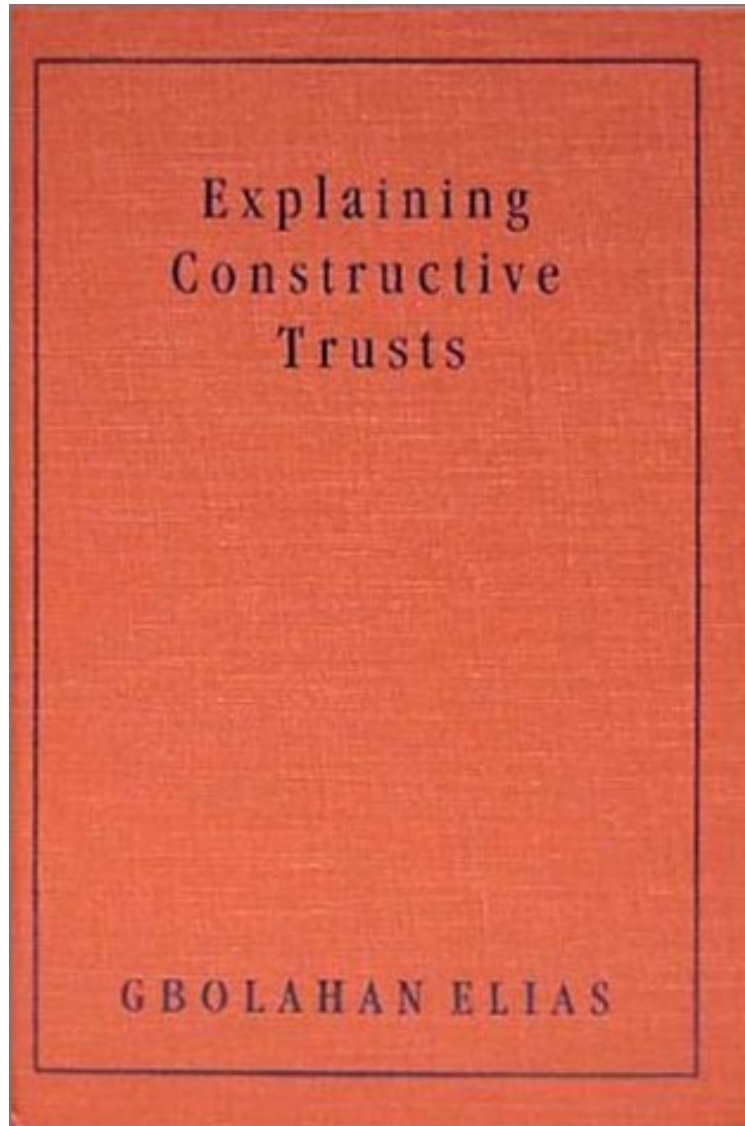


[Ebook free] Explaining Constructive Trusts

Explaining Constructive Trusts

Gbolahan Elias

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Gbolahan Elias : Explaining Constructive Trusts before purchasing it in order to gage whether or not it would be worth my time, and all praised Explaining Constructive Trusts:

Reprint of the first and only edition. Originally published: Oxford: Clarendon Press; Oxford University Press, 1990. xxii, 177 pp. Concerned with "rationalizing the rules" (Preface p. v) of constructive trusts, this reappraisal of the English law of trusts discounts two major existing theses regarding the rules (first, that, based on the North American

experience, they should be considered as instruments of restitution; and second, that they are disorganized) and advances Elias' new thesis that "the rules should be regarded as instruments for the rational furtherance of three good aims: (1) making disponents abide by their dispositions...(2) making those who gain through loss to others give the gains up to those others...(3) making those who inflict losses on others repair those losses..." (Preface p. v). Revision of the author's Ph.D. thesis at Oxford University.

Elias' book *Explaining Constructive Trusts*, marks an important landmark in the development of this legal institution. Elias explained and ultimately rejected two extreme ways of understanding the constructive trust. On the one hand is the thesis, still widely accepted in North America, that all constructive trusts arise to prevent unjust enrichment. On the other hand is the traditional view, still popular in England, that constructive trusts respond to such a wide range of situations that it is impossible to classify them in any meaningful way in terms of their causative events. Elias developed an intermediate thesis in which the known constructive trusts could be grouped into coherent but differentiated categories. Some do indeed arise to prevent unjust enrichment; but others arise to perfect a party's intention in relation to the disposition of his assets; and still other cases in which the language of constructive trust have been used are actually cases of compensation for loss wrongfully caused. Much of the subsequent work on understanding constructive trusts has been built on these foundations. --Lionel Smith, Faculty of Law, McGill University