

第二步 B : Has Property Been Validly Assigned? Milroy	
QQQQQ1111 Is the property CAPABLE of assignment?	
不能被 assigned 的	<ul style="list-style-type: none"> <li>•the benefit of personal contracts - includes personal services, insurance of a motor vehicle – these benefits are particular to the party who is entitled to or providing them.</li> <li>•a 'bare right to sue' (though can assign the proceeds of litigation): <i>Glegg + Equuscorp</i> 例外 但是如果 if the assignee has a genuine and substantial interest in the action 就可以 assignable eg. <i>Trendtex</i> 比如已经判下结果的是 present property <i>Glegg</i></li> <li>•Employment contract</li> <li>•Mere expectancy? <i>Kennon</i></li> </ul>
第一种 Legal Property	<p>----- Legal chose in possession: transfer in possession. Step 1: Was it a Complete Legal Assignment? Step follow 了吗</p> <p>(a) Bank notes: ownership passes with possession (b) Chattels: by deed or delivery with the intention to confer ownership (c) Shares: transfer forms signed by transferee and transferor +++ registered in company books. (d) Land: for a sale/assignment of land to be effective it needs:</p> <p>1. Registered (<i>Breskvar</i>): instrument of transfer in the proper form, signed by transferee and transferor. Stamp duty paid and lodged for registration together with the title deed; AND 2. Stat Requirements: "Interest must be in writing signed by the assignor or by agent or by will" s 23C(1)(a) CA</p>
不成功, 见下	<p>YES: Assignment Effective NO: Assignment is incomplete, move to 下一栏. See if consideration was given</p>
第二可能 Equity Assignment of LEGAL Interest	<p>第一种 where the assignee has provided value/CONSIDERATION</p> <p>STEPS:</p> <p>1. Always identify the INTENTION when problem solving. 2. Has consideration been given by assignee?</p> <ol style="list-style-type: none"> <li>1. This is valid under common law, <b>but all</b> steps need to be taken to complete the transfer at common law/law (if this is the case then no need for Equity).</li> <li>2. However, Equity will assist an assignee who has provided consideration where all steps <b>have not yet</b> been taken to make the assignment effectual at law.</li> </ol> <p>3. Can the contract be specifically enforced? 上三全符合 → equity will order assignment to be completed – the assignors conscience is 'bound' upon receiving consideration.</p> <p>第二种 where the assignment is a GIFT 没 consideration</p> <p>In the absence of consideration, equity will enforce the assignment, <b>only when the donor has done everything that they themselves alone must do to effect the assignment</b> <i>Corin v Patton</i></p> <p>Sub-Step 1: Have a look to the nature of property to determine what needs to be done <i>Milroy</i> Sub-Step 2: Has assignor done all that is necessary of him to be done alone, irrespective of any outstanding step required by assignee or 3rd P (agent; solicitor). If so, the assignee is in a position to perfect it without assistance from Ct or assignor <i>Corin v Patton</i> 给 debtor 的 notice 可以 assignee 完成 (if debt) Sub-Step 3: Assignor must therefore armed agent with sufficient authority to complete required steps. <i>Marchest</i></p> <p>***Exception: <i>LAST V ROSENFELD</i>– 'cloak for fraud' doctrine- requires detrimental reliance for land transfers</p>
第三种情况 Assignment of Equitable Property	<p>第一种 assign equitable property via a gift</p> <ol style="list-style-type: none"> <li>1. Statutory requirement (like writing s 23c(1)(c) <i>Conveyancing Act</i>) and</li> <li>2. clear INTENTION (clear words) to make an immediate disposition: <i>Norman v FCT</i></li> </ol> <p>第二种 assign equitable property for consideration</p> <p>Consideration passed → immediate assignment in equity. <i>Everett</i> YES? Assignment effective in equity – Assignor holds property on constructive trust for assignee as writing requirements does not apply to constructive trusts per s 23C(2) CA</p> <p>第三种 Future Property <i>Holroyd</i> maxim "equity does not assist a volunteer".-regards as done that ought to be done</p> <p>第一步 Future property cannot be effectively assigned <b>without consideration</b> in equity: <i>Holroyd</i> If no consideration → 第二步 <i>Rule in Shepherd</i> Right to receive 果实 is presently existing property? Tree? Yes → effective</p>