Even if a trust beneficiary successfully traces misappropriated trust property, he will only be entitled to a proprietary remedy against a stranger, who retains possession or control of the trust property. The beneficiary's proprietary claim will fail if the stranger received the trust property, but has not retained it. However, the beneficiary (or the trustee) may be able to bring a claim against the stranger personally if the receipt was wrongful. This chapter analyses the circumstances in which a stranger may be personally liable in equity for analogous wrongs. After providing an overview of who strangers are, it examines a number of policy considerations and practical measures designed to give strangers some degree of protection. The chapter also looks at trusteeship de son tort, personal liability in equity for receipt, and equitable liability for assistance in a breach of trust.
15. The equitable personal liability of strangers to the trust