



TEXT, CASES AND MATERIALS ON

EQUITY AND TRUSTS

CATRIN FFLUR HUWS

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Text, Cases and Materials on Equity and Trusts

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Text, Cases and Materials on Equity and Trusts

Catrin Fflur Huws

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Introduction

Equity and trusts is a subject that seems to straddle all three years of an undergraduate degree. Some institutions regard equity and trusts as a foundation subject, and it is therefore taught as a first-year subject. Others view it as a nebulous subject, lacking in clear statutory provisions, and it is therefore the last foundation subject a student will study – in the final year of his or her degree.

Accordingly this book seeks to cater to a wide knowledge base. It is a text, cases and materials book, which means that the primary materials are largely permitted to speak for themselves, with the text providing a commentary on the features that are being emphasised in the article or the judgment. The book also includes excerpts from non-legal material – examples from literature, examples from charities' statements of objectives, examples from real situations, as well as more traditional resources such as cases and statutes. The book also uses non-legal materials that serve to inform the law – extracts from Hansard and the Charity Commission's guidelines for example.

The emphasis in this book is on the contextual nature of the law. Many of the cases were decided as they were because of the particular situations that came before the courts – in *Lloyds Bank v Rosset* [1991] 1 A.C. 107, Mr Rosset's trust fund had specifically sought to prevent Mrs Rosset from being entitled to a share of the matrimonial home and therefore it would have been surprising if the House of Lords had given judgment in her favour. Accordingly, students are encouraged to think about how differences of facts could have led to a different outcome. The book also encourages students to realise that there is no 'right answer' necessarily – equity's flexibility means that there is considerable scope for developing a counter-argument to the received wisdom.

Nevertheless, there is a tendency in the law to obfuscate and render complex what is in essence often a fairly straightforward question. Accordingly, the book seeks to avoid lengthy discussions of how a particular principle developed, and focuses instead on what the law is now. The emphasis is also on considering – outside of the law – what would be a rational thing to do. Often, what the law does is what the reader would regard as sensible in a real-world situation, and it is only when these social questions are couched in legal terms that the issue becomes confusing. Accordingly, the question of 'When should a person be entitled to a share of property that they do not own?' is far more readily – and easily answered than 'Should the court consider a holistic approach when determining whether a constructive trust should be imposed?' There is therefore an emphasis on considering the real people behind the litigation, and to consider whether they ought to have the entitlement they claim.

A number of activities are included. These can be used as the basis for independent thinking and discussion, but may also provide useful springboards for group discussion both within and outside structured teaching time. The book also includes pointers for further research and additional questions that may be asked. These aim to provide students with possible topics for assignments and projects, as well as topics that may form the basis of dissertation and extended essay modules.

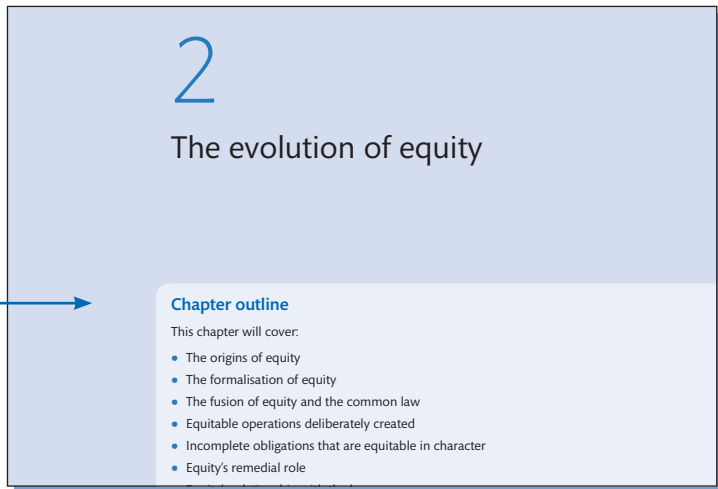
The book also seeks to provide some useful material for students who have already studied equity and the law of trusts, as well as those who have yet to do so. Students taking contract law and land law often find equity daunting if they have not yet studied it, and students taking commercial law, torts and land law may have already studied equity, but may feel the need to be reminded of some of the equitable concepts as these concepts arise in relation to other subjects. Accordingly, Part 1 of this book focuses on equity as a discrete area, and may therefore provide useful reading for students of land law, contract law, commercial law, torts and criminal law.

Parts 2–5 have a tighter focus on trusts. Part 2 focuses on the trust relationship and the parties to the trust, beginning with the trust institution, and then dealing with the formalities and the ways in which the parties interrelate. Part 3 addresses the different contexts of the trust – domestic and commercial, public and private, express and implied. Part 4 focuses on the variation and termination of the trust, while part 5 focuses on tracing, and in particular its application to situations where money belonging to a trust has been misappropriated.

Finally, of course, the aim of this book is to make equity and trusts interesting. Perhaps it lacks the glamour of criminal law. Yet, it is hard to imagine that someone could have a career in law without dealing with equity at some point. Furthermore, equity, no less than criminal law, has its share of colourful characters, situations worthy of a play or a novel, and intriguing questions accompanied by beautifully logical answers. In this respect more than any other, I hope that this book fulfils its aims.

Guided tour

Chapter outlines located at the start of each chapter explain what topics are covered to help you focus your learning.



The screenshot shows a chapter page with a large blue number '2' at the top. Below it is the title 'The evolution of equity'. A white box with a blue border contains the heading 'Chapter outline' and the text 'This chapter will cover:'. Below this is a bulleted list of six topics: 'The origins of equity', 'The formalisation of equity', 'The fusion of equity and the common law', 'Equitable operations deliberately created', 'Incomplete obligations that are equitable in character', and 'Equity's remedial role'. A blue arrow points from the text on the left to the 'Chapter outline' box.

2

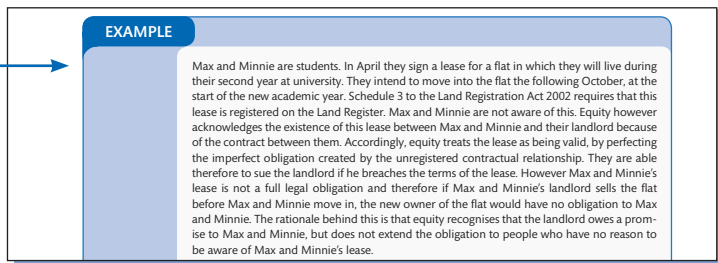
The evolution of equity

Chapter outline

This chapter will cover:

- The origins of equity
- The formalisation of equity
- The fusion of equity and the common law
- Equitable operations deliberately created
- Incomplete obligations that are equitable in character
- Equity's remedial role

Examples throughout provide possible case scenarios to explain how the law operates in practice and help you to understand legal processes.

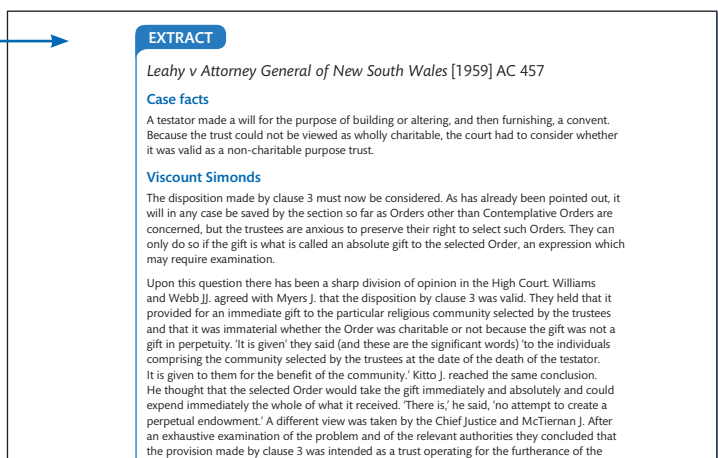


The screenshot shows a blue box with the heading 'EXAMPLE' in white. The text describes a scenario where Max and Minnie are students who sign a lease for a flat. It explains that the lease is not registered on the Land Register, but equity acknowledges its existence and treats it as valid. It also notes that equity does not extend the obligation to people who are not aware of the lease. A blue arrow points from the text on the left to the 'EXAMPLE' box.

