

## Property Exam 10

Fact Pattern:

Sydney was a thief. She tricked Hannah into giving her valuable heirloom jewelry for pennies. She also was a frequent shop lifter.

One day when Sydney was out shoplifting clothes from her favorite department store she ran into Tara. "Wow," said Tara, "where did you get those clothes and that valuable heirloom jewelry."

"You wanna buy them?" Sydney asked. Tara agreed and paid Sydney in exchange for the clothes and jewelry.

When Sydney was leaving the store, she ran into Marissa.

"Hey Marissa," asked Sydney, "can I borrow your car."

Marissa hesitated and then agreed. Sydney jumped into the car and drove wildly down the street eventually crashing through someone's yard into a pool.

### **Questions:**

Does Tara have good title to the clothes and jewelry?

Is Sydney liable to Marissa for crashing Marissa's car?

## **Example Answer:**

### **Does Tara have good title to the clothes and jewelry?**

#### Bonified purchaser for value - jewelry

Is Tara a bonified purchaser for value for the jewelry?

In general, a seller cannot convey better title to property than he holds. However, a person who buys property for value without knowledge that the seller does not hold good title to the property is a bonified purchaser for value.

While a thief can never convey good title, if property is obtained by trickery or fraud, seller has “voidable” title and he can convey full title to a BFP.

Here Sydney obtained the jewelry by trickery, meaning that Sydney held voidable title to the property. Tara, however, was a bonified purchaser for value as she bought the jewelry for value with no knowledge that Sydney obtained the property by trickery.

Because Tara is a BFP, she does hold good title to the jewelry.

#### Bonified purchaser for value - clothes

Is Tara a bonified purchaser for value for the clothes?

As stated above, a seller cannot convey better title to property than he or she holds. Here Sydney stole the clothes and therefore does not hold any valid title to the clothes. Sydney cannot convey good title to the clothes even if Tara is a BFP as Sydney does not even hold voidable title in the clothes.

Because Sydney stole the clothes and never obtained any title to the clothes, title to the clothes could not transfer to Tara.

Tara does hold good title to the clothes.

### **Is Sydney liable to Marissa for crashing Marissa’s car?**

#### Bailment

Was a bailment created between Sydney and Marissa?

A bailment is lawful possession of property by someone other than the true owner. Here Marissa voluntarily allowed Sydney to take her car. This created a bailment between Sydney as bailee and Marissa as bailor.

### Standard of care for Bailment

Ordinarily a Bailee is not an insurer of property but is only liable for negligence and is only expected to use ordinary care. However, a Bailee must use extraordinary care when bailment for sole benefit of the bailee.

Here the bailment is solely for the benefit of Sydney. There are no facts which indicate that this bailment is benefiting Marissa.

Sydney is therefore required to use extraordinary care with Marissa's car.

### Liability

Under either an ordinary care analysis or an extraordinary care analysis, Sydney breached the standard of care. The facts indicate that Sydney drove wildly down the street eventually crashing through someone's yard into a pool. Sydney did not use ordinary care, let alone extraordinary care. In fact, it appears that Sydney was reckless.

Under the facts of this case, Sydney would be liable to Marissa for the damage done to Marissa's car.