

Book Review

SINGAPORE TRUSTS LAW¹

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1 When I was a student, which was not too long ago, there was, apart from *Property and Trust Law in Singapore*,³ no other local textbook which focused solely on the topic of "Equity and Trusts". This was somewhat frustrating because as a student, textbooks were the beacons of light for all of us lost sheep wandering through the cases, trying to make sense of the legal propositions for which these cases stood. Aside from the exposition of the law, textbooks are invaluable for another reason – the veritable gold mine of information found in the footnotes which contain references to local and foreign cases, or other academic works.

2 There was, of course, Graham Virgo's *The Principles of Equity & Trusts*⁴ which was useful to a certain extent given that Singapore's trust law is heavily influenced by English law. That text, however, was written for an English audience so one had to take due care in perusing its contents – after all, Singapore law cannot be said to be a carbon copy of English law.⁵ To give an example, the Singapore Court of Appeal had, in *Chan Yuen Lan v See Fong Mun*,⁶ declined to adopt the common intention constructive trust approach laid down by the majority of the House of Lords in *Stack v Dowden*,⁷ noting that the "departure from the resulting

1 LexisNexis, 2021.

2 This review is written in the author's personal capacity. The opinions expressed in this review are entirely the author's own views and do not reflect the views or positions of the entities the author belongs to.

3 Alvin See, Yip Man & Goh Yihan, *Property and Trust Law in Singapore* (Wolters Kluwer, 2019) which provides an excellent introduction to trust law, as well as its connection with the law of property.

4 Oxford University Press, 4th Ed, 2020.

5 Legal autochthony, however, does not necessarily entail departing from the English position for the sake of doing so. See *CHS CPO GmbH v Vikas Goel* [2005] 3 SLR(R) 202 at [87]. See also, Andrew Phang, "Of Generality and Specificity – A Suggested Approach Toward the Development of an Autochthonous Singapore Legal System" (1989) SAcLJ 68.

6 [2014] 3 SLR 1048.

7 [2007] 2 AC 432.

trust solution so far as domestic property is concerned, appears to be the consequence of changing economic and social conditions in England”⁸

3 *Singapore Trusts Law* fills this gap in the local literature, providing a detailed summary of trust law in Singapore. There are 18 chapters to the book which may be broadly split into three main parts. The first part, which covers chapters 1 to 5, introduces the reader to the basic principles which lie at the heart of trust law, viz, the historical roots of equity, basic equitable principles, the three certainties and the distinction between trusts and gifts, and trusts and powers. This part equips the reader with the background information and context required to understand the exposition of the legal principles in subsequent chapters and is perhaps the most useful to students approaching trust law for the first time. In particular, the succinct exposition of the historical development of equity is particularly useful – knowing the historical origins of a legal rule and how it developed over time is,⁹ at least in this author’s view, particularly useful in helping one grasp the relevant legal principles.

4 The second part, which spans chapters 6 to 13 introduces the reader to non-charitable purpose trusts, unincorporated associations as well as the various type of trusts (eg, resulting trusts, constructive trusts and *Quistclose* trusts). The third part, which spans chapters 14 to 18, discusses the duties and powers of a trustee, a trustee’s liability and remedies that one may seek for breach of trust. These chapters provide a comprehensive, accurate, yet succinct survey of the law as it stands in Singapore. The leading cases are discussed, and where relevant, approaches taken in other jurisdictions (eg, the UK and Australia) are examined.¹⁰

5 One may be tempted to quibble that the text does not extensively cover matters of a practical import such as matters of private international law related to the trust context,¹¹ the use of trusts in context of private client and wealth management,¹² or the tax treatment of trusts. But then,

8 [2014] 3 SLR 1048 at [127]. See also Rachel Leow, “The Death of *Stack* in Singapore” (2019) 135 *Law Quarterly Review* 535.

9 See William Cornish *et al*, *The Oxford History of the Laws of England* vols XI–XII (Oxford University Press, 2010).

10 Christopher Hare & Vincent Ooi, *Singapore Trusts Law* (LexisNexis, 2021) ch 12.

11 For example, see *Ivanishvili, Bidzina v Credit Suisse Trust Ltd* [2020] 2 SLR 638; *Crociani v Crociani* [2014] UKPC 40; Soh Kian Peng, “Trusts and Jurisdiction Clauses – *Crociani* Revisited” (2020) 26(10) *Trusts & Trustees* 997, citing Adam Hofrih-Winogradow, “Trust Jurisdiction Clauses: Their Proper Ambit” (2017) 13(3) *Journal of Private International Law* 519 and Tan Ruo Yu, “Jurisdiction Clauses in Trust Instruments” (2015) LMCLQ 278.

12 See eg, Richard Nolan, Kelvin Low & Tang Hang Wu, *Trusts and Modern Wealth Management* (Cambridge University Press, 2018).

as the authors point out, the aim of this text was to focus on “analysing the fundamental legal principles and the theoretical foundations” for trusts as opposed to the myriad of issues which arise in practice,¹³ and that the scope of the text would likely be expanded in subsequent editions to include coverage of issues commonly encountered in practice. One hopes that the authors will indeed realise the second, expanded edition of the text – that would be an invaluable addition to what is already an excellent volume.

13 Christopher Hare & Vincent Ooi, *Singapore Trusts Law* (LexisNexis, 2021) at p vi.