



LLB ANSWERED

SAMPLE NOTES FROM OUR LLB *CASE BOOK*:

Equity & Trusts

LLB Answered is a comprehensive, distinction-level set of exam-focused study notes for Undergraduate Law. This is a sample from our *Case Book*.

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CASE	FACTS	PRINCIPLE
<p>Abbott v Abbott* [2008]</p>	<p>A Privy Council case on constructive trusts for the family home. A property had been purchased with money gifted by the husband's mother; the property was in the husband's sole name the couple had always shared all their money.</p>	<p>1) The court must look at the whole course of conduct when determining whether a common intention has arisen.</p> <p>2) Stated that the law had "<i>substantially moved on</i>" from the restrictive position found in <i>Lloyds Bank v Rosset*</i>. A beneficial interest in property could now be created without the need for the claiming party to have contributed financially to the purchase price of the property.</p>
<p>Abou-Rahma v Abacha [2006]</p>	<p>Following a scheme of fraudulent transactions resulting in the loss of millions, the wronged party brought a claim, founded on dishonest assistance, against a Nigerian bank through which the money had passed.</p>	<p>Clarified the law on dishonest assistance: the <i>Barlow Clowes*</i> interpretation of the <i>Twinsectra v Yardley*</i> judgment is the correct approach. The <i>Tan*</i> test remains the correct test for dishonest assistance.</p>
<p>Adderley v Dixon* [1824]</p>	<p>The claimant sought specific performance of an agreement to transfer debts.</p>	<p>Established the test for specific performance: damages must be inadequate for specific performance to be granted.</p>
<p>Agarwala v Agarwala [2016]</p>	<p>A businessman with a very poor credit rating persuaded his sister in law to enter into a mortgage on his behalf, to purchase a property for conversion to a Bed and Breakfast hotel, which he was to run. He was to make payments to her to cover the mortgage. She became unhappy with the arrangement and she and her husband changed the locks on the property and ran it as student accommodation. The businessman respondent then forged a lease and deed of trust in his favour in relation to the property. The judge had to determine the beneficial ownership of the property.</p>	<p>The court found that a constructive trust arose in the respondent's favour. There were emails confirming the parties original intentions, which was simply that the claimant would take the mortgage on behalf of the respondent. He was to run and own the property and put the claimant in funds to pay the mortgage. He had provided the costs for the conversion of the property and had therefore acted on the agreement to his detriment.</p>
<p>Agip (Africa) Ltd v Jackson* [1992]</p>	<p>Chief accountants fraudulently altered a series of company payment orders, making them payable to companies that they controlled. The money was paid into an account mixed with a lot of other funds.</p>	<p>Common law tracing is only possible where the claimant has legal title and the property is unmixed. In this case, as the funds were in a mixed account, it was not possible to trace in common law, only in equity. In equity there was a constructive trust and tracing was possible. The defendants must have known that they were money laundering.</p>

CASE	FACTS	PRINCIPLE
American Cyanamid v Ethicon* [1975]	The claimants alleged the defendants were infringing their intellectual property rights. They sought an interim prohibitory injunction to prevent any further infringement.	Set out the requirements for an interim prohibitory injunction: (i) a serious question to be tried; (ii) consideration of the balance of convenience; and (iii) maintenance of the <i>status quo ante</i> .
Anton Piller v Manufacturing Processes* [1976]	The claimants sought an order for search against the defendants on the grounds that they had been divulging confidential information about the claimant's products to competitors. This is a draconian order and granted only in limited circumstances.	Established the test for a search order: (i) an extremely strong prima facie case; (ii) serious actual or potential damage to the claimant; and (iii) evidence that the defendant has the items and may destroy or hide them.
Aquila Advisory Ltd v Faichney & others (Crown Prosecution Service) [2021]	A company brought a civil claim based on a constructive trust trying to recover secret profits made by its own directors in breach of their fiduciary duty.	Here the company stood to profit from the directors' criminal conduct but this did not mean that the unlawful acts could be attributed to the company, such that the directors could set up an illegality defence. A constructive trust in favour of the company which arose following breach of fiduciary duty took precedence over a " <i>Proceeds of Crime</i> " order. This was consistent with Patel v Mirza (see our <i>Contract LLB guides</i>) in terms of public policy.
Archibald and another v Alexander [2020]	A constructive trust arose where a mother and her three children had agreed that a property that the mother was purchasing would be held for the benefit of all three of the children even though the transfer was only into the name of the mother and one of the children.	Detrimental reliance was required to found such a trust; this came about because the two children who were not signatories to the transfer (and accordingly not on the title) never took steps to record their interest. They relied on and trusted their other sibling. This was sufficient detrimental reliance.
Argyll v Argyll [1964]	The Duchess of Argyll sought to prevent her ex-husband from publishing her diary.	The claimant must " <i>come to equity with clean hands</i> ", i.e. they must have properly carried out their own obligations.
Armitage v Nurse* [1998]	A case concerning trustee exemption clauses.	A breach can have occurred, irrespective of whether it is intentional or inadvertent, and beneficial or detrimental to the beneficiary's interests. Liability for that breach can be specifically excluded in the trust deed and the exclusion clause can be effective.

