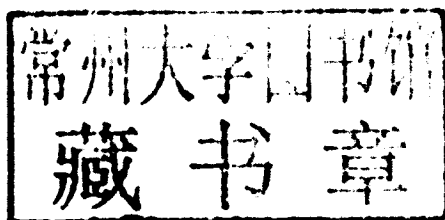


The Principles of Personal Property Law

Duncan Sheehan



• H A R T •
PUBLISHING

OXFORD AND PORTLAND, OREGON
2011

Published in the United Kingdom by Hart Publishing Ltd
16C Worcester Place, Oxford, OX1 2JW
Telephone: +44 (0)1865 517530
Fax: +44 (0)1865 510710
E-mail: mail@hartpub.co.uk
Website: <http://www.hartpub.co.uk>

Published in North America (US and Canada) by
Hart Publishing
c/o International Specialized Book Services
920 NE 58th Avenue, Suite 300
Portland, OR 97213-3786
USA
Tel: +1 503 287 3093 or toll-free: (1) 800 944 6190
Fax: +1 503 280 8832
E-mail: orders@isbs.com
Website: <http://www.isbs.com>

© Duncan Sheehan 2011

Duncan Sheehan has asserted his right under the Copyright, Designs and Patents Act 1988,
to be identified as the author of this work.

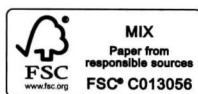
All rights reserved. No part of this publication may be reproduced, stored in a retrieval
system, or transmitted, in any form or by any means, without the prior permission of Hart
Publishing, or as expressly permitted by law or under the terms agreed with the appropriate
reprographic rights organisation. Enquiries concerning reproduction which may not be
covered by the above should be addressed to Hart Publishing Ltd at the address above.

British Library Cataloguing in Publication Data

Data Available

ISBN: 978-1-84113-316-4

Typeset by Columns Design XML Ltd, Reading
Printed and bound in Great Britain by
TJ International Ltd, Padstow, Cornwall



THE PRINCIPLES OF PERSONAL PROPERTY LAW

The law of personal property covers a very wide spectrum of scenarios and has had little detailed scrutiny of its overarching structure over the years. This is a shame. It is a system and can best be understood as a system. Indeed without understanding it as a system, it becomes much more difficult to understand. This new textbook is intended to provide a comprehensive and yet detailed coverage of the subject. It includes transfer of legal title to chattels, the *nemo dat* rule, negotiable instruments and assignment of choses in action. It also looks at defective transfers of property and the resulting proprietary claims, including those contingent on tracing, the tort of conversion, bailment and security interests. By bringing together areas often scattered throughout company law, commercial law, trusts and tort textbooks, it enables readers to see common themes and issues and to make otherwise impossible generalisations across different contexts about the nature of the concepts English law applies. Throughout the book, concepts are explained rigorously, with reference to how they are used in commercial practice and everyday life.

The book will be of use to students on undergraduate commercial law courses, or related LLM courses, as well as those on integrated property law courses, and particularly specialised personal property modules. It will also be useful to academics and practitioners working in the area.

Preface

I have for a long time wanted to write this book. Personal property law has had no major systematic textbook study over recent years, and the subject has been lacking as a result. The paucity of courses is doubtless the result of there being no book—at least in part. The shortage of books is doubtless the result of there being no courses—at least in part. We have therefore tended to scatter the material over a wide range of other subjects, so the only treatment of personal property law that many students receive in an undergraduate curriculum comes in the law of trusts, or even equity and trusts. That treatment leaves out a great deal and in so doing rather warps students' understanding of what is important in English property law. This book is an attempt to reverse that. Personal property is, to me at least, one of the most interesting, important and intriguing areas of English private law and I hope that readers will, if not already persuaded by that, come to agree with me by the end. The law is not simple, or at least not always so, but it deals in some of the more fundamental questions that need answering in any legal system and as such it has immense relevance to both everyday transactions and more complex commercial ones. It bears careful examination and scrutiny. The choice of what to include and what to leave out was a hard one, and doubtless others would have made different choices, but I hope to have covered the area properly.

I must also take the opportunity to thank a number of people. Not all have read chapters although many have; others have merely cheerfully put up with questions about this or that, to which in many cases I probably ought to have known the answer already. So in alphabetical order many thanks go to Sir Roy Goode, Amy Goymour, Sarah Green, Rob Heywood, Jacqui Longman, Gerard McMeel, Alastair Mullis, Mathias Siems, Gareth Spark and Lu Xu, and finally (out of sequence), for letting me know the quite crazy back story behind *Kremen v Cohen* 337 F 3d 1024 (2003), Daithí Mac Síthigh. Of course any remaining errors, infelicities and so forth are entirely down to me. I would also point out my debt of gratitude to my doctoral supervisor, Peter Birks. He had nothing to do with the book, but so much, before his early death, to do with getting my career off to the best possible start. The team at Hart Publishing have been remarkably efficient, and I think rather too tolerant of my lack of proof-reading ability.

I have attempted to state the law as of 1st April 2011, although some changes taking effect subsequently have found their way in. Some did not.

vi PREFACE

One that did not find its way in is the fact that the Payments Council announced on 12th July 2011 that it no longer aims to phase cheques out by October 2018.

