14. Constructive trusts – bribery

Profits from bribes

Reading: *Hudson, para 12.4.1*

The leading case: constructive trust over property acquired with the bribes; plus personal liability if value of property falls

**Att-Gen for Hong Kong v. Reid** [1994] 1 All ER 1, 4-5; [1994] AC 324, 330; [1993] 3 WLR, *per* Lord Templeman:-

“A bribe is a gift accepted by a fiduciary as an inducement to him to betray his trust. A secret benefit, which may or may not constitute a bribe is a benefit which the fiduciary derives from trust property or obtains from knowledge which he acquires in the course of acting as a fiduciary. A fiduciary is not always accountable for a secret benefit but he is undoubtedly accountable for a secret benefit which consists of a bribe. In addition a person who provides the bribe and the fiduciary who accepts the bribe may each be guilty of a criminal offence. In the present case the first respondent was clearly guilty of a criminal offence. / Bribery is an evil practice which threatens the foundations of any civilised society. In particular bribery of policemen and prosecutors brings the administration of justice into disrepute. Where bribes are accepted by a trustees, servant, agent or other fiduciary, loss and damage are caused to the beneficiaries, master or principal whose interests have been betrayed. The amount of loss or damage resulting from the acceptance of a bribe may or may not be quantifiable. In the present case the amount of harm caused to the administration of justice in Hong Kong by the first respondent in return for bribes cannot be quantified.”

*Tesco Stores v Pook* [2003] EWHC 823

*Daraydan Holdings Ltd v Solland International* [2004] EWHC 622, [2004] 3 WLR 1106, [2005] Ch 1

nb: *Lister v. Stubbs* (1890) 45 ChD 1 [now over-ruled by *Reid*]