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Memorable Teaching Moments

Author Webinar series 2023-34



Please be informed that the session will be recorded and shared.



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Challenges of Teaching Equity and Trusts in the 21st Century



Reflections on My Journey with Equity and Trusts

- I start this webinar with my own reflections as a student studying equity and trusts and property law as well as having taught the subject matter for over 30 years to so many law students who made my teaching career such a rewarding experience.
- A first generation of student to go to university.
- Taught in state primary and secondary school in the 1970's and 80s.



Reflections on My Journey with Equity and Trusts

- Understanding concepts in property and trust that were alien
- Example: *A transfer of blackacre in fee simple absolute is possession within the perpetuity period of a life in being and 21 years.*
- Sometimes with no context given



Challenges Facing Tutors Teaching Equity and Trusts

- Ask anyone who has studied law which topic they found particularly tricky during their undergraduate degree and the chances are they'll tell you it was equity and trusts.
- This area of English Law is notoriously difficult and often students are filled with trepidation before they've even started the module
- Why is this the case?



Challenges Facing Tutors Teaching Equity and Trusts

There are two reasons for this:

- Students tend to have little by way of a general inclination or understanding of the subject matter of equity compared to other areas of the law such as criminal law or contract law.
- The subject matter is, by its nature, broad and complex. The trust has operated in wide and diverse contexts such as family and commerce.



Challenges Facing Tutors Teaching Equity and Trusts

The subject may initially appear daunting but neither the student learning equity and trusts and those of us who teach the subject should shy away from the elaborate nature of equity and trusts- to do so would not only shortchange the student, but will hamper the effective understanding of English law and the way in which equity working alongside the common law has engineered social and economic reform



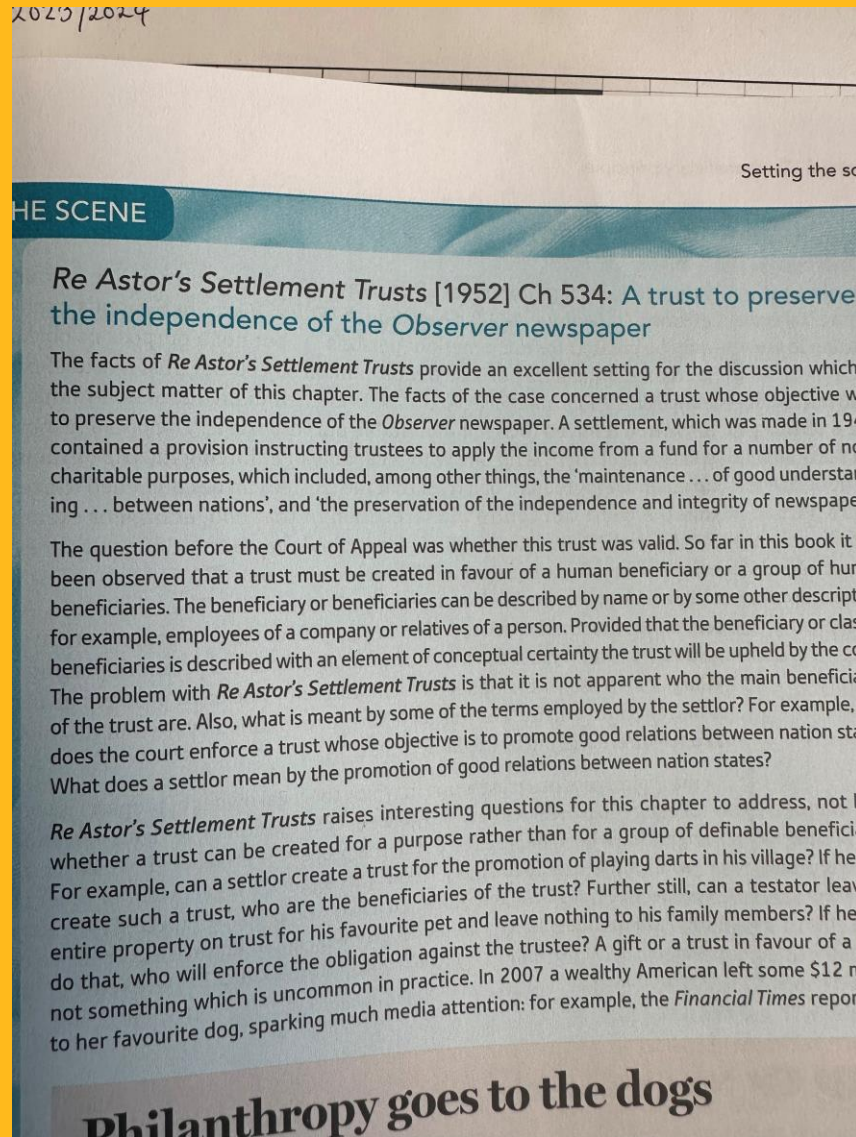
Aims and Objectives of the 5th Edition

Division of the book:

1. Introduction to Equity and Trusts
2. Creating the Trust Relationship
3. Trusts Implied by Law
4. The Administration of Trusts
5. Charities and Charitable Trusts

Understanding the Nature of Equity and Equitable Jurisdiction

- At the outset, the book seeks to dispel the students' perceptions that equity is about fairness and justice.
- Although historically developed to iron out the deficiencies and the rigid application of the common law, modern equity is based on established doctrine and principles which revolve around undoing the unconscionable conduct of a defendant.
- Unconscionability being a defined set of principles depending on the context being argued in court.