EXAMPLE

Max and Minnie are students. In April they sign a lease for a flat in which they will live during their second year at university. They intend to move into the flat the following October, at the start of the new academic year. Schedule 3 to the Land Registration Act 2002 requires that this lease is registered on the Land Register. Max and Minnie are not aware of this. Equity however acknowledges the existence of this lease between Max and Minnie and their landlord because of the contract between them. Accordingly, equity treats the lease as being valid, by perfecting the imperfect obligation created by the unregistered contractual relationship. They are able therefore to sue the landlord if he breaches the terms of the lease. However Max and Minnie's lease is not a full legal obligation and therefore if Max and Minnie's landlord sells the flat before Max and Minnie move in, the new owner of the flat would have no obligation to Max and Minnie. The rationale behind this is that equity recognises that the landlord owes a promise to Max and Minnie, but does not extend the obligation to people who have no reason to be aware of Max and Minnie's lease.

Case extracts explain and illustrate legal principles through real-world cases showing how and why judgments were made.



The screenshot shows a blue box with the heading 'EXTRACT' in white. The text is a case extract from 'Leahy v Attorney General of New South Wales [1959] AC 457'. It includes the 'Case facts' and the judgment of 'Viscount Simonds'. A blue arrow points from the text on the left to the 'EXTRACT' box.

EXTRACT

Leahy v Attorney General of New South Wales [1959] AC 457

Case facts

A testator made a will for the purpose of building or altering, and then furnishing, a convent. Because the trust could not be viewed as wholly charitable, the court had to consider whether it was valid as a non-charitable purpose trust.

Viscount Simonds

The disposition made by clause 3 must now be considered. As has already been pointed out, it will in any case be saved by the section so far as Orders other than Contemplative Orders are concerned, but the trustees are anxious to preserve their right to select such Orders. They can only do so if the gift is what is called an absolute gift to the selected Order, an expression which may require examination.

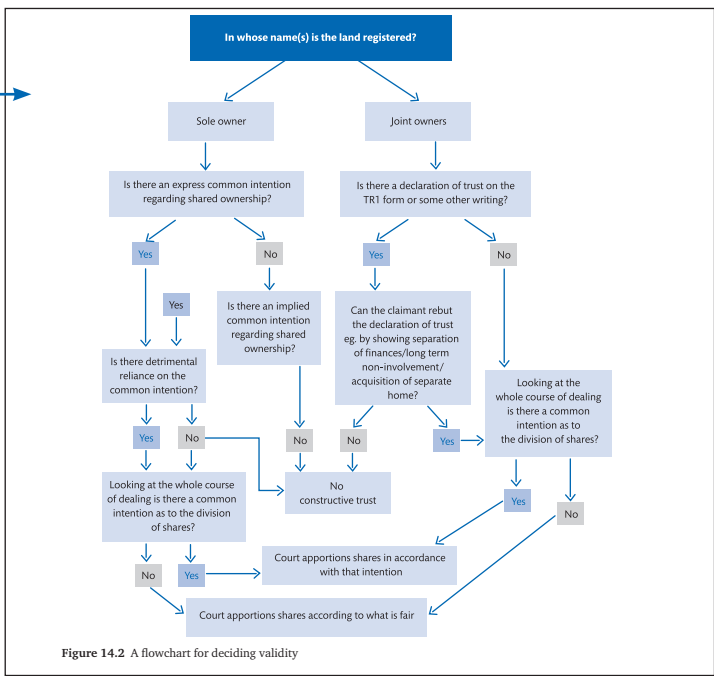
Upon this question there has been a sharp division of opinion in the High Court. Williams and Webb J.J. agreed with Myers J. that the disposition by clause 3 was valid. They held that it provided for an immediate gift to the particular religious community selected by the trustees and that it was immaterial whether the Order was charitable or not because the gift was not a gift in perpetuity. 'It is given' they said (and these are the significant words) 'to the individuals comprising the community selected by the trustees at the date of the death of the testator. It is given to them for the benefit of the community.' Kitto J. reached the same conclusion. He thought that the selected Order would take the gift immediately and absolutely and could expend immediately the whole of what it received. 'There is,' he said, 'no attempt to create a perpetual endowment.' A different view was taken by the Chief Justice and McTiernan J. After an exhaustive examination of the problem and of the relevant authorities they concluded that the provision made by clause 3 was intended as a trust operating for the furtherance of the

Activities allow you to use the knowledge you have acquired to develop and cement your understanding of the topic.

ACTIVITY

1. If you were acting for the claimant in an application for an interim injunction, what would be the advantages to your client of obtaining a freezing injunction or a search order?
2. Think of five types of situation where applying for a freezing injunction might be appropriate. You might find it helpful to search for cases containing the key words 'freezing injunction'.
3. Think of five types of situation where applying for a search order might be appropriate.
4. You might find it helpful to search for cases containing the key words 'search order'.

Diagrams and flowcharts. These visual aids will make complex legal processes easier to follow and understand.



Chapter summaries located at the end of each chapter suggest areas of assessment and assignments for which the chapter provides useful insight.

Chapter summary

This chapter may be useful for assignments and assessments on:

- The personal nature of equitable obligations
- The proprietary nature of equitable obligations
- The maxims of equity
- Equity's approach to remedying legal disputes
- Equity's relationship with the law.

Suggestions for **further reading** at the end of each chapter encourage you to delve deeper into the topic and read those articles which could help you to gain higher marks in both exams and assessments.

Further reading

Conaglen, M. (2005) 'The Nature and Function of Fiduciary Loyalty' (2005) 121 *Law Quarterly Review* 452.

Edwards, A. (2003) 'The ownership of companies, trusts and property: we need to know who really owns and controls them' 24(10) *Company Lawyer* 290-2.

Ellis, M. and Verrill, L. (2007) 'Twilight trusts' 20(10) *Insolvency Intelligence* 151.

Glister, J.A. (2005) 'The nature of Quistclose trusts: classification and reconciliation' 63(3), *Cambridge Law Journal* 632.

Goodhart W. and Jones, G. (1980) 'The infiltration of equitable doctrine into English commercial law' 43 *Modern Law Review* 489.

Hilliard, J. (2009) 'The flexibility of fiduciary doctrine in trust law: how far does it stretch in practice?' 23(3) *Trust Law International* 119.