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Armstrong GmbH v Winnington Networks Ltd [2012]	<p>This case concerned the fraudulent acquisition of EU Emissions carbon allowances where the defendants had failed to carry out due diligence on a purchaser.</p>	<p>The court approved the 5 category of knowledge test for knowing receipt from Baden*, but noted that this may not be followed. The unconscionability test may now be preferred.</p>
Artistic Upholstery v Art Forma (Furniture)* [2000]	<p>Art Forma left a trade association and continued to use a name that the association had used. They argued that the association was not entitled to claim ownership of the name, as an unincorporated trade association was not a legal person and so could not own intellectual property.</p>	<p>1) The association could not own the name, as it was not a legal person. The members could own property on the basis of a contract between the members.</p> <p>2) Stated that the contractual analysis is the “prevailing view” when considering gifts to unincorporated associations. If rights are held subject to contract, then any gift will be held on the terms dictated by the contract between the members which forms the basis for the association.</p>
Aspden v Elvy [2012]	<p>Aspden bought a farm, which he lived in with Elvy. Elvy ran a cattery business on the land. Aspden transferred a barn to Elvy, and later contributed a large sum of money to convert that barn into a house. Aspden argued that his contribution of the money and the improvement works were evidence of common intention sufficient to find an inferred common intention constructive trust (“ICICT”).</p>	<p>In exceptional circumstances, carrying out substantial improvement works can count as evidence of common intention for the purpose of an ICICT. Here Elvy was able to establish a 25% interest.</p> <p>COMPARE with <i>Pettitt v Pettitt</i> and <i>Thomas v Fuller-Brown</i></p>
Attorney General for Hong Kong v Reid [1993]	<p>Reid was the Director of Public Prosecutions in Hong Kong and took bribes which influenced how (and whether) he pursued prosecutions of some criminals.</p>	<p>The defendant can be made to account for any profits made from bribes.</p>
Attorney General v Blake [2001]	<p>George Blake published his memoirs – <i>No Other Choice</i> – despite undertaking not to divulge information about his time in the intelligence services. The Crown attempted to recover his royalties.</p>	<p>The defendant can be made to account for any profits he made in breach of confidence.</p>
Attorney General v Guardian [1988]	<p>An injunction was granted (but later lifted) to prevent the publication of a spy's memoirs.</p>	<p>The court set out circumstances in which injunctions will be granted to protect confidences. An order to account for profits is possible.</p>

