

# 1

## An Introduction to Equity and Trusts

1.01 The term “equity” is, in a general sense, associated with notions of fairness, morality and justice. It is an ethical jurisdiction, originally of canon law descent.<sup>1</sup> On a more legalistic level, however, “equity” is the branch of law that was administered in the Court of Chancery prior to the Judicature Acts 1873 and 1875.<sup>2</sup> This was a jurisdiction evolved to achieve justice and to overcome the rigours and deficiencies of the common law.<sup>3</sup>

As Lord Cowper LC rather grandly explained in *Lord Dudley v Lady Dudley*:

“Now equity is no part of the law, but a moral virtue, which qualifies, moderates, and reforms the rigour, hardness, and edge of the law, and is a universal truth; it does also assist the law where it is defective and weak . . . and defends the law from crafty evasions, delusions, and new subtleties intended as contrived to evade and delude the common law, whereby such as have undoubted right are made remediless; and this is the office of equity, to support and protect the common law from shifts and crafty contrivances against the justice of law. Equity therefore does not destroy the law, nor create it, but assists it”.<sup>4</sup>

Although an ethos of conscience pervades this aspect of the law, equity never bestowed a totally unfettered jurisdiction on the Court of Chancery to do what was fair in the settlement of a dispute.<sup>5</sup> Embodying aspects of ecclesiastical law and Roman law, equity developed and gradually emerged as a distinct body of law. In time, the system became as hidebound by rules and principles as its common law counterpart.<sup>6</sup>

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<sup>1</sup> See generally, H. Coing, “English Equity and the *Denunciatio Evangelica* of the ‘Canon Law’” (1955) 73 L.Q.R. 223.

<sup>2</sup> Equity was, as Lord Neuberger MR noted in his Keating lecture (delivered at Lincoln’s Inn on 19 May 2010) entitled “Equity, ADR, Arbitration and the Law: Different Dimensions of Justice”, para.30, “the common law’s twin administered by the Court of Chancery, its jurisdiction arising from the prerogative of grace”. This is available at <http://webarchive.nationalarchives.gov.uk/20131202164909/http://judiciary.gov.uk/media/speeches/2010/speech-lord-neuberger-19052010> [Accessed 14 April 2017].

<sup>3</sup> As Lord Neuberger MR observed in his lecture “Equity, ADR, Arbitration and the Law: Different Dimensions of Justice”, 19 May 2010, para.31, “Equity arose as a second doorway to justice as a consequence of defects, weaknesses and limits in the common law”. It was fashioned so that “the justice system could properly ensure that substantive justice could be done” (para.30).

<sup>4</sup> (1705) Prec. Ch. 241 at 244.

<sup>5</sup> Sir George Jessel MR explained in *Re National Funds Assurance Co* (1878) 10 Ch. D. 118 at 128 that, “This court is not, as I have often said, a Court of Conscience, but a Court of Law”.

<sup>6</sup> Lord Neuberger MR admitted in his lecture “Equity, ADR, Arbitration and the Law: Different Dimensions of Justice”, 19 May 2010,