Table of cases

- Aas v Benham [1891] 2 Ch 244 [282](#), [284](#)
- Abacus v Barr [2003] EWHC 114 (Ch), [2003] 1 All ER 763 [296](#)
- Abbott v Abbott [2007] UKPC 53, [2007] 2 All ER 432, [2008] 1 FLR 1451 [350](#), [336](#)
- Aberconway's Settlement Trusts, Re [1953] Ch 647 [444](#)
- Aberdeen Town Council v Aberdeen University (1877) 2 App Cas 544 [280](#)
- Abou-Rahmah and Others v Abacha and Others [2005] EWHC 2662 (QB), [2006] 1 All ER 247 [421](#)
- Abrahams, Re [1969] 1 Ch 463 [293](#)
- Adams and Kensington Vestry, Re (1884) 27 Ch D 394 [163](#)
- Adams, Re [1990] 2 All ER 97 [382](#)
- Ajayi v R T Briscoe (Nigeria) Ltd [1964] 3 All ER 556 [47](#)
- Alan (W J) & Co Ltd v El Nasr Export and Import Co [1972] 2 QB 189 [47](#)
- Allcard v Skinner (1887) 36 Ch D 145 [57](#), [59](#)
- Allen v Jackson [1935] WN 68 [238](#)
- Allen v Wedgewood [1915] 1 Ch 117 [475](#)
- Allsop, Re, Gell v Carver (1884) 1 TLR 4 [501](#)
- Aluminium Industrie Vassen BV v Romalpa Aluminium Ltd [1976] 1 WLR 676 [422](#), [423](#), [424](#), [429](#)
- AMEC Properties Ltd v Planning Research and Systems PLC [1992] BCLC 1149 [121](#)
- American Cyanamid Co v Ethicon Ltd [1975] AC 396, [1975] 1 All ER 504 [82](#), [95](#), [100](#), [101](#), [103](#), [104](#)
- Andrabbell Ltd, Re [1984] 3 All ER 407 [423](#)
- Anton Piller KG v Manufacturing Processes Ltd [1976] Ch 55 [116](#)
- Appleton v Appleton [1965] 1 WLR 25 [339](#)
- Arbuthnott v Feltrim Underwriting Agencies Ltd [1995] 2 AC 145, [1994] 3 All ER 506 [272](#)
- Argyll (Duchess of) v Duke of Argyll [1967] Ch 302 [82](#)
- Aslatt v Corporation of Southampton (1880) 16 Ch D 143 [90](#)
- Astor's Settlement Trusts, Re [1952] Ch 534 [443](#), [444](#), [445](#), [454](#)
- Attorney-General of Hong Kong v Reid [1994] 1 AC 324 [596](#)
- Attorney-General v Duke of Northumberland (1877) 7 Ch D 745 [498](#)
- Attorney-General v Earl of Lonsdale (1827) 1 Sim 105 [510](#), [559](#)
- Attorney-General v Flood (1816) Hayes & Jo App xxi [536](#)
- Attorney-General v Mayor of Bristol 2 J & W 316 [24](#)
- Attorney-General v Parker (1747) 1 Ves Sen 43 [530](#)
- Attorney-General v Price (1810) 17 Ves 371 [498](#)
- Attorney-General v Scott 1 Ves 413 [23](#)
- Attorney-General v Sidney Sussex College (1869) LR 4 Ch App 722 [513](#), [514](#), [515](#)
- Attorney-General v Staffordshire County Council [1905] 1 Ch 336 [99](#)
- Attorney-General v Stepney (1804) 10 Ves 22 [529](#)
- Attorney-General v Wilkinson (1958) 100 CLR 422 [489](#)
- Ayliffe v Murray (1740) 2 Atk 58 [149](#)
- B, Re [2011] EWCA Crim 3131, [2011] All ER (D) 159 (Dec) [91](#)
- Baden's Deed Trust (No 2), Re [1973] Ch 9 [206](#), [207](#), [212](#)
- Baden's Deed Trusts, Re [1971] AC 424 [207](#), [293](#), [296](#)
- Bainbrigge v Blair (1845) 8 Beav 588 [287](#), [289](#), [623](#)
- Baird Textiles Holdings v Marks and Spencer plc [2001] EWCA Civ 274, [2002] 1 All ER (Comm) 737 [46](#)
- Baldwin v CIR [1965] NZLR 1 [432](#)
- Ball, Re, decd [1947] Ch 228 [208](#)
- Bank of Credit and Commerce International SA v Aboody [1990] 1 QB 923 [57](#), [59](#)
- Banks v Goodfellow (1870) LR 5 QB 549 [367](#), [368](#)
- Banner Homes plc v Luff Developments Ltd [2000] Ch 372 [604](#)
- Bannister v Bannister [1948] 2 All ER 133 [595](#)
- Barclays Bank Ltd v Webber and Others [1954] 3 All ER 712 [503](#), [534](#)
- Barclays Bank plc v Coleman [2001] QB 20 [56](#)
- Barclays Bank Trust Co Ltd v Slack [1986] 1 Ch 243 [501](#)
- Barclays Bank v Jolliffe and Others [1954] 2 All ER 647 [620](#), [621](#)
- Barclays Bank v Quistclose Investments Ltd [1970] AC 567, [1968] 3 All ER 651, [1968] 3 WLR 1097 [63](#), [138](#), [165](#), [166](#), [171](#), [172](#), [173](#), [174](#), [231](#), [410](#), [416](#), [417](#), [423](#), [429](#)
- Barclays Bank plc v O'Brien [1994] 1 AC 180 [56](#), [60](#)
- Barlow's Will Trusts, Re [1979] 1 All ER 296 [202](#)
- Barnes v Addy (1874) LR 9 Ch App 244 [597](#)
- Barnes, Re, Hodson v Barnes (1926) 43 TLR 71 [369](#)
- Barnes, Re, Simpson v Barnes (1922) [1930] 2 Ch 80 [530](#)

- Barralet v Attorney-General [1980] 3 All ER 918 [518](#), [529](#)
 Bartlett v Barclays Bank Trust Co Ltd [1980] Ch 515 [81](#),
[88](#), [251](#), [253](#), [254](#)
 Bartlett v Pickersgill (1760) 4 East 578n, 1 Eden 515,
 1 Cox Eq Cas 15 [219](#)
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 2 Ch 407 [488](#), [489](#)
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 2 FLR 259 [347](#)
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- Christie v Ovington (1875) 1 Ch D 279 244
- Citation plc v Ellis Whittam Ltd [2012] EWHC 549 (QB) 87
- City of London Building Society v Flagg [1987] 3 All ER 435 303
- CL, *Re* [1969] 1 Ch 587 260
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- Clarke v Smith [1940] 1 KB 126 421
- Clarke, *Re* [1923] 2 Ch 407 442, 488, 489, 590
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- Coutts & Co. v Coulthurst and Another [1951] Ch 661 488, 490
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- Cranstoun, *Re*, National Provincial Bank Ltd v Royal Society for the Encouragement of Arts, Manufactures and Commerce [1932] 1 Ch 537 536
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- CTB v News Group Newspapers [2011] EWHC 1326 (QB) [2011] All ER (D) 221 (May) 90
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- Dingle v Turner [1972] AC 601 497
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- Directors of Imperial Gas Light and Coke Co v Broadbent (1859) 7 HL Cas 600 91
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- Dowty Boulton Paul Ltd v Wolverhampton Corporation [1971] 2 All ER 277 **99, 100**
- Drake v Whipp [1996] 1 FLR 826 **344, 353**
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- Drummond, Re [1914] 2 Ch 90, [1914–1915] All ER Rep 223 **441, 514, 515**
- Dudgeon, Re (1896) 74 LT 613 **496**
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- El Ajou v Dollar Land Holdings plc [1993] 3 All ER 717 **78, 277**
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- Famel Pty Ltd v Burswood Management Ltd (1989) 15 ACLR 572 **432**
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- Garston v Scottish Widows' Fund and Life Assurance Society [1996] 1 WLR 834 **392**
- Geary v Rankine [2012] EWCA Civ 555 **355**
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- Gillam v Taylor (1873) LR 16 Eq 581, [1861–73] All ER Rep 614 **498**
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- Gillingham Bus Disaster Fund, Re, Bowman and Others v Official Solicitor and Others [1959] Ch 62 **459**
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- Goodman v Carlton [2002] EWCA Civ 545, [2002] 2 FLR 259 **344**
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- Hanchett Stamford v HM Attorney-General [2008] EWHC 330 (Ch), [2009] Ch 173 [451](#), [554](#)
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- Henderson v Merrett Syndicates Ltd [1995] 2 AC 145, [1994] 3 All ER 506 [272](#)
- Henry v Hammond [1913] 2 KB 515, 82 LJKB 575 [234](#)
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- Holland v Newbury [1997] 2 BCLC 369 [190](#)
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- Holt's Settlement Trust, *Re* [1969] 1 Ch 100 [324](#), [625](#)
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- Incorporated Council of Law Reporting v Attorney-General and Others [1972] Ch 73 [475–80](#)
- Independent Schools Council v Charity Commission [2011] UKUT 421 (TCC), [2011] All ER (D) 198 [507](#)
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- Joseph Rowntree Memorial Trust Housing Association and Others v Attorney-General [1983] 1 All ER 288. [484](#)
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- Keen, *Re* [1937] Ch 236 [401](#)
- Kell v Charmer (1856) 23 Beav 196 [369](#)
- Kelly v Cooper [1993] AC 205, [1993] 3 LRC 476 [69](#), [274](#)
- Kemp v Kemp (1801) 5 Ves Jr 849 [211](#)
- Kennard v Cory Bros & Co Ltd [1922] 2 Ch 265 [98](#)
- Keren Keyemeth Le Jisroel Ltd v IRC [1931] 2 KB 465 [518](#)
- Kernott v Jones. See Jones v Kernott
- Kerr v Bradley [1923] 1 Ch 243 [530](#)
- Kershaw's Trusts, *Re* (1868) LR 6 Eq 322 [301](#)
- Kieran, *decd*, in the Goods of [1933] IR 222 [370](#)
- Kilbey v Haviland [1871] WN 47 [98](#)
- King, *Re*, Kerr v Bradley [1923] 1 Ch 243 [530](#)
- King (The) v Archbishop of Canterbury (1812) 15 East 117 [295](#)
- Kingdon, *Re* (1886) 32 Ch D 604 [380](#)
- Kingsnorth Trust Ltd v Tizard [1986] 2 All ER 54 [75](#), [76](#)
- Klug v Klug [1918] 2 Ch 67, 87 LJ Ch 569, 118 LT 696 [296](#)
- Knight v Knight (1840) 3 Beav 148 [158](#), [183](#), [432](#)
- Knights v Wiffen (1870) LR 5 QB 660, 40 LJQB 51 [176](#)
- Knocker v Youle [1986] 2 All ER 914, [1986] 1 WLR 934 [629](#)
- Koeppler's Will Trust, *Re*, Barclays Bank Trust Company v Slack [1986] Ch 423 [501](#)
- Koettgen's Will Trusts, *Re* [1954] Ch 252 [473](#), [474](#)
- LAC Minerals Ltd v International Corona Resources Ltd (1989) 61 DLR (4th) 14 [271](#), [607](#)
- Lacey, *ex p* (1802) 6 Ves 625 [279](#)
- Ladbroke v Bleaden (1852) 16 Jur 630 [249](#)
- Lake v Bayliss [1974] 2 All ER 1114 [597](#)
- Lamare (Cesare) v Dixon (1873) LR 6 HL 414 [87](#)
- Lands Allotment Co, *Re* [1894] 1 Ch 616, [1891–94] All ER Rep 1032 [597](#)
- Lavelle, *Re*, Concannon v Attorney-General [1914] 1 IR 194 [514](#)
- Lavery v Lavery (1994) 32 CPC (3d) 91, Ont CJ [515](#)
- Le Page v Attorney-General [1914] 1 Ch 662. [490](#)
- Leahy v Attorney-General of New South Wales [1959] AC 457 [438](#), [439](#), [440](#), [444](#), [452](#), [455](#)
- Learoyd v Whiteley (1887) 12 App Cas 727 [252](#)
- Lee v Lee (1876) 4 Ch D 175 [148](#)
- Lewis v Hillman (1852) 3 HL Cas 607, 10 ER 239 [275](#)
- Lilleyman v Lilleyman [2012] EWHC 821 (Ch), [2013] Ch 225, [2013] 1 All ER 302 [324](#)
- Lipkin Gorman (a firm) v Karpnale Ltd [1991] 2 AC 548, [1992] 4 All ER 512 [277](#)
- Lissimore v Downing [2003] 2 FLR 308 [602](#)
- Lloyds Bank plc v Rosset [1991] 1 AC 107 [231](#), [341–5](#), [352](#), [354](#), [355](#), [357](#)
- Lofthouse, *Re* (1885) 29 Ch D 921 [296](#)
- London Hospital Medical College v IRC [1976] 2 All ER 113 [501](#)

