

Equity and Common Law: The Basics

Understanding equity can be an arduous task for even the most seasoned legal minds— just ask our moderator, Professor McFarlane, who hosts a lecture series on this very topic each year! To help bring you up to speed on all things equity and to ensure that you get the most out of our flagship discussion at Publication Evening, the OUULJ Team has put together this refresher on the key concepts, cases, and articles that Lord Briggs, Lord Sales, and Professor McFarlane will discuss!

Key Concepts

Equity

Historically, the Court of Chancery would step in to grant claimants a remedy in instances of grave injustice that would normally have failed as claims in the common courts. Over time, the Courts developed this practice into a robust rule of equity, founded on the same principle of preventing injustice, which has persisted to the modern day and continues to evolve with the common law.

Proprietary Estoppel

An equitable remedy whereby the Courts grant party A proprietary rights in land against party B who, by way of unconscionable conduct, had sought to deny party A of rights that they themselves had led party A to believe they had.

Knowing Receipt Liability

Knowing receipt liability arises where a non-trustee receives or continues to hold trust property despite the knowledge that doing so amounts to a breach of trust.



Key Cases

1. *Guest v Guest* [2022] UKSC 27:
Judgment, Press Summary.
2. *Byers v Saudi National Bank* [2023] UKSC 51:
Judgment, Press Summary.
3. *Wolverhampton City Council v London Gypsies and Travellers* [2023] UKSC 47: Judgment, Press Summary.

Key Articles

- Lord Briggs, 'Equity in Business' (published later at (2019) 135 LQR 567)
- Lord Briggs, 'Loose Ends in Accounting for Profits' in 'Equity Today: 150 Years after the Judicature Reforms' (Hart, 2023)
- Lord Sales, 'The Interface between Contract and Equity'
- Lord Sales, 'Proprietary Estoppel: Great Expectations and Detrimental Reliance' (published later in 'Modern Studies in Property Law: vol 12' (Hart, 2023))
- Lord Sales (with P Davies) 'Controlling Contract Discretions: Wednesbury Reasonableness, Good Faith and Proper Purposes' (2024) 140 LQR 106

