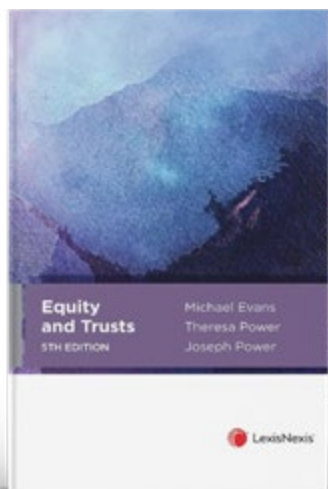


Equity and Trusts

By Michael Evans, Theresa Power and Joseph Power (LexisNexis, 5th ed, 2024)



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The fifth edition of this book provides a systematic statement of equity and trusts. The book originally commenced life in 1988 as Michael Evans' *Outline of Equity and Trusts*. The current title was adopted in 2003, and it has been eight years since the last edition.

While the book presents as a textbook, rather than in a 'commentary and materials' format, the authors adopt the helpful habit of including – in standalone boxes, so as not to distract from the main text – case summaries disclosing key facts and law from leading cases relevant to the principles being considered. These summaries benefit the reading experience and make interesting reading on their own, bearing similarity to – but understandably less detail than – Federation Press' excellent Leading Cases series by Daniel Reynolds and Lyndon Goddard.

The text's subject matter is well covered, starting with equity's history and maxims,

followed by sections on equity and property, equitable obligations, equity and contracts, and miscellaneous equitable doctrines. This is followed by several parts on trusts, including a long chapter on charitable trusts, before finishing with equitable defences and remedies.

Comparisons will likely be made to other leading texts, particularly *Meagher, Gummow and Lehane's Equity: Doctrines and Remedies* (LexisNexis, 5th ed, 2015). This is nothing to fear. The books overlap, of course, but serve different needs. While *Equity and Trusts* generally contains less information per subject head than *Equity: Doctrines and Remedies*, its strength is its schematic structure, clear style and relatively short sentences. These features allow the book to flow from point to point, paragraph to paragraph, aided further by clear section headings. This also makes flicking through the text easy; the book's structure should assist with such tasks as preparing pleadings. The book's purpose is to present the topic clearly to its reader. If the reader requires further details, the footnotes reference other places to look, including cases, journal articles and other texts.

Parts of the text have a definite narrative drive; the chapter on penalties is a good example. The text tells the 'story' of this area of law, while also setting out the principles, beginning with *Dunlop Pneumatic Tyre Co Ltd v New Garage and Motor Co Ltd* [1915] AC 79, through *Andrews v Australia and New Zealand Banking Group* (2012) 247 CLR 205 and the equitable doctrine of penalties, and finally to *Paciocco v Australia and New Zealand Banking Group* (2016) 258 CLR 525 and its subsequent application. The reader

gains a sense of the development of the law to where it now stands.

To give a further flavour of the book and how its subject matter is approached, chapter 18 (selected randomly) includes a section on proprietary estoppel. The subject is briefly introduced and a distinction drawn between estoppel by acquiescence and estoppel by encouragement – the schematic approach. Specific sections on each then follow naturally.

On the topic of acquiescence, a boxed summary of *Ramsden v Dyson* (1866) LR 1 HL 29 follows some introductory remarks. As it is separate to the main narrative, the reader can freely ignore it or use it to glean a deeper understanding of the principles. After this is commentary on the elements (or *probanda*) for estoppel by acquiescence as formulated by Fry J in *Willmott v Barber* (1880) 15 Ch D 96. Sir Edward Fry's elements are next considered by reference to their application or treatment in recent decisions, in particular *Priestley v Priestley* [2017] NSWCA 155, Macfarlan JA and *E Co v Q* [2018] NSWSC 442 ('*E Co v Q*'), Ward CJ in Eq. A similar approach is adopted for estoppel by encouragement. Some useful case boxes consider examples such as an insightful summary of *E Co v Q*. The section ends with a consideration of the forms of relief for proprietary estoppel, concentrating on *Giumelli v Giumelli* (1999) 196 CLR 101, *Sidhu v Van Dyke* (2014) 251 CLR 505 and the UK Supreme Court decision of *Guest v Guest* [2022] UKSC 27.

As would be expected, recent cases are considered: *Stubbings v Jams 2 Pty Ltd* (2022) 276 CLR 1 on unconscionable conduct, *Bosanac v Commissioner of Taxation* (2022) 275 CLR 37 on resulting trusts, *Xiao v BCEG International (Australia) Pty Ltd* (2023) 111 NSWLR 132 on account of profits and equitable compensation, *Catholic Metropolitan Cemeteries Trust v Attorney-General of New South Wales* [2024] NSWCA 30 on charitable trusts, and others.

Equity and Trusts complements other equity texts in the market; it has the added advantage of a clear format that makes it an attractive option for quickly mastering an understanding of a topic or revisiting one long forgotten. Readers will find plenty to gain. 

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