Duncan Sheehan
7 November 2011

Table of Cases

Australia

<i>Akron Tyre Co Pty Ltd v Kittson</i> (1951) 82 CLR 471	320
<i>Alati v Kruger</i> (1955) 94 CLR 216 (HCA)	19
<i>Anderson Group Pty Ltd v Tynan Motors Pty Ltd</i> [2006] NSWCA 22, (2006) 65 NSWLR 400	279
<i>Askrigg Pty Ltd v Student Guild of Curtin University of Technology</i> [1989] 18 NSWLR 738	338
<i>Associated Alloys Pty Ltd v AN001452106 Pty Ltd</i> [2000] HCA 25, (2000) 74 ALJR 862	323
<i>Big Top Hereford Pty Ltd v Thomas</i> [2006] NSWSC 1159	29
<i>Bofinger v Kingsway Group Ltd</i> [2009] HCA 44, (2009) 239 CLR 269	258
<i>Burnett v Randwick City Council</i> [2006] NSWCA 196	9
<i>Calverley v Green</i> (1984) 155 CLR 242 (HCA)	355
<i>Campbell v Mount</i> (1995) 16 ACSR 296	383
<i>Capital Finance Co of Australia Ltd v CEO of Customs</i> [2007] NSWSC 1367 ...	225
<i>Comptroller of Stamps (Vict) v Howard-Smith</i> (1936) 54 CLR 614 (HCA)	98
<i>Corin v Patton</i> (1990) 169 CLR 540 (HCA)	97, 101
<i>CPT Custodian Pty Ltd v Commissioner of State Revenue (Vic)</i> (2005) 224 CLR 98	416
<i>Daly v Sydney Stock Exchange</i> (1986) 160 CLR 377 (HCA)	201
<i>Dawson (Re)</i> [1966] NSW 211	234
<i>Evans v European Bank</i> [2004] NSWCA 82, (2004) 61 NSWLR 75	191, 261
<i>Farah Constructions Pty Ltd v Say-Dee Pty Ltd</i> [2007] HCA 22, (2007) 230 CLR 89	255
<i>Fire Nymph Products Ltd v The Heating Centre Pty Ltd</i> (1992) 7 ACSR 365	382
<i>Fisher v Automobile Finance Co of Australia Ltd</i> (1928) 41 CLR 167 (HCA)	345
<i>French Caledonia Travel Service Ltd (Re)</i> [2003] NSWSC 1008, (2003) 184 FLR 280	243
<i>Gamer's Motor Centre (Newcastle) Pty Ltd v Natwest Wholesale Australia Pty Ltd</i> (1987) 163 CLR 236 (HCA)	73, 77, 266
<i>Gye v McIntyre</i> (1997) 161 CLR 609 (HCA)	330
<i>Halloran v Minister Administering National Parks and Wildlife Act 1974</i> (2006) ALJR 519	129
<i>Haxton v Equuscorp Pty Ltd</i> [2010] VSCA 1, (2010) 265 ALR 336	115
<i>Healing (Sales) Pty Ltd v Inglis Electrix Pty Ltd</i> (1968) 121 CLR 584 (HCA) .	108
<i>Hewett v Court</i> (1983) 149 CLR 639 (HCA)	353–355, 357
<i>Hill v Reglon</i> [2007] NSWCA 295	29, 213
<i>Hobbs v Petersham Transport Co Pty</i> (1971) 124 CLR 220	291
<i>Hospital Products Ltd v United States Surgical Corporation</i> (1984) 156 CLR 41 (HCA)	417
<i>Hunter BNZ Finance v ANZ Banking Group</i> [1990] VR 41	208

<i>Hunter BNZ Finance Ltd v CG Maloney Pty Ltd</i> (1988) 18 NSWLR 420	199, 212
<i>IATA v Ansett Australia Holdings Ltd</i> [2008] HCA 3, (2008) 242 ALR 47	328
<i>Johnstone and Wilmot Pty v Kaine</i> (1928) 23 Tas LR 43	25
<i>Latec Investments Ltd v Hotel Terrigal Pty Ltd</i> (1965) 113 CLR 265	200
<i>Long Leys Co Pty Ltd v Silkdale Pty Ltd</i> (1991) 5 BPR 11,512	94
<i>Lyford v Commonwealth Bank of Australia</i> (1995) 130 ALR 267	399
<i>Maynegrain Ltd v Compafina Bank</i> [1982] 2 NSWLR 141 (NSWCA)	285
<i>Miller v Candy</i> (1980) 39 ACTR 74; (1981) 38 ALR 299 (FCA)	281
<i>Miller Associates (Australia) Pty Ltd v Bennington Pty Ltd</i> [1975] Federal LR 112	144
<i>Moorhouse v Angus & Robertson (No 1) Pty Ltd</i> [1981] 1 NSWLR 700	25
<i>Nelson v Nelson</i> (1995) 184 ALR 538 (HCA)	176, 178
<i>Norman v Federal Commissioner of Taxation</i> (1963) 109 CLR 9 (HCA)	50, 89, 96–97, 101, 301
<i>Olsson v Dyson</i> (1969) 120 CLR 365 (HCA)	97, 101–102
<i>Penfolds Wines v Elliott</i> (1946) 76 CLR 204 (HCA)	226–228
<i>State Bank of NSW v SBC</i> (1995) 39 NSWLR 350	192, 251
<i>Telecom Vanuatu Ltd v Optus Networks Pty Ltd</i> [2005] NSWSC 951	205
<i>Thomas National Transport (Melbourne) Pty Ltd v May & Baker Australia Pty Ltd</i> (1966) 115 CLR 353 (HCA)	272
<i>Toyota Finance Australia Ltd v Dennis</i> [2002] NSWCA 369, (2002) 58 NSWLR 101	226
<i>Tricontinental Corporation v FCT</i> (1987) 73 ALR 433	382, 393
<i>Waters v Widdows</i> [1984] VR 503	312
<i>Wily v St George Partnership Banking Ltd</i> (1999) 161 ALR 1	399

Canada

<i>Agricultural Credit Corporation of Saskatchewan v Pettyjohn</i> (1991) 90 Sask R 206	247
<i>Air Canada v M&L Travel</i> [1993] 3 SCR 787	260, 262
<i>BMP Global Distribution Inc v Bank of Nova Scotia</i> [2009] SCC 15, (2009) 304 DLR (4th) 292	240, 248
<i>British Columbia v National Bank of Canada</i> (1994) 119 DLR (4th) 669	241
<i>CIBC v Otto Timm Enterprises Ltd</i> (1995) 130 DLR (4th) 91	408
<i>Citadel General Assurance v Lloyds Bank Canada</i> [1997] 3 SCR 805	263
<i>Haibeck v No 40 Taurus Ventures Ltd</i> (1991) 59 BCLR (2d) 229	409
<i>Household Products Ltd and Federal Business Development Bank (Re)</i> (1981) 124 DLR (3d) 325	383
<i>Jones v de Marchant</i> (1916) 28 DLR 561	27, 222, 238, 321
<i>Kolari (Re)</i> (1982) 36 OR (2d) 473	186
<i>Mehta Estate v Mehta Estate</i> (1993) 104 DLR (4th) 24	176
<i>OSC & Greymac (Re)</i> [1988] 2 SCR 172, (1988) 52 DLR (4th) 767	243
<i>Pecore v Pecore</i> [2007] SCC 17, [2007] 1 SCR 838	175, 177
<i>RBC Dominion Securities v Dawson</i> (1994) 111 DLR (4th) 230	192, 251
<i>Royal Bank of Canada v Sparrow Electric Co</i> (1997) 143 DLR (4th) 385	406

