

MALAYSIAN LAW OF TRUSTS

Editor
DR MOHSIN HINGUN

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EDITOR: DR MOHSIN HINGUN



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CONTENTS

<i>Preface</i>	i
<i>Contents</i>	iii
<i>Table of Cases</i>	v
CHAPTER 1	
Introduction to Trusts	1
<i>(Dr. Mohsin Hingun)</i>	
CHAPTER 2	
Express Private Trusts	23
<i>(Dr. Mohsin Hingun)</i>	
CHAPTER 3	
Constitution of Express Trusts	39
<i>(Dr. Zuraidah Ali)</i>	
CHAPTER 4	
Resulting Trusts	63
<i>(Dr. Zuraidah Ali)</i>	
CHAPTER 5	
Constructive Trusts	87
<i>(Dr. Aiman Nariman Mohd Sulaiman)</i>	
CHAPTER 6	
Non Charitable Purpose Trusts	109
<i>(Dr. Hamimah Hamzah)</i>	

CHAPTER 7	
Charitable Trusts	131
<i>(Dr. Hamimah Hamzah)</i>	
CHAPTER 8	
Appointment, Retirement, Removal of Trustees...	173
<i>(Dr. Olaitan Sarafadeen Nafiu)</i>	
CHAPTER 9	
Duties of Trustees	201
<i>(Dr. Mohsin Hingun)</i>	
CHAPTER 10	
Powers of Trustees	231
<i>(Dr. Halyani Hassan)</i>	

CHAPTER FOUR

RESULTING TRUSTS

ZURAIDAH ALI *

The two types of trust implied by law are resulting trusts and constructive trusts. Although in a number of cases, judicial pronouncements on the two trusts are treated as one and same¹ it is important to note, that the principles on which they are based, are different. If property is transferred to trustees, a resulting trust arises in circumstances where the beneficial interest 'results back' (resultare = spring back) to the settlor. According to Underhill² resulting trusts of property arise in the following cases:

- (a) when property is transferred to a trustee, upon trusts which do not wholly dispose of the beneficial interest;

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¹ See Lord Denning in *Hussey v. Palmer* [1972] 1 WLR 1286. See also *Gissing v. Gissing* [1971] AC 886, *Tinsley v. Milligan* [1993] 3 AllER 65, *Rupar v. Rupar* (1964) 46 DLR (2d) 533.

² Underhill, p. 295.