

**SUPREME COURT OF LOUISIANA**

**No. 2019-C-0121**

**CHARLES HENRY JACKSON**

**VS.**

**SIMONA D. MORTON**

**ON WRIT OF CERTIORARI TO THE COURT OF APPEAL,  
FIFTH CIRCUIT, PARISH OF JEFFERSON**

**Hughes, J., would grant the writ.**

The mortgage was recorded before the donation. Therefore the donated property was subject to the mortgage. While the donee cannot be held personally responsible for payment of the debt secured by the mortgage, or made to reimburse the donor for payments on the mortgage, when the property is sold the mortgage must be satisfied prior to the claim of the donee, as the mortgage primes the donation. Thus the donee is entitled to one-half of the net proceeds from the sale.

The post-sale distribution, after the mortgage is satisfied, is a claim different from the matters previously litigated between the parties, and is not subject to the exception of *res judicata*.