<i>Saylor v Madsen's Estate</i> [2007] SCC 18, [2007] 1 SCR 838, [2007] 1 SCR 865	175, 177
<i>Sharp v MacNeil</i> (1913) 15 DLR 73	186
<i>Simpson v Gowers</i> (1981) 121 DLR (3d) 709	210
<i>Vowles v Isles Finance Co</i> [1940] 4 DLR 357	67

Ireland

<i>Ffrench's Estate (Re)</i> (1887) 21 LR Ir 83	200
<i>Keenan Bros (Re)</i> [1986] BCLC 242 (ISC)	385, 388
<i>Webb & O'Connell v AG</i> [1988] IR 353 (SC)	10, 282

New Zealand

<i>Agnew v Commissioner of Inland Revenue</i> [2001] UKPC 28, [2001] 2 AC 710	406
<i>Aikens Agencies v Richardson</i> [1967] NZLR 65	210
<i>Cigna Life Insurance v Westpac</i> [1996] 1 NZLR 80	263
<i>Coleman v Harvey</i> [1989] 1 NZLR 723	29
<i>Commission Car Sales (Hastings) Ltd v Saul</i> [1957] NZLR 144	351
<i>Contemporary Cottages (NZ) Ltd v Margin Traders Ltd</i> [1981] 2 NZLR 114 ...	393
<i>Fletcher Construction Co Ltd v Webster</i> [1948] NZLR 514	272
<i>Hadlee v CIR</i> [1991] 3 NZLR 517	365
<i>Harding v CIR</i> [1977] 1 NZLR 337	266
<i>Jeffcott v Andrew's Motors</i> [1960] NZLR 721	77
<i>Manurewa Transport Ltd (Re)</i> [1971] NZLR 909,	382
<i>Mitchell v Jones</i> (1905) 24 NZLR 932	73
<i>Mountain Road (No 9) Ltd v Michael Edgely Corp Pty Ltd</i> [1999] 1 NZLR 335	94, 99
<i>Muller (Re)</i> [1953] NZLR 879	174
<i>Nimmo v Westpac</i> [1993] 3 NZLR 218	263
<i>NZ Securities & Finance Ltd v Wrightcars Ltd</i> [1976] 1 NZLR 77	73
<i>Pacific Software Technology Ltd v Perry Group Ltd</i> [2004] 1 NZLR 164	205
<i>Pongakawa Sawmill Ltd v New Zealand Forest Products Ltd</i> [1992] 3 NZLR 304	320–321
<i>Registered Securities (Re)</i> [1991] 1 NZLR 545	243
<i>Waitomo Wools Ltd v Nelsons Ltd</i> [1974] 1 NZLR 484	346
<i>Westpac Banking Corporation v Savin</i> [1985] 2 NZLR 41	261

Singapore

<i>APL Pte Ltd v Peer Voss</i> [2002] SGCA 41, [2002] 4 SLR 481	16
<i>Crédit Agricole Indosuez v BNP Paribas</i> [2000] 2 SLR 1	164
<i>Electro Magnetic (S) Ltd v Development Bank of Singapore Ltd</i> [1994] 1 SLR 734 (Sing CA)	327
<i>Keppel Tatlee Bank Ltd v Bandung Shipping Pte Ltd</i> [2002] SGCA 46, [2003] 1 SLR 295	159
<i>UCO Bank v Golden Shore Transportation Pte Ltd</i> [2005] SGCA 42, [2006] 1 SLR 1	161

South Africa

<i>Vereins-und Westbank v Veren Investments Ltd</i> 2000 (4) SA 238	164
---	-----

United Kingdom

<i>A v B</i> [1984] 1 All ER 265	348
<i>Abaowa v Close Invoice Finance Ltd</i> [2010] EWHC 1920	176
<i>Abbey National BS v Cann</i> [1991] 1 AC 56 (HL)	311, 319
<i>Abbott (Re)</i> [1900] 2 Ch 326	190
<i>Abou-Rahman v Abacha</i> [2005] EWHC 2662, [2007] 1 Lloyds Rep 115	260
<i>Adams and Kensington Vestry (Re)</i> (1884) 27 Ch D 394	23
<i>AEG (UK) Ltd v Lewis</i> [1993] 2 Bank LR 119	146
<i>Aegean Sea Traders Corporation v Repsol Petroleo SA</i> [1998] 2 Lloyds Rep 39	160
<i>Agip (Africa) Ltd v Jackson</i> [1990] Ch 260, 265; [1991] Ch 547, [1992] Ch 540, [1992] 4 All ER 451 (CA)	235, 239, 260, 262
<i>AIB Finance Ltd v Debtors</i> [1998] 2 All ER 929	377
<i>Aiolos (The)</i> . See <i>Central Insurance Co Ltd v Seacalf Shipping Corporation</i> [1983] 2 Lloyds Rep 25 (CA)	
<i>Air Jamaica v Charlton</i> [1999] 1 WLR 1399 (PC)	185
<i>Airbase (UK) Ltd (Re)</i> [2008] EWHC 124, [2008] 1 WLR 16	403
<i>Albermarle Supply Co Ltd v Hind & Co</i> [1928] 1 KB 307 (CA)	344–345
<i>Alcock v Smith</i> [1892] 1 Ch 238 (CA)	151
<i>Aldridge v Johnson</i> (1857) 7 E&B 885, 119 ER 1476	45–47
<i>Ali v Khan</i> [2002] EWCA Civ 974, [2009] WTLR 187	178
<i>Aliakmon (The)</i> . See <i>Leigh & Silavan Ltd v Aliakmon Shipping Co Ltd</i>	
<i>Allcard v Skinner</i> (1887) LR 36 Ch D 145	194
<i>Aluminium Vaassen v Romalpa Aluminium</i> [1976] 2 All ER 552, [1976] 1 WLR 676 (CA)	78, 317–318, 322, 341
<i>American Express International Banking Corporation Ltd v Hurley</i> [1986] BCLC 52,	373
<i>Anchor Line (Henderson Bros) Ltd (Re)</i> [1937] Ch 1 (CA)	37
<i>Andrabell (Re)</i> [1984] 3 All ER 407	322
<i>Annangel Glory (The)</i> [1988] 1 Lloyds Rep 45	296
<i>Antoni v Antoni</i> [2007] UKPC 10, [2007] WTLR 1335	176
<i>Antony v Haney</i> (1832) 3 Bing 187, 131 ER 372	226
<i>Arab Bank Ltd v Ross</i> [1952] 2 QB 216	150–151, 156
<i>Arden v Arden</i> (1885) 29 Ch D 702	111
<i>Argo Fund Ltd v Essar Steel Ltd</i> [2006] EWCA Civ 241, [2006] 2 All ER (Comm) 104	99
<i>Armagh Shoes Ltd (Re)</i> [1984] BCLC 405	384
<i>Armory v Delamirie</i> (1772) 1 Str 505, 93 ER 644	10, 13, 214, 218
<i>Armour v Thyssen Edelstahlwerke</i> [1990] 2 WLR 810	318
<i>Aroso v Coutts & Co</i> [2002] 1 All ER (Comm) 241	175
<i>Arthur D Little Ltd v Ableco Finance LLC</i> [2002] EWHC 701 (Ch), [2003] Ch 217	390
<i>Ashborder BV v Green Gas Power Ltd</i> [2004] EWHC 1517, [2005] BCC 634	382
<i>Ashby v Tolhurst</i> [1937] 2 KB 242 (CA)	204, 266