The Importance of Context



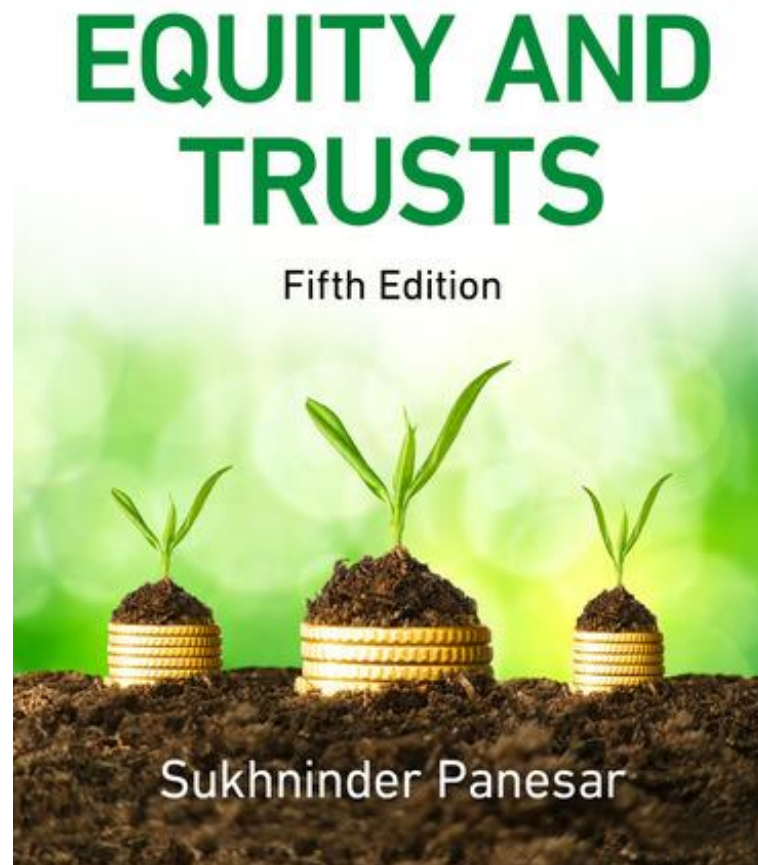
The Student's Lived Experience

One of the things the books aims to do is to think about the students lived experience and give examples of how equity and trusts may relate to them.

This can be challenging especially where the student may not see how a trust applies to their own lived experiences.

However, by giving examples by putting the student in the picture can aid the study and understanding of the trust concept and its associated principles.

Pedagogic Features in the 5th Edition





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Emphasis on Application of the Law

2023/2024

The test of certainty of objects for a discretionary trust 1

APPLYING THE LAW

In an *inter vivos* deed executed last year, Chris transferred a sum of £200,000 to his trustees to distribute at their discretion among his relatives, best friends, dependants and any other such persons with whom he has had a close connection.

Do you think this creates a valid discretionary trust?

Evidential uncertainty

Evidential uncertainty will never defeat a discretionary trust simply because the trustee under a discretionary trust is no longer required to ascertain the whole class. In *Re Baden's Deed Trusts (No. 2)* Sachs LJ explained that 'the court is never defeated by evidential uncertainty . . . once the class of persons to be benefited is conceptually certain it then becomes a question of fact to be determined on evidence whether any postulant has on inquiry been proved to be within it; if he is not so proved then he is not in it.'⁹³ Thus, a trust in favour of the employees and ex-employees of a company will not fail simply because a potential beneficiary cannot prove himself to be an ex-employee of the company. Why should it fail? The failure of a particular beneficiary to show that he or she is definitely within the class has no effect on the trustee exercising his discretion in favour of the beneficiaries who have been proved to be within the class.

Although it is clear that post *McPhail v Doulton*⁹⁴ the trustees of a discretionary trust are no longer required to draw up a complete list of all of the beneficiaries of a discretionary trust, there does remain an element of uncertainty as to how the 'is or is not' test is satisfied. In *Re Baden's Deed Trusts (No. 2)*⁹⁵ the three Court of Appeal judges seem to have taken different approaches to satisfying the test. Megaw LJ was of the view that the test was satisfied if it was possible to say that a substantial number of beneficiaries is within the class. In the course of his judgment, Megaw LJ explained that:

if, as regards at least a substantial number of objects, it is possible to say that a substantial number of beneficiaries is within the trust; even though, as regards a substantial number of objects, it is not possible to say that a substantial number of beneficiaries is within the trust; even though, as regards a substantial number of objects, it is not possible to say that a substantial number of beneficiaries is within the trust.



Satisfaction of Teaching Equity and Trusts Using Revel

engaging blend of textbook material, author content, multimedia, and assessment all in one place.

With Revel, students are immersed in their learning. The interactive content and assessments embedded throughout the text enable students to read a little, then do a little, helping them explore and apply concepts.

Revel helps you ensure the best possible learning journey for the whole cohort.



Through the Performance Dashboard, you can keep track of student progress and quickly identify those who have not completed assignments or may be struggling.

With training, implementation and curriculum planning support available, this digital learning platform can deliver a fully personalised and immersive teaching and learning experience.



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