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asserted that, for undue influence to be established, proof of victimisation ‘is not always required’. In this article, I present and assess three curial approaches to the setting aside of inter vivos transactions on the ground of ‘undue influence’: the ‘public-policy approach’, the ‘actual-victimisation approach’, and the ‘impaired-consent approach’. I argue for a return to the public-policy approach, whereby the ‘fraud’ involved must be seen as ‘constructive’ in the fullest possible sense of that term, or else a credible rational rejection of that approach in favour of a (modified) actual-victimisation approach that absorbs the impaired-consent approach.

The ancient doctrines of equitable fraud now cohabit an environment in which statute is a growing presence. The doctrines of estoppel and statutory regimes that regulate misleading conduct provide striking examples of the increasingly complex ways in which equitable fraud and statute interact. This article will consider a series of cases which highlight the powerful gravitational influence that statute can bring to bear on such ancient equitable principles, guiding their operation and development in quite distinct ways, and inviting their divergence from traditional limitations. The article offers the opportunity to consider the potential of an increasingly integrated common law, equitable and statutory legal framework.

Both the trust and the company are organisational forms distinguished by their ability to facilitate affirmative asset partitioning. However, this feature is vulnerable to abuse by those whose purpose is to defeat creditor rights. This article considers recent developments in judicial doctrines aimed at countering such abuse and the extent to which they are explicable by, or coherent, with economic analyses drawn from the work of Hansmann and Kraakman.

‘Equitable fraud’ is broader in its conception than fraud at common law. Notwithstanding ambiguities as to its precise boundaries, equitable fraud can help explain why a debtor who tenders payment to his or her creditor, despite having received notice that the money debt had been equitably assigned to an assignee, may be ordered to make payment to the assignee if the creditor-assignor were to abscond with the sums tendered, leaving the assignee out of pocket. Such liability can be explained on grounds of the debtor having committed a form of equitable fraud by dishonestly assisting in the creditor-assignor’s breach of his or her duties (as an equitable assignee) to the assignee. Equitable fraud can also result in liability in the debtor at common law, given the court’s power to bar a defendant to an action at law from pleading common law defences which would otherwise shield the defendant from liability at law. This article will sketch out how equitable fraud may be employed in these ways to render a debtor to be liable to pay a second time, and point out some of the implications of such reasoning.