<i>ASRS Establishment (Re)</i> [2000] 1 BCLC 727	384
<i>Astley Industrial Trust v Miller</i> [1968] 2 All ER 36	66
<i>Atari Corporation v Electronics Boutique Stores UK Ltd</i> [1998] QB 539 (CA) ..	41–42
<i>Atlantic Computer Systems Plc (Re)</i> [1992] Ch 505	323, 386–387
<i>Automatic Bottle Makers Ltd (Re)</i> [1926] Ch 412	391
<i>AVX Ltd v EGM Solders Ltd, The Times</i> (7 July 1982)	268
<i>BAB v Parker</i> [1982] QB 1004 (CA)	283
<i>Baden (No 2) (Re)</i> [1973] Ch 9 (CA)	24
<i>Baillie v Edwards</i> (1848) 2 HLC 74, 9 ER 1020	330–331
<i>Baker v Barclays Bank</i> [1955] 2 All ER 571	217
<i>Banco Santander SA v Bayfern Ltd</i> [2000] 1 All ER (Comm) 776	164
<i>Bank of America v Arnell</i> [1999] Lloyds Rep Banking 399	236
<i>Bank of England v Vagliano Bros</i> [1891] AC 107 (HL)	144
<i>Bank Tejarat v HSBC</i> [1995] 1 Lloyds Rep 239	239
<i>Banque Belge pour l'Etranger v Hambrouck</i> [1921] 1 KB 321	239
<i>Banque Financière de la Cité v Parc (Battersea) Ltd</i> [1999] 1 AC 221 (HL)	257
<i>Barbados Trust Co (BTC) Ltd v Bank of Zambia</i> [2007] EWCA Civ 148, [2007] 2 All ER (Comm) 445	119–122
<i>Barclays Bank Ltd v Aschaffenburg</i> [1967] 1 Lloyds Rep 387 (CA)	157
<i>Barclays Bank Plc v Astley Industrial Trust</i> [1970] 2 QB 527	147, 151
<i>Barclays Bank v WJ Simms, Son & Cooke Ltd.</i> [1980] QB 677	196
<i>Barker v Bell</i> [1971] 1 WLR 983 (CA)	80
<i>Barker v Furlong</i> [1891] 2 Ch 174	211, 215
<i>Barlow Clowes v Eurotrust</i> [2005] UKPC 37, [2006] 1 All ER 333	259–260
<i>Barlow Clowes Int'l v Vaughan</i> [1992] 4 All ER 22 (CA)	243–245
<i>Barton v Armstrong</i> [1976] AC 104 (PC)	195
<i>Bawejem Ltd v MC Fabrications Ltd</i> [1999] 1 BCLC 174 (CA)	117
<i>BBMB Finance (Hong Kong) Ltd v EDA Holdings Ltd</i> [1990] 1 WLR 409 (PC)	219
<i>BCCI v Akindele</i> [2001] Ch 437 (CA)	262–263
<i>BCCI (No 8) (Re)</i> [1998] AC 214 (HL)	327, 329
<i>Beam Tube Products Ltd (Re)</i> [2006] EWHC 486 (Ch); [2007] 2 BCLC 732	389
<i>Belmont Finance v Williams</i> [1980] 1 All ER 393	262–263
<i>Belvoir Finance Co Ltd v Harold G Cole & Co Ltd</i> [1969] 1 WLR 1877	64, 66
<i>Belvoir Finance Co v Stapleton</i> [1971] 1 QB 219 (CA)	170
<i>Benjamin Cope Ltd (Re)</i> [1914] 1 Ch 800	387, 391
<i>Bennet v Bennet</i> (1879) 10 Ch D 474 (CA)	175–176
<i>Berge Sisar (The)</i> . See <i>Borealis AB v Stargas Ltd</i>	
<i>Berkeley Securities (Property) Ltd (Re)</i> [1980] 1 WLR 1589	115
<i>Beverly Acceptances Ltd v Oakley</i> [1982] RTR 417	64
<i>Bibby Trade Finance Ltd v McKay</i> [2006] EWHC 2836	309
<i>Biddle v Bond</i> (1865) 5 B&S 224, 122 ER 1179	270
<i>Biggerstaff v Rowan's Wharf Ltd</i> [1896] Ch 366	391
<i>Biggs v Hoddinott</i> [1898] 2 Ch 307 (CA);	361
<i>Bim Kemi v Blackburn Chemicals Ltd</i> [2001] EWCA Civ 457, [2001] 2 Lloyds Rep 93	107, 109, 331
<i>Bishopsgate Investment Management v Homan</i> [1995] Ch 211 (CA)	241, 245–246
<i>Blade v Higgs</i> (1861) 10 CB NS 713, 142 ER 634	226

