

UNLOCKING THE LAW

UNLOCKING TRUSTS

4th edition

Mohamed Ramjohn



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This book is dedicated to my daughters, Farah and Nadia.

Preface

The law of trusts has developed over the centuries as essentially a case law subject, tempered occasionally by statutory intervention. The process of development continues in modern society as new situations arise. The principal objectives in writing this book are the same as in the first edition, namely to produce a text that has the right balance in terms of exposition of the law in a clear, concise and simple style, and presentation of the subject in a structured and accessible manner. Chapters 1 and 2 introduce the reader to the subject; Chapters 3 to 13 (inclusive) analyse the various types of trusts that are in existence; and Chapters 14 to 17 examine the principles that are involved in the administration of trusts. A new Chapter 10 has been created to reflect the complex rules of law concerning proprietary rights in the family home. The publishers and I felt that this area of the law deserves special treatment.

This new edition has incorporated a number of substantial changes in the law, both statutory and case law. This necessitated major rewriting of several chapters. Statutory innovations include the Perpetuities and Accumulations Act 2009 (the simplification of the perpetuities rule); s 199 of the Equality Act 2010 (the abolition of the presumption of advancement) and the Charities Act 2011 (consolidation of the law of charities). Major case law developments have been included in various chapters of the book, including *Shah v Shah* (2010) (intention to create a trust), *Thorner v Major* (2009) (proprietary estoppel), *Sinclair Investments v Versailles* (2011) (personal liability to account for bribes), *Jones v Kernott* (2011) (constructive trust of the family home), *Radmacher v Granatino* (2010) (the law relating to pre-nuptial agreements), *Armstrong v Winnington Networks Ltd* (2012) (endorsements of the *Akindele* test of unconscionability), *Starglade v Nash* (2011) (test for dishonesty), *Charles v Fraser* (2010) (mutual wills), *Independent Schools Council v Charity Commission* (2011) (charities), *Attorney General v Charity Commission* (public benefit test), *Phillips v Royal Society for the Protection of Birds* (2012) (*cy-près* doctrine), *Central Bank of Nigeria v Williams* (2012) (limitation period) and many more.

I would like to thank the numerous reviewers of the earlier editions of this work for their constructive suggestions for improving the presentation of materials in this edition. Finally, I owe a huge debt of gratitude to Jasmin Naim and Matthew Sullivan of Hodder Ltd and Fiona Briden, Damian Mitchell and the editorial team at Routledge/Taylor & Francis Group for their assistance in the production of this edition.

I have tried to explain and summarise the law of trusts as at September 2012. As ever, the responsibility for all errors and omissions rests with me.

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