- London University *v* Yarrow (1857) 1 De G & J 72, 26 LJ Ch 430 [551](#), [554](#)
- London Wine Co (Shippers) Ltd, *Re* [1986] PCC 121 [174](#), [179](#), [183–7](#), [189](#), [190](#)
- London Wine Co (Shippers) Ltd, *Re* [1994] 3 All ER 215, [1994] 1 WLR 452 [185](#), [186](#), [187](#), [191](#), [194](#)
- Londonderry's Settlement, *Re* [1965] Ch 918, [1964] 3 All ER 855; reversed [1965] Ch 918, [1964] 3 All ER 855, CA [291](#), [312](#), [318](#)
- Lonrho *v* Al-Fayed (No 2) [1991] 4 All ER 961 [610](#)
- Lowe *v* Thomas (1854) 5 DE GM & G 315 [395](#)
- Lowther *v* Bentinck (1874) LR 19 Eq 166 [301](#)
- Lucas, *Re* [1922] 2 Ch 52 [486](#), [588](#)
- Luke *v* South Kensington Hotel Co (1879) 11 Ch D 121 [245](#), [254](#), [299](#), [304](#)
- Lumley *v* Wagner (1852) 1 De GM & G 604, [1843–60] All ER Rep 368 [99](#)
- Lynch, *Re* [1943] 1 All ER 168 [395](#)
- Lytton (Earl of) *v* Attorney-General [1923] 2 Ch 398 [536](#)
- M'Fadden *v* Jenkyns (1842) 1 Ph 153 [147](#), [149](#)
- Macadam, *Re* [1946] Ch 73 [285](#), [287](#)
- Macaulay *v* O'Donnell [1943] Ch 435 [438](#), [441](#)
- Macaulay's Estate, *Re*, Macaulay *v* O'Donnell [1943] Ch 435 [438](#), [441](#)
- Mac-Jordan Construction Ltd *v* Brookmount Erostin Ltd (in receivership) [1992] BCLC 350 [183](#), [190](#), [191](#)
- Macnamara *v* Jones (1784) 2 Dick 587 [249](#)
- Maddock, in the Goods of [1874–80] All ER Rep 367 [369](#), [370](#), [371](#)
- Maddock, *Re* [1902] 2 Ch 220 [400](#)
- Magee *v* Pennine Insurance Co Ltd [1969] 2 QB 507 [50](#), [51](#)
- Mallam *v* McFie [1912] 1 Ch 29 [183](#)
- Manisty's Settlements, *Re* [1974] Ch 17, [1973] 2 All ER 1203 [314](#)
- Mannai Investment Co Ltd *v* Eagle Star Life Assurance Co Ltd [1997] AC 749 [386](#), [387](#)
- Mareva Compania Naviera SA *v* International Bulkcarriers SA [1980] 1 All ER 213 [106](#), [107](#)
- Mariette *v* Governing Body of Aldernham School [1915] 2 Ch 284 [501](#)
- Mariette, *Re*, Mariette *v* Governing Body of Aldernham School [1915] 2 Ch 284 [501](#)
- Marks *v* Lilley [1959] 2 All ER 647 [124](#)
- Marsh *v* Means (1857) 3 Jur NS 790 [559](#)
- Marshall *v* Holloway (1820) 2 Swan 432 [622](#)
- Martin and Others *v* Hawkins and Others [1951] 1 All ER 454 [534](#)
- Masters, decd, *Re* [1953] 1 All ER 19, [1953] 1 WLR 81 [287](#), [288](#), [622](#)
- MBPXL Corporation *v* Intercontinental Banking Corporation Ltd, 28 August 1975; Court of Appeal (Civil Division) Transcript No. 411 of 1975 [108](#)
- MCC Proceeds *v* Lehman Bros International (Europe) [1998] 4 All ER 675 [29](#)
- McCormick *v* Grogan (1869) LR 4 HL 82 [400](#)
- McEnery, *Re* [1941] IR 323 [515](#)
- McGovern *v* Attorney-General [1982] Ch 321, [1981] 3 All ER 493 [466](#), [503](#), [545](#), [546](#), [550](#), [555](#)
- McIlkenny *v* Chief Constable of the West Midlands [1980] QB 283 [43](#)
- McKenzie *v* McKenzie [2003] EWHC 601 (Ch) [81](#)
- McManus *v* Cooke (1887) 35 Ch D 681 [98](#)
- McPhail *v* Doulton [1971] AC 424 [202](#), [203](#), [210](#), [212](#), [213](#), [318](#)
- Mercedes Benz *v* Leiduck [1996] AC 284 [91](#)
- Mettoy Pension Fund Trustees Ltd *v* Evans [1990] 1 WLR 1587 [297](#)
- Michelham's Will Trusts, *Re* [1964] Ch 550 [633](#)
- Micrografix *v* Woking 8 Ltd [1995] 2 EGLR 32 [392](#)
- Midland Bank plc *v* Cooke [1995] 4 All ER 562 [344](#), [353](#), [354](#)
- Midland Bank *v* Wyatt [1995] 3 FCR 11, [1997] 1 BCLC 242 [154](#), [421](#)
- Miller *v* Travers (1832) 8 Bing 244 [397](#)
- Milroy *v* Lord (1862) 4 De GF & J 264 [221](#)
- Moncrief's Settlement Trusts, *Re* [1962] 1 WLR 1344 [629](#)
- Moody *v* Cox [1917] 2 Ch 71, [1916–17] All ER Rep 548 [69](#), [274](#), [275](#)
- Moore *v* Williamson [2011] EWHC 672 (Ch) [159](#)
- Morice *v* Bishop of Durham (1805) 9 Ves 399, 10 Ves 522, 32 ER 1009, [1803–13] All ER Rep 451 [196](#), [197](#), [206](#), [213](#), [312](#), [438](#), [442](#), [445](#), [455](#), [478](#)
- Morris *v* Grant (1875) 24 WR 55 [98](#)
- Mortgage Corporation Ltd *v* Nationwide Credit Corporation Ltd [1994] Ch 49 [75](#), [83](#), [84](#)
- Moseley *v* Cressey's Co (1865) LR 1 Eq 405 [412](#)
- Moss *v* Cooper (1861) 1 John & H 352 [401](#)
- Movitex Ltd *v* Bulfield [1988] BCLC 104 [290](#)
- Murphy *v* Murphy [1999] 1 WLR 282 [325](#)
- Murphy's Settlements, *Re* [1998] 3 All ER 1 [314](#)
- Murray *v* Public Trustee [1954] 1 All ER 887 [501](#), [536](#)
- Naf Naf SA *v* Dickens (London) Ltd [1993] FSR 424 [106](#)
- Naish and Another *v* Francis Bacon Society Inc and Others [1965] Ch 669 [501](#)
- Nanwa Gold Mines Ltd, *Re* [1955] 1 WLR 1080 [165](#), [412](#), [415](#)
- National Anti-Vivisection Society *v* IRC [1948] AC 31 [467](#), [546](#), [550](#), [555](#), [556](#)
- National Guarantee and Suretyship Association Ltd *v* Maidment [1936] 3 All ER 1027 [530](#)
- National Provincial Bank Ltd *v* Ainsworth [1965] AC 1175 [77](#)
- National Provincial Bank Ltd *v* National City Bank Ltd [1952] Ch 163, [1952] 1 All ER 49 [468](#), [469](#), [503](#)