<i>Blakeley Ordnance Co (Re)</i> (1867) 3 Ch App 154	106
<i>Blyth Shipbuilding and Dry Docks Co Ltd (Re)</i> [1926] Ch 494 (CA)	37
<i>BMW Financial Services Ltd v Bhagwanai</i> [2007] EWCA Civ 1230	213
<i>Bond Worth (Re)</i> [1980] Ch 228,	295–296, 319–320, 322–323, 343
<i>Bondina Ltd v Rollaway Shower Blinds Ltd</i> [1986] 1 All ER 564 (CA)	152
<i>Booth Steamship Co Ltd v Cargo Fleet Iron Co Ltd</i> [1916] 2 KB 570	351
<i>Borden v Scottish Timber Products Ltd</i> [1981] Ch 25	27, 320
<i>Borealis AB v Stargas Ltd (The Berge Sisar)</i> [2001] UKHL 17, [2002] 2 AC 205	16, 161–162, 338
<i>Boscawen v Bajwa</i> [1996] 1 WLR 328 (CA)	257
<i>Boughton v Boughton</i> (1739) 1 Atk 625, 26 ER 393	53
<i>Bowmaker Ltd v Wycombe Motors Ltd</i> [1946] KB 505	346
<i>Bowmakers v Barnett Instruments</i> [1945] 2 KB 325	170
<i>Bradley v Carritt</i> [1903] AC 253 (HL)	361
<i>Brandao v Barnett</i> (1846) 3 CB 519, 136 ER 207	348
<i>Brandeis Goldschmidt & Co v Western Transport Ltd</i> [1891] QB 864	219
<i>Brandt v Liverpool, Brazil & River Plate Steam Navigation Co Ltd</i> [1924] 1 KB 575	160
<i>Brice v Bannister</i> (1878) 3 QBD 569	92, 103
<i>Brierley v Kendall</i> (1852) 17 QB 937, 117 ER 1540	213
<i>Briggs (Re)</i> [1906] 2 KB 209	90
<i>Brightlife Ltd (Re)</i> [1987] Ch 200	382, 384
<i>Brink's Mat v Abu-Saleh</i> [1996] CLC 133	258
<i>Bristol Airport v Powdrill</i> [1990] Ch 744	295, 344–345, 351
<i>Bristol & West BS v Mothew</i> [1996] 4 All ER 698 (CA), [1998] Ch 1 (CA)	201, 376
<i>Bristol & West Plc v Bartlett</i> [2002] EWCA Civ 1181, [2002] 4 All ER 544	366
<i>British Cash and Parcel Conveyors Ltd v Lamson Store Service Co Ltd</i> [1908] 1 KB 1006 (CA)	114
<i>British Eagle International Airlines v Compagnie Nationale Air France</i> [1975] 1 WLR 758 (HL)	327–328
<i>British North American Elevator v Bank of British North America</i> [1919] AC 658	262
<i>Brown v Bennett</i> [1998] 2 BCLC 97; [1999] 1 BCLC 649 (CA)	259
<i>Brownton Ltd v Edward Moore Imbucon Ltd</i> [1985] 3 All ER 499 (CA)	115
<i>Brumark (Re)</i> . See <i>Commissioner of Inland Revenue v Agnew</i>	
<i>Buchler v Talbot</i> [2004] UKHL 9, [2004] 2 AC 298	402
<i>Buckley v Gross</i> (1868) 3 B&S 566, 122 ER 213	28
<i>Building & Civil Engineering Ltd v Post Office</i> [1966] 1 AC 247 (HL)	274
<i>Bulkhaul Ltd v Rhodia Organique Fine Ltd</i> [2008] EWCA Civ 1452, [2009] 1 Lloyds Rep 353	275
<i>Bull v Faulkner</i> (1848) 2 De G & Sm 772, 64 ER 346	343
<i>Burgess v Rawnsley</i> [1975] Ch 429	6
<i>Burlinson v Hall</i> (1884) 12 QBD 347	88
<i>Bushel v Miller</i> (1718) 1 Str 128, 93 ER 428	226
<i>Business Computers Ltd v Anglo-African Leasing Ltd</i> [1977] 1 WLR 578	109
<i>Cahn v Pockett's Bristol Channel Steam Packet Co Ltd</i> [1899] 1 QB 648	71
<i>Caldwell v Car & Universal Finance Ltd</i> [1965] 1 QB 525	199

<i>Calisher v Forbes</i> (1871) 7 Ch App 109	111
<i>Calor Gas Ltd v Homebase Ltd</i> [2007] EWHC 1173	225
<i>Camdex International v Bank of Zambia</i> [1998] QB 22 (CA)	115
<i>Capital Fire Insurance Association Ltd (Re)</i> (1883) 24 Ch D 408 (CA)	348
<i>Car & Universal Finance Co Ltd v Caldwell</i> [1965] 1 QB 525	69, 193
<i>Carl Zeiss v Herbert Smith</i> [1969] 2 Ch 269	261
<i>Carlos Federspiel v Charles Twigg</i> [1957] 1 Lloyds Rep 240	45–47
<i>Carter v Wake</i> (1877) 4 Ch D 605	336
<i>Cartwright v Green</i> (1803) 8 Ves Jun 405, 32 ER 412	171
<i>Caudle v LD Law Ltd</i> [2008] EWHC 374, [2009] 2 All ER 1020	213
<i>Cave v Cave</i> (1880) 15 Ch D 639	200
<i>Caxton Publishing Co Ltd v Sutherland Publishing Co Ltd</i> [1939] AC 178 (HL)	204, 211
<i>CCG International Enterprises (Re)</i> [1993] BCLC 1428	385
<i>Cebora SNC v SIP (Industrial Products) Ltd</i> [1976] 1 Lloyds Rep 271 (CA)	155
<i>Central Insurance Co Ltd v Seacalf Shipping Corporation</i> [1983] 2 Lloyds Rep 25 (CA) (<i>The Aiolos</i>)	94
<i>Central Newbury Car Auctions Ltd v Unity Finance</i> [1957] 1 QB 371 (CA)	61
<i>Charge Card Services Ltd (Re)</i> [1987] Ch 150	329–330
<i>Chase Manhattan v Israel-British Bank</i> [1981] Ch 105	187, 195–196
<i>Cheah Theam Swee v Equiticorp</i> [1992] 1 AC 472 (PC)	311
<i>Cheese v Thomas</i> [1994] 1 WLR 129	194
<i>Chellaram (PS) & Co v China Ocean Shipping Co (The Zhi Jiang Kou)</i> [1991] 1 Lloyds Rep 493	272–273
<i>Cheltenham & Gloucester BS v Appleyard</i> [2004] EWCA Civ 291	258
<i>China Pacific SA v Food Corporation of India</i> [1982] AC 939 (HL)	269, 271
<i>Chinn v Collins</i> [1981] AC 533 (HL) 548	130
<i>Chitral (The)</i> [2000] 1 Lloyds Rep 529	15, 159
<i>Chubb Cash v John Crilley Ltd</i> [1983] 1 WLR 599	218
<i>Churchill & Sim v Goddard</i> [1937] 1 KB 92 (CA)	147, 156
<i>City Fur Manufacturing Co Ltd v Fureenbond Brokers (London) Ltd</i> [1937] 1 All ER 799	73
<i>City Index v Charter Plc</i> [2006] EWHC 2508, [2007] 1 WLR 26, [2007] EWCA Civ 1382, [2008] Ch 313	263
<i>City of London Building Society v Flegg</i> [1988] AC 54 (HL)	82
<i>Cityland and Property (Holdings) Ltd v Dabrah</i> [1968] Ch 166	362
<i>Ciudad de Pasto (The) & The Ciudad de Nieva</i> . See <i>Mutsui & Co v Flota</i> <i>Mercante Gran Colombiana SA</i>	
<i>CKE Engineering Ltd (Re)</i> [2007] BCC 975	29
<i>Claydon v Bradley</i> [1987] All ER 522	142
<i>Clayton v Le Roy</i> [1911] 2 KB 1031 (CA)	212
<i>Clayton's Case</i> (1816) 1 Mer 564, 35 ER 778	243, 245
<i>Clifford Chance v Silver</i> [1992] Bank LR 11	151
<i>Clough Mill v Martin</i> [1985] 1 WLR 111 (CA)	27, 320
<i>Club Cruise Entertainment & Travelling Services Ltd v Department of Transport</i> [2008] EWHC 2794	210
<i>Clutton v Attenborough</i> [1897] AC 90 (HL)	144
<i>Coates v Moore</i> [1903] 2 KB 140	390

