

Nemo dat college essay



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The nemo dat rule literally meaning “ no one [can] give what one does not have” is a legal rule in property law that states where goods are sold by a person who is not the owner thereof and who does not sell them under the authority or with the approval of the owner, the purchaser requires no better title to the goods than the seller had. This law states that if a bona fide purchaser who unknowingly purchases and subsequently sells stolen goods will, at common law, be held liable in trover for the full market value of those goods as of the date of conversion. Since the proper owner retains legal title, this is true even in a chain of successive bona fide purchasers (ie, the true owner can successfully sue the fifth bona fide purchaser in trover).

In laymans terms, it means that if you buy something that was potentially stolen, like a car, the legal owner of that car can take it back and sue you for possessing it and in addition to that you will not get the money you paid for the car back, unless you sue the person you bought it from. A very famous example can be seen in the Holocaust reconciliation movement where property, such as works of art, that was stolen or confiscated by the Nazis was returned to the families of the original owners. Anyone who purchased the art or thought they had ownership were denied any rights over the litigious property due to the nemo dat rule. There are exceptions to the nemo dat rule. These are.

1special powers of sale 2voidable title 3seller in possession 4buyer in possession 5agency circumstances. Special powers of sale confers good title on the buyer which prevails over the claims of the original owner. For example, goods confiscated in breach of customs regulations, abandoned motor vehicles, goods left in a hotel room and on public transport can all be

sold lawfully. Voidable title states that if a contract is merely voidable and not void, the right to sell cannot be exercised if the goods have been sold to a buyer acting in good faith and without notice of the seller's defective title.

Seller in possession is a buyer from a person who has continued in possession of a car after its earlier sale to the original purchaser obtains a good title to that car against the original buyer. For example on ebay, where a seller keeps possession of a sold item and then resells it to a different buyer. Buyer in possession, this is common exception. Where a buyer has possession of goods for example has taken delivery but does not yet own them.

That buyer can give good title to a sub-purchaser who buys the goods in good faith and without notice of the rights of the original seller. For example, this is common in the motor vehicle industry, where a dealer sold a car to a buyer that he had previously sold it to a financing company as part of a financing agreement. Evidently the buyer was able to keep the car because they bought it in good faith, and the financier is now limited to a personal action against the dealer for moneys owed. Agency circumstances.

The agent is not the seller but represents the owner and claims the title of the owner on behalf of them. When the agent sells at a price inconsistent with the owner's wishes, the buyer still has claim to the title and the owner is restricted to personal legal action against the agency to recover the funds. For example, if you put an item in an auction and it is sold before it meets reserve price, you can sue the auction house to recover the funds owed. There is a great example where the nemo dat rule is seen and it is quite a

interesting story so i thought i would explain it to you. Victor Lustig was born in 1890 in what is now the Czech Republic.

As a youngster he studied languages. He also studied people: their habits, mannerisms, and especially their weaknesses, and decided to do something in that field instead. By the age of twenty he was a confirmed conman. By the age of thirty he was a confirmed wanted man on the run from police in several European countries. He started over again in the United States and called himself ' Count' because it sounded important. One dupe he conned was Al Capone; the most dangerous criminal in America at that time.

The Count knew that the crime lord couldn't be taken in like the others; he would get revenge. Lustig devised something different for the underworld boss. The count asked Capone to invest \$50, 000 in a swindle that he claimed he was working on. Lustig promised to double his money in sixty days.

The homicidal Capone gave the cash - and a warning of what would happen to Lustig if there was a double-cross. Lustig let the money sit in the bank for sixty days. At the end of that time he went back to Capone with a look of disappointment. He told his investor that the deal fell through. Just before Capone was about to explode, Lustig handed back the \$50, 000. The crime boss was so impressed with Lustig's honesty (?!) that he rewarded the conman with a thousand dollars.

Which is what Lustig expected Capone to do. In 1925 Lustig was back in Paris with his new friend Dapper Dan, relaxing at an outside cafe. They were in need of money just as they read in the newspaper that the Eiffel Tower

was in need of repairs. While others said what was really needed was to tear down the 985 foot structure. Almost immediately the Count thought up a scheme; he would sell Paris' most famous landmark to a scrap metal dealer.

He gave himself the title ' Deputy Director-General of the Ministry of Mail and Telegraphs'. Dapper Dan would be his secretary. They typed-up letters with Lustig's title printed on them and mailed them out to the five leading scrap metals dealers in Paris. They were asked to come meet with Lustig and his secretary at their room in the fashionable Hotel Crillon. The buyers were told that it had become too costly to repair the Eiffel Tower and that the 7, 000 ton steel structure would be sold to the highest bidder to be torn down. They were also told to keep the meeting secret; if the public found out too soon there would be an outcry.

The secret bids meant nothing to Lustig. He talked to each client and picked out the man most likely to fall for the scam; the one who seemed most anxious to get ahead. A week later the chosen victim, Monsieur Poisson, showed up at Lustig's place. He was handed a phony contract that stated that he owned the Eiffel Tower while Lustig was handed a real check. The Count and Dapper Dan quickly cashed their earnings and just as quickly fled France for Austria.

Lustig never did say how much he got paid for France's top tourist attraction. Resting in Vienna they scanned the newspapers to see if Poisson went to the police; he didn't. Poisson was too embarrassed to tell anyone what happened. After a month's vacation Lustig and Dapper Dan decided to do it again. This time they used the same techniques but with different results.

The scrap metal dealer who was fleeced reported his loss of \$100, 000 to the police. Once again the Count fled to America. The law caught up with Lustig when he tried to pass off counterfeit dollars. In 1935 he was sentenced to twenty years in Alcatraz prison where he died from pneumonia in 1947. While in prison he was protected from harm by orders from another prisoner..

. Al Capone.