

Proprietary Rights And Insolvency In Sales Transactions

Taking Security explains how security 'the creation and enforcement of proprietary rights to secure the payment of a monetary liability' is taken under English law. It offers a detailed explanation of types of security, creation, priority and enforcement. The book is mainly concerned with property and insolvency law, two areas where security is tested and enforced. Authoritative in approach, this highly respected book provides guidance on both the legal principles and practical issues involved in taking and challenging security. The book is accordingly broken down into the following parts: Part A: Types of Security (Chapters 2-4): what types of security are available to a creditor, what are the differences between pledges, mortgages and fixed and floating charges, and what are their advantages and disadvantages? Part B: Creating Security (Chapters 5 and 6): how is security created in practice and what requirements are there to register the security? Part C: Priority of Security (Chapter 7): what are the priorities between the creditor and another person who obtains an interest in the secured asset? Part D: Enforcing Security (Chapters 8 and 9): how is security enforced, what liabilities can be incurred as a result of enforcing security, and how can the onset of insolvency proceedings against the debtor affect the enforcement of security? Part E: Security Arising by Operation of Law (Chapter 10): in what circumstances is security created without the necessity for an agreement between the debtor and the creditor? Part F: Alternatives to Security (Chapters 11 and 12): to what extent can a creditor protect himself against the insolvency of the debtor in other ways, for instance, by taking a guarantee from a third party or by relying on a right of set-off? Part G: International Security (Chapters 13 and 14): what issues arise where the transaction is of a cross-border nature.

These essays, dedicated to Gareth Jones, consider the past, present, and future of the law of restitution.

Contents: Effect on insolvent's property. Effect on proprietary rights and remedies. Property of the insolvent. Setting aside transactions. Disclaimer of property. Leases. Security interests. Guarantees. Co-ownership.

This highly-praised textbook provides detailed and incisive coverage of all aspects of restitution. The author's expert analysis and clarity of style will be invaluable to both students and practitioners with an interest in this area of law.

An Obstacle to the Internal Market?

Commentary and Materials

Personal Property Law

Principles and Policy

Property and Trust Law in Lithuania

This book discusses the main legal and economic challenges to the creation and enforcement of security rights in intellectual property and explores possible avenues of reform, such as more specific rules for security in IP rights and better coordination between intellectual property law and secured transactions law. In the context of business financing, intellectual property rights are still only reluctantly used as collateral, and on a small scale. If they are used at all, it is mostly done in the form of a floating charge or some other "all-asset" security right. The only sector in which security rights in intellectual property play a major role, at least in some jurisdictions, is the financing of movies. On the other hand, it is virtually undisputed that security rights in intellectual property could be economically valuable, or even crucial, for small and medium-sized enterprises - especially for start-ups, which are often very innovative and creative, but have limited access to corporate financing and must rely on capital markets (securitization, capital market). Therefore, they need to secure bank loans, yet lack their own traditional collateral, such as land.

The second edition of this acclaimed book continues to provide a discussion of key theoretical and policy issues in corporate finance law. Fully updated, it reflects developments in the law and the markets in the continuing aftermath of the Global Financial Crisis. One of its distinctive features is that it gives equal coverage to both the equity and debt sides of corporate finance law, and seeks, where possible, to compare the two. This book covers a broad range of topics regarding the debt and equity-raising choices of companies of all sizes, from SMEs to the largest publicly traded enterprises, and the mechanisms by which those providing capital are protected. Each chapter analyses the present law critically so as to enable the reader to understand the difficulties, risks and tensions in this area of law, and the attempts made by the legislature and the courts, as well as the parties involved, to deal with them. This book will be of interest to practitioners, academics and students engaged in the practice and study of corporate finance law.

