7. Constructive Trusts

Equity & Trusts: Text, Cases, and Materials (3rd edn)
Paul S. Davies and Graham Virgo

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Author(s): Paul S Davies and Graham Virgo

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All books in this flagship series contain carefully selected substantial extracts from key cases, legislation, and academic debate, providing able students with a stand-alone resource. This chapter focuses on constructive trusts, which arise by operation of law without regard to the intentions of the parties. They are triggered by a defendant’s unconscionable conduct; however, in some cases, a constructive trust will be recognized even though the defendant has not acted unconscionably, such as the constructive trust that arises once a contract to sell land has been made. A remedial constructive trust is recognized by some jurisdictions, whereby equitable proprietary rights arise through the exercise of judicial discretion, but such a trust is not recognized in England and Wales. As with express trusts, title over particular property that is held on constructive trust is split between trustees and beneficiaries, but a constructive trustee is not subject to the same duties as an express trustee.
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