

The Matrimonial Property Disputes and Principles of the law of Trusts in England

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There are a many disputes over the ownership o family property acquired by the joint efforts of family members. English courts have been positively attempting to resolve such family property disputes by invoking implied, resulting or constructive trusts. This article is mainly concerned with the English judicial approach towards the resulting trusts and constructive trusts used in matrimonial property disputes. A constructive trust is one which the court imposes on a person in favour of another whenever this appears to be necessary so as to achieve fairness and justice between the two. Thus irrespective of any intention, the court will, in appropriate circumstances, enforce a trust over the property owned by one spouse in favour of the other. On the other hand, resulting trusts have their rationale rooted in the parties' intention. So the court will presume the parties' intention to hold the property on trust for himself and the other from their conducts and the surrounding circumstances.

By the way, the purpose of this article is to consider those cases determining beneficial entitlement to the matrimonial and quasi-matrimonial home which have been put into the name of a sole legal owner but which have been acquired through the joint efforts and to clarify the requirements for the imposition of the resulting trust and constructive trust in these cases. By doing so, we will receive some useful suggestions to the reasonable construction and operation of our matrimonial property law.

In this article, to begin with, I outline the basic framework of English matrimonial property law and make reference to the traditional classification of trusts as a preliminary. First, I analyze the cases relating to the beneficial ownership of matrimonial home and examine the situations over the application of the resulting trust and constructive trust to domestic contexts in Chapter 2.

Secondly, I turn into the trust law applicable where mistress claims a beneficial interest in quasi-matrimonial home owned by her lover alone. This subject is important because property problems arising out of unmarried unions are increasing in number and complexity as the incidence of such unions increases. We find that the principles of law to be applied are basically the same as those of married couples where the claim is made by unmarried couples in Chapter 3. Thirdly, in Chapter 4, I take up and scrutinize the problems of Lord Denning's "new model constructive trust" and examine the principal objections to his Lordship's views, as compared with the judicial response to the new model constructive trust in the Commonwealth. Finally, I cast a glance at the important question about how to strike a balance between the conflicting interests of wives and other equitable co-owners in matrimonial home on the one hand and purchasers and lenders on the other hand, and I have a view of the remaining problems for us to solve in Chapter 5.