- National Provincial Bank Ltd v Royal Society for the Encouragement of Arts, Manufactures and Commerce [1932] 1 Ch 537 [536](#)
- National Society for the Prevention of Cruelty to Children v Scottish National Society for the Prevention of Cruelty to Children [1915] AC 207 [390](#)
- Neesom v Clarkson (1845) 4 Hare 97 [602](#)
- Negocios Del Mar SA v Doric Shipping Corporation SA (The Assios) [1979] 1 Lloyd's Rep 331 [108](#)
- Neste Oy v Barclays Bank [1983] 2 Lloyd's Rep 658, [1983] Com LR 185, 133 NLJ 597 [167](#), [417](#), [418](#), [419](#)
- Nestle v National Westminster Bank plc [1994] 1 All ER 118, [1993] 1 WLR 1260, 12 LDAB 243 [263](#), [296](#), [312](#)
- Neville Estates v Madden [1962] Ch 832 [447](#), [530](#), [531](#)
- New, Re [1901] 2 Ch 534 [618](#), [619](#), [620](#)
- Newbigging v Adam (1886) 34 Ch D 582, [1886–90] All ER Rep 975 [88](#)
- Nippon Yusen Kaisha v Karageorgis [1975] 3 All ER 282 [106](#)
- Niyazi's Will Trusts, Re [1978] 3 All ER 785, [1978] 1 WLR 910 [496](#)
- Nocton v Lord Ashburton [1914] AC 932, [1914–15] All ER Rep 45 [53](#), [272](#), [275](#)
- Norfolk's (Duke of) Settlement Trust, Re [1982] Ch 61 [287](#), [288](#), [621](#)
- Nottage, Re, Jones v Palmer [1895] 2 Ch 649 [537](#)
- Nunn, in the Estate of [1936] 1 All ER 555 [383](#)
- O'Rourke v Darbishire [1920] AC 581, [1920] All ER Rep 1 [291](#), [312](#)
- O'Sullivan v Management Agency and Music Ltd [1985] 3 All ER 351 [89](#)
- Obert v Barrow (1887) 35 Ch D 472 [553](#)
- Ogden, Re [1901] 1 Ch 619 [440](#)
- Oliver v Hinton [1899] 2 Ch 264 [74](#)
- Ollins v Walters [2007] EWHC 3060 (Ch) [402](#)
- Oppenheim v Tobacco Securities [1951] AC 297 [471](#), [473](#), [512](#), [516](#), [530](#)
- Ormrod v Wilkinson [1898] 2 Ch 638 [559](#)
- Ottaway v Norman [1972] Ch 698 [401](#)
- Oxford's (Earl of) Case (1615) 1 Ch Rep 1 [8](#), [12](#), [20](#)
- Oxley v Hiscock [2004] EWCA Civ 546, [2005] Fam 211 [346](#), [352](#)
- Page One Records Ltd v Britton [1967] 3 All ER 822 [122](#)
- Pallant v Morgan [1953] Ch 43 [603](#), [604](#), [605](#), [606](#)
- Palmer v Simmonds (1854) 61 ER 704 [169](#), [192](#)
- Parker v Parker [2003] EWHC 1846 (Ch) [602](#)
- Paul v Constance [1977] 1 All ER 195, [1977] 1 WLR 527 [83](#), [217](#)
- Paul v Paul (1882) 20 Ch D 742 [150](#), [151](#)
- Pauling's Settlement Trusts, Re [1964] Ch 303, [1963] 3 All ER 1, [1963] 3 WLR 742 [294](#)
- Peel, in the Goods of (1870) LR 2 P&D 46 [389](#)
- Penn v Lord Baltimore (1750) 1 Ves Sen 444 [122](#)
- Performing Right Society Ltd v London Theatre of Varieties Ltd [1924] AC 1 [196](#)
- Perkes v Perkes (1820) 3 B & A 489 [383](#)
- Permanent Building Society (in liq) v Wheeler (1994) 14 ACSR 109 [68](#), [276](#)
- Perrin v Morgan [1943] AC 399 [392](#), [394](#)
- Peters, Re [1988] QB 871 [106](#)
- Pettingall v Pettingall (1842) 11 LJ Ch 176 [455](#)
- Pettit v Pettit [1970] AC 777, [1969] 2 All ER 385 [40](#), [231](#), [336](#), [338](#), [594](#)
- Pettkus v Becker [1980] 2 SCR 834, 117 DLR (3d) 257 [606](#)
- Pilcher v Rawlins (1872) LR 7 Ch App 259 [74](#)
- Pilkington v IRC [1964] AC 612 [295](#), [300](#)
- Pinion, decd, Re, Westminster Bank Ltd v Pinion and Another [1965] Ch 85, [1964] 1 All ER 890 [467](#), [503](#), [537](#)
- Pitt v Holt [2011] EWCA Civ 197, [2011] 2 All ER 450; reversed [2013] UKSC 26, [2013] 3 All ER 429 [292](#), [293](#), [297](#), [308](#), [309](#)
- Plimpton v Spiller (1876) 4 Ch D 286 [91](#), [91](#)
- Plowden v Lawrence [1929] 1 Ch 557 [552](#)
- Pomeroy v Willway (1889) 42 Ch D 510 [486](#)
- Poole's Settlements' Trusts, Re [1959] 2 All ER 340 [631](#)
- Pooley, Re (1888) 40 Ch D 1 [623](#)
- Posner v Scott Lewis [1987] Ch 25 [122](#)
- Powell Duffryn Steam Coal Company v Taff Vale Railway Company (1874) LR 9 Ch App 331 [99](#)
- Prenn v Simmonds [1971] 1 WLR 1381 [391](#)
- Preston v Luck (1884) 27 Ch D 497 [102](#)
- Prichard v Thomas (1903) 72 LJ Ch 687 [553](#)
- Public Trustee v Aspinall [1928] Ch 915 [318](#)
- Public Trustee v Attorney-General [1930] 1 Ch 255 [494](#)
- Public Trustee v Day and Others [1957] 1 All ER 745 [501](#)
- Public Trustee v Hood [1931] 1 Ch 240 [559](#)
- Quistclose Investments Ltd v Rolls Razor Ltd [1970] AC 567 [179](#), [181](#)
- R (on the application of Age UK) v Secretary of State for Business Information and Skills [2009] All ER (D) 141 (Sep) [9](#)
- R v District Auditor No 3 Audit District of West Yorkshire Metropolitan County Council, ex p West Yorkshire Metropolitan County Council [1986] RVR 24 [141](#), [213](#), [443](#)
- R v Income Tax Special Comrs, ex p University College of North Wales (1909) 78 LJKB 576 [500](#)
- R v Special Commissioners of Income Tax, ex p Essex Hall [1911] 2 KB 434 [529](#)
- Raithatha v Williamson [2012] EWHC 909 (Ch), [2012] 3 All ER 1028 [90](#)
- Ramsden v Smith (1854) 2 Drew 298, 23 LJ Ch 757 [148](#)

