

FAULT IN EQUITY

Speaker: Professor Graham Virgo, Downing College, University of Cambridge
Chairperson: Assistant Professor Rachel Leow, NUS Law

WEDNESDAY, 07 AUGUST 2019, 5.00 PM – 6.15 PM (REGISTRATION STARTS AT 4.30 PM)
LEE SHERIDAN CONFERENCE ROOM, EU TONG SEN BUILDING LEVEL 1, NUS LAW (BUKIT TIMAH CAMPUS)

ABOUT THE SEMINAR

In *Williams v Central Bank of Nigeria* [2014] UKSC 10 Lord Sumption said:

*'the ancillary liability of a stranger to the trust arises independently of any fraud on the part of the trustee. This has always been recognised in the case of ancillary liabilities on the footing of **knowing** receipt. A liability on that basis does not require proof of any dishonesty on anyone's part. Knowing assistance is different. It is based on **fraud**. But it is now clear that knowing assisters are liable on account of their own **dishonesty**, irrespective of the dishonesty of the trustees ... The liability of a knowing assister has always depended on the **unconscionability** of his **conduct**... In practice the trustee usually is dishonest and the alleged constructive trustee's **conscience** is affected because he has participated in the scheme with **knowledge** of that fact.'* (bold added)

In the space of one paragraph, the whole gamut of equitable fault is encompassed without any acknowledgment that these terms might bear different meanings. The purpose of this talk will be to determine what, if anything distinguishes, these types of equitable fault. In doing so, it will be necessary to consider the history of conscience and unconscionability, since this provides the key to understanding the purpose and function of fault in Equity. Knowledge, fraud, dishonesty and bad faith will be considered and a fundamental dichotomy will be identified between notions of fault which focus on the state of the defendant's mind and those which focus on an assessment of the defendant's behaviour. In doing so, order can be achieved out of chaos and apparent inconsistencies between leading cases can be resolved.

ABOUT THE SPEAKER



Professor Graham Virgo is Senior Pro-Vice-Chancellor for Education, and Professor of English Private Law in the Faculty of Law. He is a Fellow of Downing College, where he was previously Senior Tutor and Director of Studies in Law. He was previously Deputy Chair of the Faculty of Law. He is a barrister and Academic Bencher of Lincoln's Inn. His main research interests are in the fields of the Law of Restitution, Equity and Trusts and the substantive Criminal Law.

PROGRAMME

4.30PM : Registration & Light Refreshments
5.00PM : Seminar
6.00PM : Q&A Session
6.15PM : End

REGISTRATION

There is no registration fee but seats are limited.

To register, please visit <https://nus.edu/2J4lfQ9> or scan the QR code.

Closing Date:
Thursday, 01 August 2019, 12 noon



CONTACT PERSON

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