

(PI-1). As such the mortgage to Sue Bell to support the \$40,000.00 promissory note was invalid because it was mortgaged by someone not then the owner. There was no valid mortgage to Bell that could be justified. Even if Sue Bell had an unsecured loan of \$40,000.00 to Wilfred Bell, this was a debt of Wilfred Bell and not the trust and again could not justify the dation or the transfer of the house and one (1) acre from the trust.

Assuming the donation to the trust was not valid, and the property stayed in the name of Wilfred Bell, when the property was dationed to Sue Bell, Wilfred Bell was interdicted and there was never any court approval obtained for the transfer of the house of Wilfred Bell to Sue Bell. An interdict cannot transfer assets without court authority and the transaction is was there for void ab initio. Either way the transaction fails. If the property was not donated to the trust and was in fact Wilfred Bell's property, then there is no act of transfer between Wilfred Bell and Sue Bell of the house and one (1) acre because the dation was between the trust and Sue Bell. If on the other hand, the donation of the house and one acre into the trust was effective, then the house and one acre was dationed to Sue Bell for a debt of Wilfred Bell not a debt of the trust and was additional unaccounted for compensation. Either way Sue Bell received the house and one acre via a dation, intended to reduce indebtedness allegedly due her by the trust when the trust did not owe Sue Bell anything with respect to this property.

Bell claims that this alleged loan of \$40,000.00 supported that portion of the dation that transferred the house and one acre. If so, where is a cancellation of the mortgage? There is none, because again her testimony is false. Furthermore as trustee, she was the debtor, Bell. She was also the creditor and at the time she was curator of the interdicted mortgagor. How could she transfer the individual's property without any court approval. She cannot. La. C.C.P. Art. 4566, 4301, 4267. The lower courts' reversal of this action was proper.



Bell's Transaction Left The Trust With An Unreasonably Small Capital And Unable To Pay Its Debts Justifying the Award Under II USC 548