- Rank Film Distributors Ltd v Video Information Centre (a firm) [1982] AC 380, [1981] 2 All ER 76 [70](#), [106](#), [117](#)
- Rawluk v Rawluk (1990) 1 SCR 70 [607](#)
- Reardon Smith Line Ltd v Yngvar Hansen-Tangen [1976] 1 WLR 989 [391](#)
- Recher's Will Trusts, *Re* [1972] Ch 526 [448](#), [510](#)
- Regal (Hastings) Ltd v Gulliver [1942] 1 All ER 378 [282](#), [283](#), [285](#)
- Resch's Will Trusts, *Re* [1969] 1 AC 514 [484](#)
- Revenue and Customs Commissioners v Total Network SL [2008] UKHL 19, [2008] 2 All ER 413 [9](#)
- Rhys v Attorney-General [1922] 2 Ch. 52 [486](#)
- Richards v Delbridge (1874) LR 18 Eq 11 [168](#)
- Richstar Enterprises Pty Ltd v Carey (No 6) [2006] FCA 814 [313](#)
- Ridsdel, *Re* [1947] Ch 597 [303](#)
- Roadley, *Re* [1930] 1 Ch 524 [486](#)
- Roberts v Gill and Co and Others [2010] UKSC 22, [2011] 1 AC 240 [146](#)
- Robertson v Minister of Pensions [1949] 1 KB 227 [47](#)
- Robertson, *Re*, Colin v Chamberlin [1930] 2 Ch 71 [530](#)
- Robinson v Pett (1734) 3 P.Wms. 249 [623](#), [624](#)
- Rochefoucauld v Bousted [1897] 1 Ch 196; [1898] 1 Ch 550 [218](#), [596](#)
- Rogers v Goodenough (1862) 2 Sw & Tr 342 [385](#)
- Rogers, *Re*, ex p Holland and Hannen (1891) 8 Morr 243 [173](#), [411](#), [412](#)
- Rose (decd), *Re*, Rose v IRC [1952] Ch 499, [1952] 1 All ER 1217 [153](#), [154](#), [183](#), [185](#), [221](#)
- Rose v IRC. See *Re* Rose (decd)
- Rowland, *Re* [1963] Ch 1 [395](#)
- Royal Bank of Scotland v Etridge (No 2) [2001] UKHL 44, [2002] 2 AC 73 [54](#)
- Royal Bank of Scotland v Hicks [2010] EWHC 2568 (Ch) [98](#)
- Royal Choral Society v Commissioners of Inland Revenue [1943] 2 All ER 101 [500](#), [501](#), [503](#), [536](#)
- Royal College of Nursing v St. Marylebone Borough Council [1959] 1 WLR 1077 [478](#)
- Royal College of Surgeons of England v National Provincial Bank and Others [1952] AC 631 [478](#), [501](#), [534](#)
- Royal Exchange Assurance v Cook [1965] Ch 902 [196](#)
- Russell v Jackson (1852) 10 Hare 204 [559](#)
- Russell v Wakefield Waterworks Co (1875) LR 20 Eq 474 [597](#)
- Ryan v Mutual Tontine Westminster Chambers Association [1893] 1 Ch 116 [122](#)
- Sainer and Others v Clore and Others [1966] 2 All ER 272 [149](#)
- Sainsbury's v IRC [1970] Ch 712 [149](#)
- Salisbury (Marquess) v Gilmore [1942] 1 All ER 457 [46](#)
- Sanders, *Re* [1954] Ch 265 [494](#), [495](#)
- Satterthwaite's Will Trusts, *Re* [1966] 1 All ER 919 [585](#)
- Saunders v Vautier (1841) 4 Beav 115, 41 ER 482, Cr & Ph 240, [1835–42] All ER Rep 58 [307](#), [313](#), [318](#), [432](#), [433](#), [616](#), [617](#), [633](#)
- Savings and Investment Bank v Gasco Investments (Netherlands) BV [1984] 1 All ER 296 [105](#)
- Savory, *Re* (1851) 15 Jur 1042 [369](#)
- Sayer, *Re* [1957] Ch 423 [199](#), [207](#)
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- Schmidt v Rosewood Trust Ltd [2003] UKPC 26, [2003] 2 WLR 1442 [312](#)
- Schobelt v Barber [1967] 1 OR 349, 60 DLR (2d) 519 [599](#)
- Scott v Scott (1859) 1 Sw & Tr 258 [383](#)
- Scott, ex p [1998] 1 WLR 226 [291](#)
- Scottish Burial Reform and Cremation Society v Glasgow City Corporation [1967] 3 All ER 215 [533](#)
- Scowcroft, *Re*, Ormrod v Wilkinson [1898] 2 Ch 638 [559](#)
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- Shakespeare Memorial Trust, *Re*, Earl of Lytton v Attorney-General [1923] 2 Ch 398 [536](#)
- Shaw (decd), *Re*, Public Trustee v Day and Others [1957] 1 All ER 745 [466](#), [501](#), [503](#), [504](#), [505](#), [506](#), [536](#)
- Shaw v Mayor of Halifax [1915] 2 KB 170 [490](#)
- Shaw's Will Trusts, *Re*, National Provincial Bank Ltd v National City Bank Ltd [1952] Ch 163, [1952] 1 All ER 49 [468](#), [503](#)
- Shelfer v City of London Electric Lighting Company [1895] 1 Ch 287 [125](#)
- Shelley v Shelley (1868) LR 6 Eq 540 [164](#)
- Sherrington v Sherrington [2005] EWCA Civ 326 [376](#)
- Shipping Co v Baltic Shipping Co [1999] 2 Lloyd's Rep 159 [602](#)
- Shires v Glascock (1685) 2 Salk 688 [372](#)
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- Sieff v Fox [2005] EWHC 1312 (Ch), [2005] 3 All ER 693 [296](#)
- Simmons v White Brothers [1899] 1 QB 1005 [207](#)
- Simpson v Barnes (1922) [1930] 2 Ch 80 [530](#)
- Sinclair Investment Holdings SA v Versailles Trade Bank Finance Ltd (No 3) [2007] EWHC 915 (Ch) [597](#)
- Sinclair Investments (UK) Ltd v Versailles Trade Finance Ltd (In Administration) [2011] EWCA Civ 347, [2011] 3 WLR 1153 [78](#)
- Sinclair v Sinclair [2009] EWHC 926 (Ch), [2009] All ER (D) 17 (May) [602](#)
- Skinnners' Co v Irish Society (1836) 1 My & Cr 162 [93](#)
- Sky Petroleum Ltd v VIP Petroleum Ltd [1974] 1 All ER 9541121
- Slavinskyj's Estate. *Re* (1989) 53 SASR 221 [369](#)
- Sleebrush v Gordon [2005] EWHC 3447 (Ch), [2004] All ER (D) 148 (Sep) [217](#)
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- Smith v Smith (1875) LR 20 Eq 500 [98](#)
- Smith, *Re*, Public Trustee v Aspinall [1928] Ch 915 [318](#), [441](#)
- Smithson v Hamilton [2008] 1 WLR 1453 [302](#)
- Society of Immigrant and Visible Minority Women v Minister of National Revenue (1999) 169 DLR (4th) 34, Can SC [503](#)
- Solle v Butcher [1950] 1 KB 671 [49](#), [50](#), [51](#), [52](#), [53](#)
- Solloway v McLaughlin [1938] AC 247, [1937] 4 All ER 328 [190](#)
- Soltau v De Held (1851) 2 Sim NS 133 [95](#)
- Sotheran v Denning (1881) 20 Ch D 99 [379](#), [380](#)
- South Place Ethical Society, *Re* [1980] 3 All ER 918, [1980] 1 WLR 1565 [519](#)
- Southwood v Attorney-General [2000] WTLR 1199, [2000] All ER (D) 886 [506](#), [555](#)
- Spectrum Plus Ltd (in liq), *Re* [2005] 2 AC 680 [40](#)
- Speight v Gaunt (1883) 22 Ch D 727, 9 App Cas 1 [251](#)
- Speight, *Re*, Speight v Gaunt (1883) 22 Ch D 727 [251](#), [294](#)
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- Spence, *Re* [1949] WN 237 [402](#)
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- Stack v Dowden [2007] UKHL 17, [2007] 2 AC 432 [231](#), [336](#), [337](#), [338](#), [344](#), [345](#), [346](#), [347](#), [350](#), [351](#), [352](#), [354](#), [355](#), [357](#)
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- Stead, *Re* [1900] 1 Ch 237 [401](#)
- Steele's Will Trusts, *Re* [1948] Ch 603 [163](#)
- Stephens, *Re*, Giles v Stephens (1892) 8 TLR 792 [557](#)
- Stephenson v Barclays Bank Trust Co Ltd [1975] 1 WLR 882 [298](#)
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- Strickland's Will Trusts, *Re*, National Guarantee and Suretyship Association Ltd v Maidment [1936] 3 All ER 1027 [530](#)
- Sudbrook Trading Estate Ltd v Eggleton [1983] 1 AC 444 [391](#)
- Suffert's Settlement, *Re* [1961] Ch 1, [1960] 3 All ER 561 [629](#)
- Sugden v Lord St Leonards (1876) 1 PD 154, [1874–80] All ER Rep 21 [384](#)
- Supperstone v Hurst [2005] EWHC 1309 (Ch), [2006] 1 FCR 352 [220](#)
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- T's Settlement Trusts, *Re* [1964] Ch 158 [260](#), [312](#), [324](#), [626](#)
- Tanna v Tanna [2001] All ER (D) 333 [159](#)
- Target Holdings Ltd v Redferns (a firm) [1996] AC 421, [1995] 3 All ER 785 [270](#), [304](#), [306](#)
- Tatham v Drummond (1864) 4 De GJ & Sm 484 [553](#)
- Taylor v London and County Banking Co [1901] 2 Ch 231 [74](#), [401](#)
- Tempest, *Re* (1866) 1 Ch 485 [298](#), [307](#)
- Templeton Insurance Ltd v Penningtons Solicitors LLP [2006] EWHC 685 (Ch) [421](#)
- Third Chandris Shipping Corporation v Unimarine SA [1979] QB 645 107 [107](#), [108](#)
- Thompson v Holdsworth and Others (No 2) [1979] 1 All ER 623 [450](#), [451](#)
- Thorley, *Re* [1891] 2 Ch 613 [623](#)
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- Tierney v Tough [1914] 1 IR 142 [451](#)
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- Time Products Ltd. v Combined English Stores Group Ltd (2 December 1974, unreported) [605](#)
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Part 1