<i>Cochrane v Green</i> (1860) 9 CB (NS) 448, 142 ER 176	332
<i>Cochrane v Moore</i> [1890] 2 QBD 57 (CA)	54
<i>Coggs v Barnard</i> (1703) 2 Ld Raym 909, 92 ER 107	270, 334
<i>Colbeck v Diamanta (UK) Ltd</i> [2002] EWHC 616	218
<i>Cole (Re)</i> [1964] Ch 175	55
<i>Collier v Collier</i> [2002] EWCA Civ 1095, [2002] BPIR 1057	178
<i>Colonial Mutual General Insurance Co Ltd v ANZ Banking Group Ltd</i> [1995] 1 WLR 1140 (PC)	89
<i>Commerzbank v Gareth Price-Jones</i> [2003] EWCA Civ 1663; [2003] All ER (D) 303	192, 251
<i>Commerzbank v IMB Morgan</i> [2004] EWHC 2771, [2005] 1 Lloyds Rep 298	243
<i>Commissioner of Inland Revenue v Agnew (Re Brumark)</i> [2001] UKPC 28, [2001] 2 AC 710 (PC)	386–388
<i>Compaq Computer v Abercorn Group</i> [1993] BCLC 602	321
<i>Connolly Bros (Re)</i> [1912] 2 Ch 25	311
<i>Consolidated Co v Curtis & Son</i> [1892] 1 QB 495	211
<i>Cook v Fountain</i> (1676) 3 Swans 585, 36 ER 985	183
<i>Cook v Saroukis</i> (1989) 97 FLR 33	25
<i>Cooke v Haddon</i> (1862) 3 F&F 229, 176 ER 103	336
<i>Cosslett (Contractors) Ltd (Re)</i> [1998] Ch 495 (CA); [2001] UKHL 58; [2002] 1 AC 336 (HL) 352	44, 87, 298, 342, 380, 386
<i>Costello v Chief Constable of Derbyshire</i> [2001] 1 WLR 1437	214
<i>Coulter v Chief Constable of Dorsetshire Police</i> [2004] EWHC 3391, [2004] 1 WLR 1425	98
<i>Coventry Shepherd & Co v Great Eastern Ry Co</i> (1883) 11 QBD 776	62
<i>Cowan de Groot v Eagle Trust</i> [1992] 4 All ER 700	263
<i>Credit Lyonnais v PT Barnard & Associates Ltd</i> [1976] 1 Lloyds Rep 557	154
<i>Credit Lyonnais Nederland NV v ECGD</i> [1998] 1 Lloyds Rep 19 (CA)	153
<i>Cretanor Maritime Co Ltd v Irish Marine Management Ltd</i> [1978] 1 WLR 966 (CA)	394
<i>Criterion Properties v Stratford Properties</i> [2004] UKHL 28, [2004] 1 WLR 1846	256, 261
<i>Croftbell (Re)</i> [1990] BCLC 844	400
<i>Crouch v Credit Foncier of England Ltd</i> (1873) LR 8 QB 374	93, 142
<i>Cuckmere Brick Co v Mutual Finance Ltd</i> [1971] Ch 949 (CA)	368, 371–372
<i>Cukurova Finance International Ltd v Alfa Telecom Turkey Ltd</i> [2009] UKPC 19, [2009] 3 All ER 849	368
<i>Cundy v Lindsay</i> (1878) 3 App Cas 459 (HL)	57, 69–70, 170–171
<i>Curran v Newpark Cinemas Ltd</i> [1951] 1 All ER 295	91
<i>Currie v Misa</i> (1875) LR 10 Exch 153	145–146
<i>Curtis (DH) Ltd (Re)</i> [1978] Ch 162	330
<i>Customs & Excise Comrs v Everwine</i> [2003] EWCA Civ 953	44
<i>Danish Bacon Co Ltd Staff Pension Fund (Re)</i> [1997] 1 WLR 248	126
<i>Davey & Co v Williamson & Sons</i> [1898] 2 QB 194	382
<i>David Allester Ltd (Re)</i> [1922] 2 Ch 211	335
<i>Davies v Rees</i> (1886) 17 QBD 408	308, 363
<i>Dawson (Re)</i> [1915] 1 Ch 626	393
<i>Dawson v Isle</i> [1906] 1 Ch 633	142