CASE	FACTS	PRINCIPLE
Attorney General v Zedra Fiduciary Services UK Ltd [2022]	A testator set up a charitable trust, the National Fund, for the purpose of paying down the National Debt. The Attorney General applied to court for approval to use the funds to reduce the National Debt.	The court found there was a valid charitable trust and that it had jurisdiction to make a cy-pres scheme.
Baden v Société Générale* [1992]	The claimants claimed in knowing receipt against the defendants for complying with instructions from one of their clients to move money to a Panamanian bank account.	Established the “ Baden scale” for “knowledge”. (i) actual knowledge, (ii) wilfully shutting eyes to obvious, (iii) wilfully and recklessly failing to make enquiries which would be made by an honest and reasonable person, (iv) knowledge of circumstances which would indicate facts to honest and reasonable person, (v) knowledge which would put an honest man on enquiry.
Bahin v Hughes* [1886]	A passive trustee stood by while the “active” manager of the trust innocently altered the investment strategy, in breach of trust.	There is no indemnity for passive trustees. They are as equally liable for their inaction as the other trustees are for their action. COMPARE with <i>Head v Gould*</i>
Barlow Clowes v Eurotrust* [2005]	Barlow Clowes, in breach of trust, paid investor money to a company on the Isle of Man. That company went into liquidation and its director was found to have dishonestly assisted the breach.	Where the result of applying the “first-in first-out” rule is impractical or unjust, the money can, at the court's discretion, be shared rateably, i.e. in proportion to the amounts appropriated from the investors
Barclays Bank v Quistclose Investments* [1968]	See Quistclose* .	See Quistclose* .
Barnes v Philips [2015]	The parties bought a property together, using joint savings for the deposit and taking out a mortgage. It was placed in joint names. The appellant then bought several more properties in his name and got into financial difficulties, persuading the respondent to remortgage the joint property. The parties then split, and the court was asked to determine the beneficial ownership of the property.	There was no specific agreement between the parties as to their respective shares in the property. It was for the court to determine what was fair. The appellant was awarded 85%.

INSOLVENCY AND QUISTCLOSE TRUSTS

KEY CASES – INSOLVENCY AND QUISTCLOSE TRUSTS

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| <ul style="list-style-type: none"> • Barclays Bank v Quistclose Investments [1968] | <ul style="list-style-type: none"> • Re Goldcorp [1995] • Twinsectra v Yardley [2002] |
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ADDITIONAL CASES – INSOLVENCY AND QUISTCLOSE TRUSTS

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| <ul style="list-style-type: none"> • Bieber v Teathers [2012] • Carreras Rothman v Freeman Matthews Treasure [1985] • Goyal v Florence Care Ltd [2020] • Re Chelsea Cloisters [1980] | <ul style="list-style-type: none"> • Re EVTR Ltd [1987] • Re Farepak [2006] • Re Kayford [1975] • Re London Wine Co [1986] |
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EQUITABLE REMEDIES

KEY CASES – EQUITABLE REMEDIES

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| <ul style="list-style-type: none"> • Adderley v Dixon [1824] • American Cyanamid v Ethicon [1975] • Anton Piller v Manufacturing Processes [1976] • Behnke v Bede [1927] • Bulmer v Bollinger [1974] | <ul style="list-style-type: none"> • Derby v Weldon [1990] • Falcke v Gray [1859] • Guest v Guest [2022] • Shepherd Homes v Sandham [1971] |
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ADDITIONAL CASES – EQUITABLE REMEDIES

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| <ul style="list-style-type: none"> • Attorney General v Blake [2001] • Attorney General v Guardian [1988] • Argyll v Argyll [1964] • Catnic Components v Stressline [1983] • Cohen v Roche [1927] • Co-operative v Argyll Stores [1997] • De Francesco v Barnum [1890] • Duncuft v Albrecht [1841] • Garden Cottage Foods v Milk Marketing Board [1984] • Giles and Co v Morris [1972] • Howard-Jones v Tate [2012] • Locabail International Finance v Agroexport [1985] | <ul style="list-style-type: none"> • Lock International Plc v Beswick [1989] • Morning Star v Express Newspapers [1979] • Mothercare v Robson Books [1979] • Ninemia Maritime v Trave Schiffahrts-gesellschaft [1984] • Page One Records v Britton [1967] • Patel v Ali [1984] • Posner v Scott-Lewis [1987] • Potters-Ballotini v Weston Baker [1977] • Pusey v Pusey [1684] • Ryan v Mutual Tontine [1893] • Sky Petroleum v VIP [1974] • Verall v Great Yarmouth Borough Council [1979] |
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