

PROPERTY

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CLASS 21(A): *NEMO DAT*; GOOD FAITH PURCHASER

Class Outline

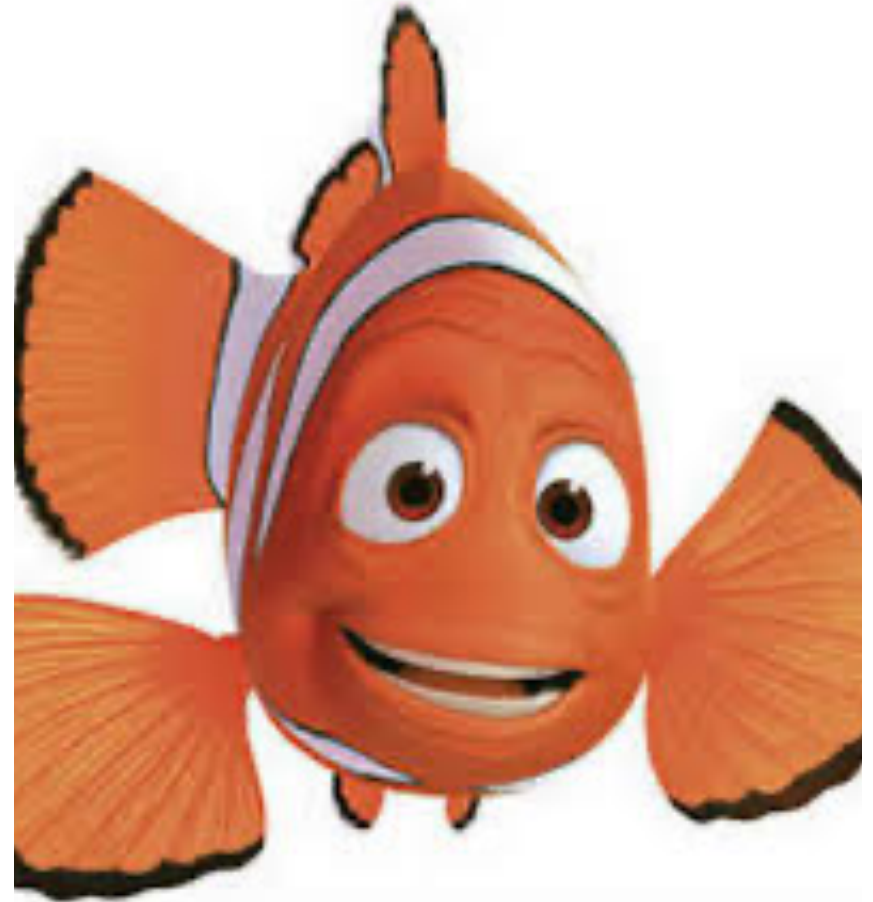
1. Nemo Dat
2. The Good Faith Purchaser

Forms of Property Transfer Recap

1. Sale
2. Gift
3. Will
4. Trust
5. Bailment
6. License
7. Adverse Possession
8. Abandonment/Destruction
9. Lease

Nemo Dat

- *Nemo dat quod non habet* = “No one can give that which one does not have.”
- And unless there is some explicit limitation, one is presumed in a transfer to transfer everything one has.
- AKA the “Derivation Principle.” (Works together with the principle of “Conservation of Estates” – let’s keep the interests together.)
- Unmodified, this means that one cannot get better title than one’s transferor. If Beyonce has a life estate and gives it to you, you have a life estate. You don’t suddenly get a fee simple.



Allied zones of occupation in post-war Germany



Grand Duchess of Saxe-Weimar-Eisenach



Schwarzburg Castle



Art researcher Gerhard Stern (left) with Elicofon
at his home. *Source: Life, June 3, 1966*



Good Faith Purchaser Exception to Nemo Dat

- → Some people who do not have good title can give good title to a good faith purchaser (for value).
- Issues of good faith are built into recording statutes (coming up next).
- ^ This is in the real property context. The UCC (for personal property) works somewhat differently from the regime for real property.

UCC Section 2.403

(I) A purchaser of goods acquires all title which his transferor had or had power to transfer except that a purchaser of a limited interest acquires rights only to the extent of the interest purchased. A person with voidable title has power to transfer good title to a good faith purchaser for value. When goods have been delivered under a transaction of purchase the purchaser has such power even though

(a) the transferor was deceived as to the identity of the purchaser, or

(b) the delivery was in exchange for a check which is later dishonored, or

(c) it was agreed that the transaction was to be a "cash sale", or

(d) the delivery was procured through fraud punishable as larcenous under the criminal law.