Exercise: The return of the ring

At T1 (1999), the Pennsylvania Supreme Court decided Lindh v. Surman. After Rodger broke off his engagement with Janis, Rodger sued Janis for the return of the expensive engagement ring he had given her. Though Rodger and Janis agreed that, under the common law, an engagement ring is a conditional gift, Rodger argued that the condition is the marriage itself, while Janis argued that the condition is donee’s acceptance of the proposal of marriage. Rodger and Janis also disagreed about whether fault is relevant to determining whether the donor has a right to the return of the engagement ring. After reviewing the common law authorities, the Lindh Court held that the condition implied in law is the marriage, and that a no-fault rule is superior to a fault rule because it is easier for courts to administer and creates fewer perverse incentives for acrimonious disputes between donor and donee over who was at fault. For similar reasons, the court declined Janis’s “modified no-fault” suggestion that the law should deny to donor the return of the ring when it is the donor who breaks off the engagement. The court then held for Rodger and ordered Janis to return the ring or pay Rodger its equivalent value.

At T2 (2012), after a romantic Valentine’s Day dinner together, Donor proposed marriage to Donee in Pennsylvania, and Donee accepted. Because Donor wanted to give a ring to Donee in such a way as to express Donor’s unconditional love for and trust in Donee, Donor bought, for Donee, a ring whose purchase was a real financial sacrifice on Donor’s part. Donor told Donee that the ring was an unconditional gift, in token of Donor’s unconditional love for Donee. Moreover, Donor executed an instrument, titled “Instrument of Gift,” that says: “I, the undersigned Donor, in token of my unconditional love for and trust in Donee, do hereby irrevocably and unconditionally give, grant, donate, assign, convey and deliver, to Donee, this ring.” (The instrument included a photo of the ring and other information about it, eliminating any uncertainty about which ring the instrument refers to.) Donee also signed the instrument.

Question One. At T3, Donor has broken off the engagement and demanded that Donee return the ring. Donee has refused to return it, citing, among other things, the “Instrument of Gift” and Donor’s statement that the gift

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1 The two questions comprising this exercise were the Short Answer part of the 2013 LL&V exam. The questions read exactly as reproduced here. Paragraph one, which summarizes Lindh v. Surman, was included in the exam question because the purpose of the question was not to test whether students remembered the facts, analysis, and result in that case, but to exercise their ability to carry out legal reasoning consistently with that case.
was irrevocable and unconditional in token of Donor’s unconditional love. Donor has retained you as attorney. Donor, expressing great resentment at Donee for not returning the ring, has asked you to “take action aggressively” to recover it. You are aware of Rule 2.1 of the Model Rules of Professional Responsibility, which provides: “In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social and political factors, that may be relevant to a client’s situation.” You are also aware of Comment 2 to Rule 2.1: “It is proper to refer to relevant moral and ethical considerations in giving advice. Although a lawyer is not a moral advisor as such, moral and ethical considerations impinge upon most legal questions and may decisively influence how the law will be applied.”

Advise your client, Donor, consistently with Rule 2.1 and Comment 2. Maximum answer length: 1,200 characters including spaces.²

Question Two. At T3, Donor has sued Donee in Pennsylvania state court for the return of the ring. You are law clerk to the judge presiding at trial. Your judge has asked you the following question. “I’m considering ruling against Donor and in favor of Donee. Consistently with Lindh as vertical precedent, what is the most plausible interpretation of the applicable common law rule, and of the principles or policies that fit the common law rule and bring out its value,³ such that Donor has no right that Donee return the ring in our case?”

Answer your judge’s question. Maximum answer length: 1,200 characters including spaces.

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² The exam software that students use when they write their answers on their laptop computer includes an automatic character count. So it was easy for students to see whether they were within the length constraint.

³ The call of the question refers here to material on common law reasoning that we study later in the semester (see assignments #21-25), and especially to some concepts developed by Ronald Dworkin and included in those assignments. Though we have not yet studied those assignments, you can readily appreciate the instruction: work out a plausible interpretation of Lindh, and of the common law rule that supplies the relevant source of law, such that in the new case at T2, Donor has no right that Donee return the ring.