<i>DCD Factors Ltd v Ramada Trading Ltd</i> [2007] EWHC 2820, [2008] Business LR 654	149, 165
<i>Dean v Whittaker</i> (1824) 1 C&P 347, 171 ER 1225	231
<i>Dearle v Hall</i> (1823) 3 Russ 1, 38 ER 475; (1828) 3 Russ 48, 38 ER 492	14, 19, 104, 110–12, 135, 310, 316, 411
<i>Debtor No 66 of 1955 (Re a)</i> [1956] 1 WLR 1226 (CA)	330
<i>Den Norske Bank v Acemex Management Ltd</i> [2003] EWCA Civ 1559, [2005] 1 BCLC 274	373
<i>Dennant v Skinner & Collorn</i> [1948] 2 KB 164	37
<i>Derry v Peek</i> (1889) LR 14 App Cas 337	194
<i>Deutsche Morgan Grenfell v IRC</i> [2006] UKHL 546; [2007] 1 AC 558	194
<i>Devereux v Barclay</i> (1819) 2 B & Ald 702, 106 ER 521	273
<i>Deverges v Sandeman Clarke & Co</i> [1902] 1 Ch 579	340, 370
<i>Devonald v Rosser & Sons</i> [1906] 2 KB 728 (CA)	141
<i>Diamond v Graham</i> [1968] 1 WLR 1061 (CA)	146–147
<i>Dickinson v Burrell</i> (1866) LR 1 Eq 337	200
<i>Diplock (Re)</i> [1948] Ch 465 (CA)	242–243, 245, 247
<i>Doe d Garmons v Wright</i> (1826) 5 B&C 671, 108 ER 250	53
<i>Don King Productions Ltd v Warren</i> [2000] Ch 291	118–119, 122
<i>Donald v Suckling</i> (1866) LR 1 QB 585	279, 340–341, 343
<i>Donaldson v Donaldson</i> (1854) Kay 711, 69 ER 303	92
<i>Dornoch Ltd v Westminster International BV</i> [2009] EWHC 889 (Admrly); [2009] 2 All ER (Comm) 399	352, 356
<i>Douglas v Hello! (No 3)</i> [2007] UKHL 21, [2008] 1 AC 1	173
<i>Douglas Valley Finance Co Ltd v S Hughes (Hirers) Ltd</i> [1969] 1 QB 738	213
<i>Downsview Nominees Ltd v First City Corporation Ltd</i> [1993] AC 295 (PC)	360, 371–372, 375–376, 401
<i>Driver v Broad</i> [1893] 1 QB 744	393
<i>DTC (CNC) Ltd v Gary Sergeant & Co</i> [1996] 2 All ER 369	348
<i>Du Jardin v Beadman Bros</i> [1952] 2 QB 712	65
<i>Dublin City Distillery v Doherty</i> [1914] AC 823 (HL)	55, 284, 335, 338
<i>Duncan, Fox & Co v North and South Wales Bank</i> (1880) 6 App Cas 1 (HL)	152
<i>Durham Bros v Robertson</i> [1898] 1 QB 765 (CA)	88, 93
<i>Dyer v Dyer</i> (1788) 2 Cox Eq 92, 30 ER 42	174
<i>Eagle Trust Plc v SBC Securities Ltd</i> [1992] 4 All ER 488; [1993] 1 WLR 484 ...	67, 263, 415
<i>East West Corp v DKBS 1912</i> [2003] EWCA Civ 83, [2003] QB 1509	16, 161, 280, 289
<i>Eastern Capital Futures Ltd (Re)</i> [1989] BCLC 371	243
<i>Eastern Distributors Ltd v Goldring</i> [1957] 2 QB 600 (CA)	60
<i>Eastgate (Re)</i> [1905] 1 KB 465	200
<i>Easton v London Joint Stock Bank</i> (1886) 34 Ch D 95 (CA)	141
<i>Easton v Pratchett</i> (1835) 1 Cr M & R 798, 149 ER 1302	144
<i>Edward Nelson & Co Ltd v Faber & Co</i> [1903] 2 KB 367	106
<i>Edwards v Newland & Co</i> [1950] 2 KB 534	272, 276
<i>Eide (UK) Ltd v Lowndes Lambert</i> [1999] QB 199 (CA)	348
<i>El Ajou v Dollar Land Holdings</i> [1993] 3 All ER 717	186, 199