Comparative research in the area of property law is gaining importance. Against the background of the current discussion of developing model rules, aimed at facilitating European private law harmonization, and of ongoing law reform projects in a number of EU Member States, this volume addresses key issues in the field of the transfer of corporeal movable property. Authors from various European countries discuss classical issues of property law, such as the dichotomies of "consensual" versus "delivery" and "causal" versus "abstract" transfer systems, good faith acquisition, and the role of party autonomy in the field of the transfer of ownership. In addition, a special focus is given to the less well-known - but at least equally fundamental - difference between "unitary" transfer approaches, as applied in continental Europe, and the "functional" approach, as followed in Scandinavian countries. Further contributions discuss fiduciary transfers, avoidance in bankruptcy, the question of where to draw the line between obligatory and proprietary rights, the role of intellectual property rights, possession, and the EU law basis for the harmonization of property law. These contributions were presented at a conference held in Salzburg in February 2007, forming part of the activities of the working group "Transfer of

Movables" within the "Study Group on a European Civil Code."

The law of secured transactions has seen dramatic changes in the last decade. International organisations, particularly the United Nations Commission on International Trade Law (UNCITRAL), have been working towards the creation of international legal standards aimed at the modernisation and harmonisation of secured financing laws (eg, the United Nations Convention on the Assignment of Receivables in International Trade, the UNCITRAL Legislative Guide on Secured Transactions and its Intellectual Property Supplement, the UNCITRAL Guide on the Implementation of a Security Rights Registry and the UNCITRAL Model Law on Secured Transactions). The overall theme of this book is international (or cross-border) secured transactions law. It assembles contributions from some of the most authoritative academic voices on secured financing law. This publication will be of interest to those involved in secured transactions around the world, including policy-makers, practitioners, judges, arbitrators and academics.

Breach of Trust

Property Insolvency

The Transformation of Property Rights in Corporate Insolvency and Bank Resolution

Proprietary Rights and Insolvency in Sales Transactions

Proprietary Rights and Insolvency

Jan Jakob Bornheim analyses the hypothesis about the inherent efficiency of common law compared to civil law. He examines key commercial property law concepts (i.e., ownership and security interests in relation to movables) and determines the characteristics of each system with regard to these. Using the Canadian experience as a model, he then takes a close look at how the two legal systems interact, arguing that efficient interaction can take place on both vertical and horizontal planes. On the vertical plane, property law would be able to interact with higher-level law (e.g., federal law in a federal state); on the horizontal plane, property laws of different jurisdictions could interact through the conflict of laws. The author also contends that equitable property rights, including constructive trusts as a response to unjust enrichment, should be governed by property law choice-of-law rules.

For the students of B.Com. and B.Com.(H) courses of University of Delhi and other equivalent examinations of all other Indian Universities.

Der Band versammelt Beiträge, die anlässlich des 7. Seoul-Freiburger Rechtswissenschaftlichen Symposiums im September 2019 in Seoul gehalten wurden. Die Zusammenarbeit und der akademische Austausch zwischen den juristischen Fakultäten der Seoul National University (SNU) und der Albert-Ludwigs-Universität Freiburg hat eine alte und wertvolle Tradition der engen Beziehungen zwischen dem koreanischen und dem deutschen Recht lebendig gehalten. Das 7. Symposium war dem Thema "Rechtstheorie und -auslegung in einer dynamischen Gesellschaft" gewidmet und deckte ein breites Spektrum an Themen ab, die in sechs Sektionen unterteilt waren: I. Rechtstheorie und -auslegung, II. Unternehmensrecht, III. Internationales Privatrecht und Zivilprozessrecht, IV. Recht der künstlichen Intelligenz, Eigentumsrecht und Strafrecht. V. Vertragsrecht, und VI. das Verhältnis von supranationalem und innerstaatlichem Verfassungsrecht. Die meisten der auf dem Symposium gehaltenen Vorträge sind in diesem Band versammelt.

Derived from Kluwer's multi-volume Corporate Acquisitions and Mergers, the largest and most detailed database of M&A know-how available anywhere in the world, this work by a highly experienced team of lawyers from the leading international law firms Kinstellar, s.r.o. & KempHoogstad provides a concise, practical analysis of current law and practice relating to mergers and acquisitions of public and private companies in the Czech Republic. The book offers a clear explanation of each step in the acquisition process from the perspectives of both the purchaser and the seller. Key areas covered include: structuring the transaction; due diligence; contractual protection; consideration; and the impact of applicable company, competition, tax, intellectual property, environmental and data protection law on the acquisition process. Corporate Acquisitions and Mergers is an invaluable guide for both legal practitioners and business executives seeking a comprehensive yet practical analysis of mergers and acquisitions in the Czech Republic. Equivalent analyses of M&A law and practice in some 50 other jurisdictions, all contributed by leading law firms, are accessible on-line at www.kluwerlawonline.com. under Corporate Acquisitions and Mergers.

