

Resulting Trusts

Resulting trusts arise in the absence of an express declaration where a person holds legal title in circumstances where they can not be taken to have full equitable ownership. According to *Re Vandervell's Trusts (no 2)* [1974] Ch 269 There are two categories of resulting trusts:

1. Automatic resulting trust
2. Presumed resulting trust

"Both types of resulting trust are traditionally regarded as examples of trusts giving effect to the common intention of the parties. A resulting trust is not imposed by law against the intentions of the trustee (as is a constructive trust) but gives effect to his presumed intention". per Lord Brown *Wilkinson Westdeutsche Landesbank Girozentrale v Islington LBC* [1996] 2 WLR 802

1. Automatic resulting trust

An automatic resulting trust will arise where the settlor transfers property to the intended trustee but the trust has failed for some reason. The trustee holds the legal title of the property on trust. The beneficial or equitable ownership is retained by the settlor.

2. Presumed resulting trust

Presumed resulting trusts arise either from voluntary transfer of the legal estate or by contribution to the purchase price. In these situations it is presumed that the person did not intend to make a gift of the property or money unless there is a clear intention that they did so intend. In such circumstances a resulting trust arises and the transferor or the person making the contribution retains or takes a share in the beneficial interest. However, in some relationships there is a counter presumption that a gift was intended. This is known as the presumption of advancement.

Requirements of presumed resulting trust

Voluntary conveyance

Outside of land law, where a person transfers property to a third party who does not provide any consideration, there is a presumption of resulting trust, unless the relationship is one which gives rise to the presumption of advancement. However, [S.60\(3\) Law of Property Act 1925](#) cast doubt as to whether this would apply to the transfer of land.

S.60(3) did not prevent a resulting trust being imposed in:

Hodgson v Marks [1971] Ch 892 [Case summary](#)

However, in the following two cases it was suggested that s.60(3) had a more reaching impact:

Tinsley v Milligan [1993] 3 All ER 65 [Case summary](#)

Resulting Trusts

Mohamed Ramjohn



Resulting Trusts:

Resulting Trusts Robert Chambers, 1997 The resulting trust has received little attention in recent years and this may be because until relatively recently the law relating to resulting trusts was thought to be settled and uncontroversial Most of the current academic writing about resulting trusts is found in the established textbooks on equity and trusts but these tend to provide little more than catalogues of the situations in which resulting trusts arise There is however very little consensus on the principle by which the resulting trust operates including the fundamental question whether it arises by operation of law or depends on the presumed intention to create a trust This book examines the true nature of the resulting trust and the question whether the trusts brought into being to reverse unjust enrichment should not include resulting trusts It then considers whether when resulting trusts are properly understood it does turn out that it is through the resulting trust that equity makes its principle contribution to reversing unjust enrichment This book examines principally the case law of the UK Canada and Australia and it also makes reference to the views of academic commentators as found in the standard texts and law journals

Restitution and Equity Volume 1: Resulting Trusts and Equitable Compensation Peter Birks, Francis Rose, 2020-11-25 The first part of this volume collates papers from the Second Mansfield Symposium which examined the areas of equity trusts and restitution The second part addresses the emerging field of equitable compensation and its implications

Trusts Law Graham Moffat, 2005-09-29 With its unique contextual emphasis and authoritative commentary *Trusts Law Text and Materials* is a book that no serious undergraduate on trust law courses can afford to be without The book is divided into four main parts trusts and the preservation of family wealth trusts and family breakdown trusts and commerce and trusts and non profit activity Within each of these parts leading cases statutes and historical and research materials are placed alongside the narrative of the author's text to give emphasis both to general theories of trust concepts and to the practical operation of trusts Attention is also given to important themes such as the developing relationship between trusts law and other areas of private law such as the Law of Restitution This new edition takes account of all relevant judicial and legislative developments since the third edition and expands discussion of key themes in current developments of the law