<i>Elders Pastoral Ltd v Bank of New Zealand (No 2)</i> [1990] 1 WLR 1478 (PC)	
1483	96
<i>Ellenborough (Re)</i> [1902] 1 Ch 697	89, 105
<i>Ellis v Ellis</i> (1909) 26 Times LR 166	196
<i>Elphick v Barnes</i> (1880) 5 CPD 321	42
<i>Elvin and Powell Ltd v Plummer Roddis Ltd</i> (1933) 50 TLR 158	283
<i>Embiricos v Anglo-Austrian Bank</i> [1905] 1 KB 677	142
<i>Empresa Exportada de Azucar v Industria Azucarera Nacional SA (The Playa Larga)</i> [1983] 2 Lloyds Rep 171 (CA)	220
<i>English and Scottish Mercantile Investments v Brunton</i> [1892] 2 QB 706	309, 391
<i>Erlanger v New Sombrero Phosphate Co</i> (1877) LR 5 Ch D 73	196–197
<i>Essery v Cowlard</i> (1884) 26 Ch D 194	182
<i>Euro Commercial Leasing Ltd v Cartwright & Lewis</i> [1995] 2 BCLC 618	343
<i>Evans v Rival Granite Quarries Ltd</i> [1910] 2 KB 979 (CA)	381–382, 394, 397
<i>Evia Luck (The)</i> [1992] 2 AC 152 (HL)	195
<i>Explora Group Plc v Hesco Bastion Ltd</i> [2005] EWCA Civ 646, [2005] All ER (D) 271	120
<i>Exportadora Valle de Colina SA v AP Moller-Maersk A/S</i> [2010] EWHC 3224 (Comm)	288
<i>Eykyn's Trust (Re)</i> (1877) 6 Ch D 115	176
<i>Farquharson Bros & Co v King</i> [1902] AC 325 (HL)	61
<i>Fashoff (UK) Ltd v Linton</i> [2008] EWHC 537 (Ch), [2008] 2 BCLC 362	323
<i>Federal Commerce & Navigation Co Ltd v Molena Alpha Ltd</i> [1978] 1 QB 927 (CA)	107, 330–331
<i>Felthouse v Bindley</i> (1862) 11 CB (NS) 869, 142 ER 1037	41
<i>Fibrosa Spolka Ackcyjna v Fairbairn Lawson</i> [1943] AC 32 (HL)	189
<i>Filby v Mortgage Express (No 2) Ltd</i> [2004] EWCA Civ 759	258
<i>Fliptex Ltd v Hogg</i> [2004] EWHC 1280, [2004] BCC 870	404
<i>Foamcrete Ltd v Thrust Engineering Ltd</i> [2000] EWCA Civ 351, [2000] All ER (D) 2439	122, 394
<i>Foley v Hill</i> (1848) 2 HLC 28, 9 ER 1002	243, 262
<i>Folkes v King</i> [1923] 1 KB 282	64
<i>Forsythe International (UK) Ltd v Silver Shipping Co Ltd</i> [1994] 1 WLR 1334	74, 78
<i>Forth v Simpson</i> (1849) 13 QB 680, 116 ER 1423	347
<i>Forthright Finance Ltd v Carlyle Finance Ltd</i> [1997] 4 All ER 90 (CA)	287
<i>Foskett v McKeown</i> [2001] 1 AC 102 (HL)	27, 193, 222, 234–235, 238, 242, 245–246, 249, 252, 254–255, 321, 344
<i>Foster v Cockerell</i> (1835) 3 Cl & Fin 456, 6 ER 1508	111, 136
<i>Foster v Spencer</i> [1996] 2 All ER 672	355
<i>Fouldes v Willoughby</i> (1841) 5 M&W 540, 151 ER 1153	209
<i>Four Point Garage Ltd v Carter</i> [1985] 3 All ER 12	78
<i>Fowkes v Pascoe</i> (1875) LR 10 Ch App 343 (CA)	175, 184
<i>Fowler v Hollins</i> (1872) LR 7 QB 616	209, 211
<i>Franklin v Neate</i> (1844) 13 M&W 481, 152 ER 200	342
<i>Fraser v Kershaw</i> (1856) 2 K&J 496, 69 ER 878	217
<i>Freeman & Lockyer v Buckhurst Park Properties (Mangal) Ltd</i> [1964] 2 QB 480	60

<i>Fullerton v Provincial Bank of Ireland</i> [1903] AC 309 (HL)	146
<i>Future Express (The)</i> [1992] 2 Lloyds Rep 79; [1993] 2 Lloyds Rep 542	213, 285, 337
<i>Fyffes Group v Templeman</i> [2000] 2 Lloyds Rep 643	258
<i>GE Capital Bank Plc v Rushton</i> [2005] EWCA Civ 1556, [2006] 1 WLR 899	80
<i>Geldof Metaalconstructie NV v Simon Carves Ltd</i> [2010] EWCA Civ 667, [2010] 4 All ER 847	107, 331
<i>Genn v Winkel</i> (1912) 107 LT 434	41
<i>German v Yates</i> (1915) 32 TLR 52	97
<i>Gerrard Fairfax Holdings Ltd v Capital Bank Plc</i> [2006] EWHC 3439 (Comm); [2007] 1 Lloyds Rep 171	65
<i>Gibbon v Mitchell</i> [1990] 3 All ER 338	196
<i>Gilbert-Ash (Northern) Ltd v Modern Engineering (Bristol) Ltd</i> [1974] AC 689 (HL)	108
<i>Gilchrist Watt and Sanderson Pty Ltd v York Products Pty Ltd</i> [1970] 1 WLR 1262 (PC)	276
<i>Giles v Thompson</i> [1994] 1 AC 142 (HL)	114
<i>Gill and Duffus v Scruttons</i> [1953] 2 All ER 977	29
<i>Gladstone v Birley</i> (1817) 2 Mer 401, 35 ER 993	346
<i>Glegg v Bromley</i> [1912] 3 KB 474	115
<i>Glencore Intl v MTI</i> [2001] 1 Lloyds Rep 284	28, 224
<i>Glennie v Bruce Smith</i> [1908] 1 KB 263	150
<i>Glubb (Re)</i> [1900] 1 Ch 354	194, 196
<i>GMAC Commercial Finance Ltd v Mint Apparel Ltd</i> [2010] EWHC 2452 (Comm)	156–157
<i>Goldcorp (Re)</i> [1994] 2 All ER 804 (PC); [1995] AC 72 (HL)	23, 36, 43, 194, 200–201
<i>Gomba Holdings (UK) Ltd v Homan</i> [1986] 1 WLR 1301	375, 402
<i>Goodman v Gallant</i> [1986] 1 All ER 311 (CA)	175
<i>Goodwin v Robarts</i> (1875) LR 10 Exch 337	142
<i>Gordon v Harper</i> (1796) 7 TR 9, 101 ER 828	213
<i>Gorringe v Irwell India Rubber and Gutta Percha Works</i> (1887) 34 Ch D 128	99, 310
<i>Government of Newfoundland v Newfoundland Railway Co</i> (1888) 13 App Cas 199 (PC)	109
<i>Graham v Johnson</i> (1869) LR 8 Eq 36	106
<i>Grainge v Wilberforce</i> (1889) 5 TLR 436	130
<i>Gray v G-P-T Group Ltd</i> [2010] EWHC 1772 (Ch)	305–306, 389
<i>Gray v Thames Trains Ltd</i> [2009] UKHL 33, [2009] 1 AC 1339	180
<i>Great Eastern Rly Co v Lord's Trustee</i> [1909] AC 109 (HL)	347, 349
<i>Green v All Motors Ltd</i> [1917] 1 KB 625	345
<i>Greenwood v Bennett</i> [1972] 2 QB 36	222
<i>Greenwood v Martins Bank</i> [1933] AC 51 (HL)	155
<i>Gresley v Mousley</i> (1859) 4 de GM&G 78; 45 ER 31	200
<i>Grey v IRC</i> [1958] Ch 690 (CA)	126–127, 131, 133
<i>Griffiths v Yorkshire Bank Plc</i> [1994] 1 WLR 1427	383
<i>Grupo Torras v Al-Sabah (No 5)</i> [2001] CLC 221	259