A Textbook of Business and Industrial Laws

Cases and Materials on the Law of Restitution

A Candidate for European Harmonisation Or National Reforms?

Essays in honour of Roderick A Macdonald

The law of personal property covers a very wide spectrum of scenarios and, unfortunately, has had little detailed scrutiny of its overarching structure over the years. It is a system and can best be understood as a system. Indeed, without understanding it as a system, it becomes much more difficult to comprehend. The second edition of this acclaimed textbook continues to provide a comprehensive yet detailed coverage of the law of personal property in England and Wales. It includes transfer of legal title to chattels, the nemo dat rule, negotiable instruments and assignment of choses in action. It also looks at defective transfers of property and the resulting proprietary claims, including those contingent on tracing, the tort of conversion, bailment and security interests. By bringing

together areas often scattered throughout company law, commercial law, trusts and tort textbooks, it enables readers to see common themes and issues and to make otherwise impossible generalisations across different contexts about the nature of the concepts English law applies. Throughout the book, concepts are explained rigorously, with reference to how they are used in commercial practice and everyday life. The new edition also includes a new chapter on secured transactions law reform, and introduces new material on the Cape Town Convention, IP rights and other intangible property. The book will be of primary interest to academics and practitioners in the area. However, it will also be of use to students studying commercial or personal property law.

An innovative examination of the law's treatment of property, this student textbook provides an extremely useful and readable account of general property law principles. It draws on a wide range of materials on property rights in general, and the English property law system in particular, looking at all kinds of property, not just land. It includes the core legal source materials in property law along with excerpts from social science literature, legal theory, and economics, many of which are not easily accessible to law students. These materials are accompanied by a critical commentary, as well as notes, questions and suggestions for further reading. It will be of interest to undergraduate property law students and to non-law students taking property law modules in courses covering planning, environmental law, economics and estate management.

Cases and Materials on the Law of Restitution is an authoritative and scholarly guide written by leading experts who have shaped and defined the law of restitution and unjust enrichment. Extensive coverage of cases and academic perspectives provides a rounded view of the subject. Introductions, notes, and questions enable readers to check their understanding of key issues. The second edition of this seminal title covers many important new cases and academic publications, including Birk's 'absence of basis' approach. The coverage reflects the continuing debates on questions such as: * what is an enrichment? * was the enrichment at the claimant's expense? * what is the role of tracing? * when will proprietary restitution be granted? * when does change of position operate as a defence? * and does corrective justice underpin this area of the law? The book's structure has been updated to reflect the judicial development of the law of restitution, providing a map through this complex subject. This book is invaluable for undergraduate, postgraduate, and doctoral students, as well as academics working in the area.

In this revised edition, Michael Bridge provides a comprehensive analysis of the complexities of English personal property law. It includes new material on key case law and statutory developments. An invaluable resource for those coming to the subject for the first time.

Montenegro

Divergences of Property Law

Perspectives and Principles

Corporate Acquisitions and Mergers in the Czech Republic

Restitution: Past, Present and Future

Relying on a 'tragedy of the commons/anti-commons' analysis, the paper seeks to develop a conceptual framework that explains and justifies both the procedural and substantive transformation of property rights in corporate insolvency and bank resolution. On that basis, the paper further seeks to predict one of the unintended consequences of the new bank resolution framework: a likely increase of the costs of capital for smaller and less complex institutions, that may result in a further consolidation of the banking sector over the long term. This goes against the underlying rationale of the bank resolution framework of effectively tackling 'too-big-to-fail'