Equity

1

The concept of equity

Chapter outline

This chapter will cover:

- What is equity?
- Equity's contribution to the legal system
- Equity's relationship with the law.

What is equity?

This book is about equity and the law of trusts. The idea of why equity exists is sometimes a difficult notion to understand, and matters are probably not helped by complex ideas such as the distinction between ‘legal ownership’ and ‘equitable ownership’. At this point the law student is likely to argue, ‘Surely ownership is an absolute concept – one either owns something or one does not. Why do we need ownership to be legal or equitable?’ Consequently, the law student is likely to feel that equity is a subject that is unnecessarily abstruse and complicated. Be assured that it is not. Equity is a simple concept, albeit with far-reaching ramifications. Equity is simply the name given to the way the law works when a strict application of the rules would create an absurdity because reliance on those legal rules would permit the very purpose of that rule to be undermined. Often this is assumed to be just part of the way the law works, and it is only when we try to divide ‘law’ and ‘equity’ into two separate things that it appears initially to be rather confusing.

EXAMPLE

Ted, Fred and Ned agree to buy a birthday present for Jed. Both Ted and Fred give Ned £10 and Ned promises to buy a suitable present and give it to Jed. Ned buys the present using the money Ted and Fred have given him but keeps the present for himself.

If we look at this scenario from the viewpoint of the law of contract, Ned’s actions are perfectly legitimate. The shopkeeper has sold goods to Ned and Ned is now the owner of those goods. But this overlooks the fact that Ted and Fred have relied on Ned’s promise in giving him the money, and that the money was given to Ned in order to buy a present for Jed. There should be no difficulty in appreciating that the law would be unsatisfactory if it could not offer any remedy regarding this situation. This is where equity intervenes.

The law as a system of rules

Imagine therefore that the law is a system of rules. One of the law’s rules is to say that Person A (Ned from our scenario above) is allowed to own Item X (Jed’s present). It then follows that if Person B (let us call him Rob) deprives Person A of Item X, the law should be able to restore Item X to Person A. For this reason, the law of contract seeks to defend Person A’s entitlement to the acquisition of goods as a buyer, and to the retention of title to those goods as the seller unless suitable consideration is forthcoming. Similarly, criminal law and the torts of trespass and conversion are also means of bringing those who deny Person A of his or her goods to account. From a political perspective, these rules may be viewed as unfair in that they may be viewed as perpetuating social inequalities whereby some people have a great deal of property while others have very little. However, the law is not concerned with the moral rightness of the rules. Rather its concern is to ensure that such rules as there are, are applied consistently. In particular, the law is concerned that the rules are not misused so as to create a situation where adherence to the rules undermines the primary purpose of the law.

What happens when those rules are applied too rigidly?

When rules are created, it is impossible to foresee the situations to which those rules will need to be applied. It may be that a rule is appropriate in most circumstances, but it is possible that in some situations, the blind application of a legal rule may lead to an unintended outcome; for example rules that protect A from being deprived of his property may overlook the fact that A has used money belonging C and D (Fred, and Ted in our scenario) to purchase such property. Here it may be considered that to allow A to retain the property he has bought would be an unjust deprivation of C and D's claim to the property that arises from the fact that they are the true owners. Person A has acquired the title to the property, but it cannot 'rightfully' be said to belong to him, as we saw in the example above with Ned and his present.

A rule cannot therefore take into account every possible circumstance in which it will need to be applied. Nevertheless, it may be that in most situations – or at least in most foreseeable situations – the rule will be legitimate. For example, if a school requires that a uniform is worn when pupils are at the school, that rule will be consistently applied to all pupils. Some pupils may view this rule as being unfair, but it will nevertheless be a rule that is of general application, and one that is applied equally to all. The uniform policy may even cause hardship in individual circumstances, such as where a family can ill afford the cost of buying a school uniform. Nevertheless, individual hardship is unlikely to justify an exception being made.

However, such a rule may not have been intended to apply to a situation where a child's parent is also a teacher at the school, and the child goes with her parent to the school during the school holidays to help the parent tidy the store cupboard. Applying the uniform rule in this situation would be an absurd application of the rule, and would justify the rule being applied in a modified way – in that the rule only applies when the child is attending the school as a pupil and not as the offspring of a schoolteacher. It is this type of modification that equity performs in relation to law, where the legal rule is applied in a modified form in specific situations in order to prevent an unreasonable application of the law.

An example of a situation where reliance on the strict application of legal rules is demonstrated in the court scene in Shakespeare's *The Merchant of Venice*. In the play, Shylock contracts with Antonio for the loan of 3000 ducats. When the loan is not repaid, Shylock demands a pound of Antonio's flesh, and demands that the bond be strictly interpreted. Portia arrives at the court in order to defend Antonio, and explains that Shylock can neither cut more nor less than a pound in weight of Antonio's flesh, and neither must he spill a drop of Antonio's blood, thus demonstrating to Shylock the consequences of adhering too strictly to the letter of the law when doing so would result in injustice.

