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WHAT ARE ACCUMULATIONS AND WHY THEY REMAIN IMPORTANT

David K L Raphael

The law as to accumulations of income under trusts is often thought of as a difficult academic matter not relevant in practice. This article seeks to upset that view. It explains the origins of the present rules and how proper consideration of the circumstances in which beneficiaries may benefit from accumulating income may result in tax savings and other benefits. 92

POSSESSION OF LAND: MISSTEPS IN THE CONTROL ANALYSIS – PART 2

Chris Boge

Part 1 of this article explored the development of new approaches to the concept of possession in respect of land. A false approach to the concept has emerged in England, and to some extent in Australia. In particular, possessory remedies have been used to vindicate, or are considered available for the protection of, rights of occupation or use of land or various “degrees of control” of land. This Part considers more recent directions in the English and Australian positions and the parallel development of the ideas of possession enforceable against limited third parties and “possession for a purpose”. 100

RESTITUTION SANS RESCISSION: EXPOSING THE MYTH OF A FALLACY

Daniel Morris

Critics of *Renard Constructions (ME) Pty Ltd v Minister for Public Works* (1992) 26 NSWLR 234 say that the court in that case confused termination with rescission when awarding restitutionary quantum meruit (RQM) to the plaintiff contractor against the repudiating principal. This alleged confusion became known as the “rescission fallacy”. This article seeks to disprove the existence of the rescission fallacy and goes on to argue that in fact, *Renard* and subsequent cases did not go far enough because they only established the contractor’s right to “get what its work is worth” where the contract’s failure was the principal’s fault. In fact, a repudiating contractor should be recognised as having the same rights because RQM has not been fault-based since unjust enrichment replaced implied promise or quasi-contract as the juridical basis for RQM awards. 117

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