# Nutshell Equity And Trust 5ed

**Mohamed Ramjohn, Judith Bray**



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beneficiaries sue in state court to enforce the terms of an ERISA Plan while the Plan files suit in federal court seeking an injunction against the state court action New case law and discussion on preemption of FEHBA subrogation and reimbursement claims have been added to Chapter 10 in the wake of new decisions regarding same      **The Law Times**, 1933-07      *Equity and Trusts* Michael Haley, Angela Sydenham, 2007 An introduction to equity Descriptions and classifications of trusts The three certainties Constitution of trusts Formalities Secret trusts The statutory avoidance of trusts Protective trusts Resulting trusts Constructive trusts Non charitable purpose trusts Charitable trusts The Cy Pres doctrine Appointment retirement and removal of trustees Trustees duties Powers of maintenance advancement and the appointment of agents Variation of trusts Breach of trust Examination checklist Sample questions and model answers      *Equity and Trusts* Miriam Dowling, Karl Dowling, 2012-09-17 This book is a revision tool for students summarising the essential components of the law of Equity and Trusts It is a user friendly accurate and concise work that will be an invaluable study aid It has chapters on all the main examinable topics and an analysis of the important cases in each area Designed with the busy student in mind the Nutshell is perfect for exam preparation with brief clear explanations of key exam topics throughout The first edition has been redesigned and updated to include a number of significant decisions that have been recently delivered as well as legislative developments such as the enactment of the Land and Conveyancing Law Reform Act 2009 and the Charities Act 2009 Author Miriam Dowling BA Hons works for Pearsons Solicitors Dublin      **Valuepack: Trusts and Equity/Law Express** Richard Edwards, Nigel Stockwell, John Duddington, 2007-09-05 Trusts and Equity 8 E Trusts and Equity is a trusted clear and engaging explanation of the main principles of this area of law This book demystifies this complex subject without oversimplifying by means of clear explanations and a focus on contemporary applications of the trust Law Express Equity Trusts 1st edition 1 E Law Express Equity and Trusts is designed to help you to relate all the reading and study throughout your course specifically to exam and assignment situations Understand quickly what is required organise your revision and learn the key points with ease to get the grades you need      Equity in a Nutshell ... Second Edition Marston GARSIA, 1933      Principles of Equity and Trusts Alastair Hudson, 2021-11-24 This is the second edition of Principles of Equity and Trusts the concise new textbook from Alastair Hudson the author of the definitive classic Equity and Trusts Through clear and careful analysis the author explains what the law is its foundational principles and its social and economic effect By beginning with the core principles on which this field is based even the most complex academic debates concerning express resulting and constructive trusts the family home charities law and other equitable doctrines become comprehensible and interesting This book offers a fresh lively and often humorous account of Equity and Trusts Through easy to follow worked examples and analysis of the case law Alastair helps you to answer problem questions and to prepare coursework The author shows how the law affects real people in real situations Each chapter begins with a clear and concise introduction to the core principles It contains numbered headings for ease of navigation and advice on studying this

subject Students also have access to Professor Hudson's ever popular supporting website which has had hundreds of thousands of hits over the years It has over 50 brief podcasts on key issues which have been specially re recorded to coincide with the publication of this book That website also contains detailed lectures a variety of videos explaining the law and guidance on tackling assessments Characterised by the passion and enthusiasm for his subject matter that make Alastair Hudson's classic textbook so popular *Principles of Equity and Trusts* is sure to be a winner with both academics and students alike

*Valuepack:Essentials of Equity and Trusts Law/Law Express* John Duddington,2007-11-01 *Essentials of Equite and Trusts Law* 1st ed This new textbook on equity and trusts law has been designed to cover all the main topics on undergraduate courses comprehensively but concisely It offers a clear and accurate explanation of the law presented in a systematic and logical order for learning and revision The book is exceptionally accessible to students new to the subject *Law Express Equirt Trusts* 1st ed *Law Express Equity and Trusts* is designed to help you to relate all the reading and study throughout your course specifically to exam and assignment situations Understand quickly what is required organise your revision and learn the key points with ease to get the grades you need Tested with examiners and students

*Principles of Australian Equity and Trusts* Peter Radan,Cameron Stewart,2022

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**Equity and Trusts** Margaret Halliwell,2000

**Equity & Trusts Law Directions** Gary Watt,2025

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new edition includes extracts from important judgments delivered since late 2014 including *Thorne v Kennedy* on undue influence *Wilaci Pty Ltd v Torchlight Fund No 1 LP* in receivership on penalties and *Jones v Matrix Partners Pty Ltd* on the insolvency of trustees Other significant decisions including *Crown Melbourne Ltd v Cosmopolitan Hotel Vic Pty Ltd* on estoppel *Paciocco v Australia* and *New Zealand Banking Group Ltd* and *Cavendish Square Holdings BV v Makdessi* on penalties are the subject of briefer extracts and commentary in the notes This new edition to this end retains its progressive focus and challenges readers to evaluate Australian law in its modern context The casebook works as an ideal companion to the seventh edition of *Equity and Trusts in Australia* which adopts the same chapter order and structure Being written by the same author the text and casebook present a consistent style and approach making them ideal for teaching on equity courses trusts courses or combined equity and trusts courses