EXTRACT

William Shakespeare, *The Merchant of Venice*, Act IV, Scene 1

SHYLOCK

My deeds upon my head! I crave the law,
The penalty and forfeit of my bond.

PORTIA

Is he not able to discharge the money?

BASSANIO

Yes, here I tender it for him in the court;
Yea, twice the sum: if that will not suffice . . .
And I beseech you,
Wrest once the law to your authority:
To do a great right, do a little wrong,
And curb this cruel devil of his will.

PORTIA

It must not be; there is no power in Venice
Can alter a decree established:
'Twill be recorded for a precedent,
And many an error by the same example
Will rush into the state: it cannot be . . .
I pray you, let me look upon the bond.

SHYLOCK

Here 'tis, most reverend doctor, here it is . . .

PORTIA

Why, this bond is forfeit;
And lawfully by this the Jew may claim
A pound of flesh, to be by him cut off
Nearest the merchant's heart. Be merciful:
Take thrice thy money; bid me tear the bond.

SHYLOCK

When it is paid according to the tenor . . .

ANTONIO

Most heartily I do beseech the court
To give the judgment.

PORTIA

Why then, thus it is:
You must prepare your bosom for his knife . . .

SHYLOCK

Ay, his breast:
So says the bond: doth it not, noble judge?
'Nearest his heart:' those are the very words . . .

PORTIA

Have by some surgeon, Shylock, on your charge,
To stop his wounds, lest he do bleed to death . . .

SHYLOCK

I cannot find it; 'tis not in the bond . . .

PORTIA

A pound of that same merchant's flesh is thine:
The court awards it, and the law doth give it . . .

SHYLOCK

Most learned judge! A sentence! Come, prepare!

PORTIA

Tarry a little; there is something else.
This bond doth give thee here no jot of blood;
The words expressly are 'a pound of flesh.'
Take then thy bond, take thou thy pound of flesh;
But, in the cutting it, if thou dost shed
One drop of Christian blood, thy lands and goods
Are, by the laws of Venice, confiscate
Unto the state of Venice . . .

SHYLOCK

Give me my principal, and let me go.

BASSANIO

I have it ready for thee; here it is.

PORTIA

He hath refused it in the open court:
He shall have merely justice and his bond . . .

SHYLOCK

Shall I not have barely my principal?

PORTIA

Thou shalt have nothing but the forfeiture,
To be so taken at thy peril, Jew.

Rather than accepting the repayment of the loan, Shylock demands that the bond is performed according to its terms, with the result that because the repayment is late, Shylock is entitled to his pound of flesh even though its extraction will cause serious

harm, resulting in the probable death of Antonio. This scene dramatises the fact that a rigid adherence to the law of Shakespeare's fictional Venice would mean that it could be used to condone murder. Therefore, what this scene demonstrates is that although rules may be viewed as being necessary in order to govern what is acceptable and what is unacceptable behaviour in society, following these rules mechanistically is not always appropriate. The scene also makes another important point about the function of equity, namely that equity will not assist the person who refuses to behave in an equitable manner. Therefore, because Shylock refuses to accept anything other than that which is provided in the bond, the court will not permit him to rely on equity once it becomes apparent that it is impossible for the bond to be performed in accordance with its terms.¹ This scene therefore explains the underlying objective of equity. It does not exist to make the law (of contracts in this case), but merely to apply the rules of the law in a slightly modified form where that is necessary, such as where the law of contract might be misused to permit a greater wrong.

How does equity intervene?

In essence, equity is the modification of legal rules and principles with the objective of ensuring that the purpose of those rules is not defeated by their own application. One way in which equity intervenes is by not permitting a rule which exists in order to prevent fraud (in its wider sense of depriving someone of something to which they are entitled rather than the criminal offence as defined in ss.2–4 of the Fraud Act 2006)² to be used as an instrument of fraud. Equity originated in the Courts of Chancery as a means of 'alleviat[ing] the rigidity, the inflexibility and the inadequacy of common law remedies'.³ This is why it may be possible at some level to state that equity is concerned with notions of fairness and justice, because it exists in order to ensure that an injustice does not arise from the strict application of legal rules, as is explained in the *Earl of Oxford's Case* (1615) 21 ER 485:

The cause why there is a Chancery is for that men's actions are so divers and infinite that it is impossible to make any general law which may aptly meet with every particular act and not fail in some circumstances. The office of the Chancellor is to correct men's consciences for frauds, breaches of trusts, wrongs and oppressions for whatever nature soever they may be and to soften and mollify the extremity of the law.

However, this is an overly simplistic evaluation of equity's role. Modern equity does not exist to circumvent a law or a principle that is regarded as unjust, and neither does it exist to create new rules where the existing rules are felt to be unfair. Indeed, the courts often

¹ Further reading on the concept of dramatisation of equity in *The Merchant of Venice* may be found in: Billelo, T.C. (2004) 'Accomplished with what she lacks: law, equity and Portia's con' 16 *Law and Literature* 11; Carpi, D. (2004) 'Law, discretion, equity in *The Merchant of Venice* and *Measure for Measure*' 26 *Cardozo Law Review* 2317; Cohen, S.A. (1994) 'The quality of mercy: law, equity and ideology in *The Merchant of Venice*' 27(4) *Mosaic* 35; Hapgood, R. (1967) 'Portia and *The Merchant of Venice* and the gentle bond' 28(1) *Modern Language Quarterly* 19; McKay, M. (1964) '*The Merchant of Venice*: a reflection of the early conflict between the courts of law and the courts of equity' 15(4) *Shakespeare Quarterly* 371.

² (2006 c.35).

³ Mason, A. (1997–98) 'Equity's Role in the Twentieth Century' 8 *King's College Law Journal* 1 at p.1.

recognise that the operation of law results in an injustice to an individual, and the failure to correct that injustice not infrequently causes controversy.⁴ However, it may be argued that intervening in this way would involve an usurpation of Parliament's role by the courts, and would mean that what is just is decided according to individual notions of morality, something that Portia explains in the scene from *The Merchant of Venice* reproduced above. She explains that the court cannot refuse to apply the law simply because its observance results in an injustice. Her response to Bassanio's request that she does this is to state:

It must not be; there is no power in Venice

Can alter a decree established:

'Twill be recorded for a precedent,

And many an error by the same example

Will rush into the state: it cannot be.

In other words, she explains that she cannot refuse to apply the rules because 'many an error' would ensue if everyone wishes to have their case tried on the basis that they should be able to escape the contractual obligations to which they voluntarily agreed. Equity is not therefore concerned with the sort of 'palm-tree justice' alluded to by Lord Neuberger in *Revenue and Customs Commissioners v Total Network SL* [2008] 2 All ER 413 at p.476 in the form of '*relying on a general sense of morality or indignation, without regard to principle or the rule of law*'. Instead it operates on the basis of a set of principles that allows the court to recognise and remedy an unjust deprivation of a legitimate expectation, where some detriment has been incurred in reliance on another's words or conduct.

Furthermore, an individualistic approach of this nature would depart from the principle that similar cases should be decided in a similar manner. If the outcome of a case depended on what an individual case considered to be fair, then similar fact cases may be decided differently in different cases because what would be fair would depend on the individual judge's sense of right and wrong and not upon what the law requires.

⁴ In the case of *R (on the application of Age UK) v Secretary of State for Business Information and Skills* [2009] All ER (D) 141 (Sep) where Blake J acknowledges that a designated retirement age of 65 may be a source of disappointment for many older workers, but this does not affect the validity of the law. He explains:

Given that Regulation 30 is direct discrimination that will result in considerable numbers of older members of the workforce who want to continue in employment not being able to challenge an employer's decision to the contrary, I accept that its adoption has an adverse impact on the dignity on autonomy of members of this class. The question is therefore whether a fair balance has been achieved in pursuit of the legitimate aim, whilst recognising the particular competence of government to make these choices. I recognise that any bright line based upon age will leave classes of persons aggrieved, and in the context of human rights litigation the courts have recognised that that is of itself not something that makes the claims disproportionate. I have not drawn particular assistance from the cases where the Strasbourg court have considered these matters because circumstances in each case were different from the present issue and more significantly age discrimination as an aspect of Article 14 of the European Convention on Human Rights has never been identified as a particularly weighty consideration.