

## 2. [1.23] Beneficiary Is Not the Agent of the Trustee

In operating the property, the beneficiary acts individually and cannot create a liability against the trustee. Accordingly, all contracts for supplies, repairs and other undertakings assumed by the beneficiaries are enforceable against them alone and not against the trustee nor the trust property. *LaSalle National Bank v. Brodsky*, 51 Ill.App.2d 260, 201 N.E.2d 208 (1964); *Gallagher & Speck v. Chicago Title & Trust Co.*, 238 Ill.App. 39 (1925). In the *Gallagher* case, the court made it abundantly clear that obligations incurred by the beneficiary were enforceable against him alone, by the use of the following language:

**The recorded deeds, of which the public must take notice, provided that while the full legal and equitable title was conveyed to the defendant [land trustee] such title should be held in trust under the provisions of an agreement which left the *cestui que trust* an interest in the "earnings, avails and proceeds arising from the disposition of the premises." This was constructive notice to the public that while the defendant [the trustee] held the *title* to the premises, someone else named in the unrecorded trust agreement was the beneficial owner of all the rents and earnings of the property and the proceeds of any sale of the same.**