. It is a legal concept under the Transfer of Property Act, 1882, which deals with the transfer of immovable property in India.

Spes Succesionis under the Transfer of Property Act

Spes Successionis under the Act comprises:

- Chance of an heir apparent succeeding to the estate
- Chance of a relation obtaining a legacy
- Any other possibility of like nature

Under the Act, spes successionis is not considered property that can be transferred, as it is contingent on the death of a person. The right of succession only arises after the death of the person, and until then, it remains a mere expectancy.

However, if a person transfers his property to another person and reserves the right to re-acquire it in case the transferee dies without leaving any legal heirs, such a transfer would be valid. This is known as a transfer with a condition subsequent.

For example, if A transfers his property to B with a condition that if B dies without leaving any legal heirs, the property will revert to A, such a transfer is valid. In this case, A has reserved the right to re-acquire the property in case B dies without any legal heirs, and this right is not contingent on the death of any person.

On the other hand, if A transfers his property to B with a condition that if B dies, the property will go to C, such a transfer would be void, as it is contingent on the death of B.

Similarly, if A transfers his property to B with a condition that if B survives A, he will become the owner of the property, such a transfer would also be void, as it is contingent on the happening of an uncertain event.

Spes Succesionis under English Law

Under English law, spes successionis refers to a mere hope or expectation of succeeding to an interest in property upon the happening of an uncertain event, such as the death of a person. Spes successionis is not a legal interest in property that can be assigned or transferred, as it is too uncertain to be enforceable.

In general, English law recognizes only vested interests in property, meaning interests that are certain to become effective and cannot be defeated by the happening of any future event. Spes successionis is therefore not recognized as a vested interest, as it is subject to the uncertain event of a person’s death.

There are, however, some exceptions to this general rule. The law recognizes only vested interests in property that are certain to become effective and cannot be defeated by any future event.

Difference between spes successionis and contingent interest

While both in cases of contingent interest and spes successionis there is a chance of getting a property, in cases of contingent interest it depends only on happening or not happening of the event but in spes-successionis the person can get the property if as a Heir Apparent he survives the propositus or if propositus dies without any will. Contingent interest is transferable but spes-succesionis is not transferable.

Conclusion

In conclusion, spes successionis refers to the expectation of an heir to succeed to the property of a deceased person. It is not considered as property that can be transferred under the Transfer of Property Act, except in cases where the transfer is made with a condition subsequent, which is not contingent on the death of any person.

Previously Asked Questions on Spes Successionis

1. Explain and distinguish between Spes Successions and Doctrine of feeding the grant by Estoppel.
2. A, B and C, a minor owned a property in equal shares. A and B sold the whole property to D as if they were entitled to it to the excisions of C. C, when grew up refused to acknowledge the transfer. Subsequently C died and property went to A and B. Decide the right of D in relation to C's share.
3. Transfer of spes successionis is void. Discuss this principle with the help of illustrations.

Important Notes on Transfer of Property Act

- Important Terms Under Transfer of Property Act
- Notes on Modes of Transfer of Property
- Notes on Gift under the Transfer of Property Act