*Equity in a Nutshell ... Third Edition* Marston GARSIA,1941      *The Principles of Equity & Trusts* Graham Virgo,2023

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*Equity and Trusts* John Duddington,2009      ***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

***Cases and Materials on Equity and Trusts*** ,2018 An

authoritative and comprehensive text on the area of Equity and Trusts offering scholarly commentary on the relevant principles and carefully selected extracts from leading judgments and legislation      Equity in a Nutshell J. Brian Morcom, 1956      Equity and Trusts Karl Dowling, 2007-01-01 Thomson Round Hall s Nutshell Equity and Trusts is a clear and concise examination of this often demanding area of law Written in an accurate concise and user friendly manner it is an excellent tool for students It provides the reader with a comprehensive outline of the main principles and case law of equity and trusts Contents Introduction and maxims of equity and trusts Definition and classification of trusts Constitution of trusts Resulting trusts Constructive trusts Secret trusts Non charitable purpose trusts Charitable trusts Void and voidable trusts Rectification Rescission Specific performance Equitable estoppel Tracing Injunctions The administration of trusts Karl Dowling is a practising barrister

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## **Table of Contents Nutshell Equity And Trust 5ed**

1. Understanding the eBook Nutshell Equity And Trust 5ed
  - The Rise of Digital Reading Nutshell Equity And Trust 5ed
  - Advantages of eBooks Over Traditional Books
2. Identifying Nutshell Equity And Trust 5ed
  - Exploring Different Genres
  - Considering Fiction vs. Non-Fiction
  - Determining Your Reading Goals
3. Choosing the Right eBook Platform
  - Popular eBook Platforms
  - Features to Look for in an Nutshell Equity And Trust 5ed
  - User-Friendly Interface
4. Exploring eBook Recommendations from Nutshell Equity And Trust 5ed
  - Personalized Recommendations



- Nutshell Equity And Trust 5ed User Reviews and Ratings
- Nutshell Equity And Trust 5ed and Bestseller Lists
- 5. Accessing Nutshell Equity And Trust 5ed Free and Paid eBooks
  - Nutshell Equity And Trust 5ed Public Domain eBooks
  - Nutshell Equity And Trust 5ed eBook Subscription Services
  - Nutshell Equity And Trust 5ed Budget-Friendly Options
- 6. Navigating Nutshell Equity And Trust 5ed eBook Formats
  - ePub, PDF, MOBI, and More
  - Nutshell Equity And Trust 5ed Compatibility with Devices
  - Nutshell Equity And Trust 5ed Enhanced eBook Features
- 7. Enhancing Your Reading Experience
  - Adjustable Fonts and Text Sizes of Nutshell Equity And Trust 5ed
  - Highlighting and Note-Taking Nutshell Equity And Trust 5ed
  - Interactive Elements Nutshell Equity And Trust 5ed
- 8. Staying Engaged with Nutshell Equity And Trust 5ed
  - Joining Online Reading Communities
  - Participating in Virtual Book Clubs
  - Following Authors and Publishers Nutshell Equity And Trust 5ed
- 9. Balancing eBooks and Physical Books Nutshell Equity And Trust 5ed
  - Benefits of a Digital Library
  - Creating a Diverse Reading Collection Nutshell Equity And Trust 5ed
- 10. Overcoming Reading Challenges
  - Dealing with Digital Eye Strain
  - Minimizing Distractions
  - Managing Screen Time
- 11. Cultivating a Reading Routine Nutshell Equity And Trust 5ed
  - Setting Reading Goals Nutshell Equity And Trust 5ed
  - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of Nutshell Equity And Trust 5ed
  - Fact-Checking eBook Content of Nutshell Equity And Trust 5ed

- Distinguishing Credible Sources
- 13. Promoting Lifelong Learning
  - Utilizing eBooks for Skill Development
  - Exploring Educational eBooks
- 14. Embracing eBook Trends
  - Integration of Multimedia Elements
  - Interactive and Gamified eBooks

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