5. Beneficiary principle

**Question:** when will a trust be void for want of a beneficiary, and what manner of beneficiary will be necessary?

**General reading:** Hudson, Chapter 4

### The nature of the beneficiary’s rights in the trust fund

**Reading:** Hudson, section 4.1

### The principle in Saunders v Vautier

*Saunders v Vautier* (1841) 4 Beav 115

### The beneficiary principle.

**Reading:** Hudson, section 4.2

1) The general principle


"There can be no trust, over the exerice of which this court will not assume control ..If there be a clear trust, but for uncertain objects, the property... is undisposed of... Every...[non-charitable] trust must have a definite object. There must be somebody in whose favour the court can decree performance" (per Lord Grant M.R.).

*Bowman v Secular Society Ltd* [1917] AC 406

2) The strict, traditional principle

*Leahy v. Att.-Gen. for New South Wales* [1959] A.C. 457 (trust for ‘such order of nuns’ as trustees shall select) – this case is considered in detail below.

*Re Grant’s WT* [1979] 3 All ER 359 (gift “for the benefit of the HQ of the Chertsey CLP” = void purpose trust; see below).

(C) Alternative interpretations of the beneficiary principle

**Reading:** Hudson, section 4.2

1) Interpreting what is ostensibly a purpose trust as being a trust for the benefit of persons

*Re Denley’s Trust Deed* [1969] 1 Ch. 373 (trust “directly or indirectly for the benefit of individuals” = people trust and therefore valid.)

2) Transfer interpreted to be a gift

*Re Lipinski’s W.T.* [1976] Ch. 235 – gift (“a clear distinction between …a purpose … clearly intended for the benefit of ascertained or ascertainable beneficiaries …, and the case where no beneficiary at all is intended … or where the beneficiaries are unascertainable”)

www.alastairhudson.com | © professor alastair hudson