Equity and Trusts Mohamed Ramjohn, 2006 Presenting practical answers to fifty typical exam questions this new edition helps students to penetrate and understand the complexities of equity and trusts Traditionally a difficult subject for those approaching it for the first time special care has been taken to present the subject as a whole in a structured way with basic matters examined first before moving on to more difficult concepts Incorporating new questions and answers this new edition has been fully updated to include recent case law e g *Choithram v Pagarani* 2001 *Pennington v Waine* 2002 *Twinsectra v Yardley* 2002 *Duggan v Governor of Full Sutton Prison* 2004 discussion of the Charities Bill 2004 the implications of the Trustee Act 2000 Clarifying the mysteries surrounding the study of equity and trusts this book contains essential advice and examples which illustrate how to successfully answer examination questions on the subject

Constructive and Resulting Trusts Charles Mitchell, 2010-03-03 Constructive and resulting trusts have a long history in English law and the law which governs them continues to develop as they are pressed into service to perform a wide variety of different functions for example to support the working of express trusts and other fiduciary relationships to allocate family property rights and to undo the consequences of commercial fraud However while their conceptual flexibility makes them enormously useful it also makes them hard to understand In the twelve essays collected in this volume the authors shed new light on various aspects of the law governing constructive and resulting trusts revisiting current controversies bringing new historical material to the fore and offering new theoretical perspectives

A Practical Treatise on the Law of Trusts Thomas Lewin, Frederick Albert Lewin, 1875

Resulting Trusts John Mee, 2021-09-09 Interest in resulting trusts has greatly increased in recent years spurred by academic arguments that such trusts should be seen as a response to unjust enrichment and therefore as capable of arising in a wider range of situations than previously understood This book provides a comprehensive analysis of the different types of resulting trust including the purchase money resulting trust the resulting trust arising upon a voluntary transfer of property and the automatic resulting trust It also examines the unclear relationship between the resulting trust and two other significant types of trust the Quistclose trust which arises in the commercial context and the common intention constructive trust which generally arises in the family context As well as engaging fully with the intricacies of the modern law on resulting trusts the book also considers the history and underlying nature of resulting trusts and drawing on the insights that emerge offers an answer to the argument that it is appropriate to reshape the law of resulting trusts by reference to the principles of unjust enrichment

The Settlement of Real Estates Joshua Williams, 1879

The Compiled Laws of the State of Michigan, 1897 Michigan, Lewis Montgomery Miller, 1899

Reports of Decisions in the Supreme Court of the United States Samuel Freeman Miller, 1874

Garrow and Henderson's Law of Trusts and Trustees James Mitchell Ellis Garrow, Noel Cameron Kelly, 1966

Reports of Cases Argued and Determined in the Supreme Court of Tennessee Tennessee. Supreme Court, 1878

The American and English Encyclopedia of Law John Houston Merrill, Thomas Johnson Michie, Charles Frederic Williams, David Shephard Garland, 1896

Titles to Real Estate in the State of New York. A Digested Treatise and Compendium of Law ... Second Edition James Watson GERARD (the Elder.), 1873

Digest of the Decisions of the Courts of Last Resort of the Several States from 1887-[1911], Contained in the American State Reports, Volumes 1 to [140], Inclusive, and of the Notes to the Cases Reported Therein: Municipal corporations to Yellows Edmund Samson Green, 1904

Reports of Cases Argued and Determined in the Supreme Court of the State of Kansas. [vol. 1-5 by E. V. Banks.] [1862, Etc.] KANSAS, State of. Supreme Court, 1873

Reports of Cases at Law and in Chancery Argued and Determined in the Supreme Court of Illinois Illinois. Supreme Court, 1899

Reports of Cases at Common Law and in Chancery Argued and Determined in the Supreme Court of the State of Illinois Illinois. Supreme Court, 1891

American Law Register, 1878

A Treatise on Equity Jurisprudence

John Willard, 1875

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