Derived from the renowned multi-volume International Encyclopaedia of Laws, this practical analysis of the law of property in Japan deals with the issues related to rights and interests in all kinds of property and assets – immovable, movable, and personal property; how property rights are acquired; fiduciary mechanisms; and security considerations. Lawyers who handle transnational disputes and other matters concerning property will appreciate the explanation of specific terminology, application, and procedure. An introduction outlining the essential legal, cultural, and historical considerations affecting property is followed by a discussion of the various types of property. Further analysis describes how and to what extent legal subjects can have or obtain rights and interests in each type. The coverage includes tangible and intangible property, varying degrees of interest, and the various ways in which property is transferred, including the ramifications of appropriation, expropriation, and insolvency. Facts are presented in such a way that readers who are unfamiliar with specific terms and concepts in varying contexts will fully grasp their meaning and significance. The book includes ample references to doctrine and cases, as well as to relevant international treaties and conventions. Its succinct yet scholarly nature, as well as the practical quality of the information it provides, make this book a valuable time-saving tool for any practitioner faced with a property-related matter. Lawyers representing parties with interests in Japan will welcome this very useful guide, and academics and researchers will appreciate its value in the study of comparative property law.

Rev. ed. of: Proprietary rights and insolvency in sales transactions / by R.M. Goode. 1985.

This work is inspired by the comparative study published in The Interaction of Contract Law and Tort and Property Law in Europe (ISBN 3 935808 20 8-Cloth-\$79.00-2004). Out of a transnational (comparative and EU-oriented) perspective, the essays included discuss whether divergences of property law on contractual security rights in movables constitute an obstacle to the internal market and, if so, what solutions could be offered. Unification or harmonization of private international law cannot offer an adequate solution, while unification of domestic security laws could. However, the latter will take a very long time, partly due to the specific nature of property law. The contributing authors advocate the development of a European Security Right in Movables (ESRM) in addition to the respective contemporary national security rights. A real ESRM would clearly support free competition within the European Union. However, the development of an ESRM will take much time, in particular when dealing with the relation between that ESRM and domestic security rights in the member states. The reader will also find considerations on the contents of an ESRM and on the outlines of the required additional provisions.

Financial Sector Assessment Program-Framework for NonPerforming Loans Workout and Insolvency and Creditor Rights-Technical Note

Taking Security

Intellectual Property and Bankruptcy
Security Rights in Intellectual Property
Property Law in a Globalizing World

This book evaluates the requirement for specificity as a criterion for property rights in securities evidenced by electronic entries made on securities accounts. It compares English, US and Swedish law with the aim of finding viable solutions.

This paper examines the current state of nonperforming loans (NPLs) in Montenegro, assesses the regulatory and supervisory framework as well as the insolvency and creditor rights regime, and makes recommendations for strengthening the framework. The paper evaluates the legal, regulatory, and supervisory regimes in four key areas: (1) creditor rights and enforcement systems (for secured and unsecured credit); (2) debt recovery and informal enterprise workout practices; (3) formal insolvency system (liquidation and reorganization proceedings); and (4) effectiveness of the relevant institutional, regulatory, and supervisory frameworks in implementing laws, regulations, and supervisory requirements in this area. The local and regional boom-bust cycle has left a legacy of high NPLs in Montenegro.

Property Law in a Globalizing World identifies the paramount challenges that contemporary processes of globalization pose for the study and practice of property law. It offers a straightforward analysis of legal scenarios implicating cross-border property rights, covering a broad range of resources, from land, goods, and intangible financial assets, to intellectual property, data, and digital assets. This is the first scholarly book offering a detailed study of legal strategies that can decrease the gap between the domestic tenets of property law and the cross-border nature of markets, interpersonal networks, and technology. It shows how strategies of soft law, conflict of laws, harmonization and supranationalism rely to various degrees on cross-border property norms and institutions, and studies the proprietary features of security interests and priorities to assets in insolvency in a global setting. It also shows how digital technology such as blockchain can revolutionize the system of cross-border property rights.

Worthington provides a broad overview of personal property law in a commercial context, examining the various devices used by contracting parties and attempting to distil a theoretically rigorous framework to describe the relevant laws.

Property Law

Essays in Honour of Gareth Jones

The Principles of Personal Property Law

Symposium

The Transforming Notion of Property in Transnational Business Regulation

Derived from the renowned multi-volume International Encyclopaedia of Laws, this practical analysis of the law of property in Lithuania deals with the issues related to rights and interests in all kinds of property and assets – immovable, movable, and personal property; how property rights are acquired; fiduciary mechanisms; and security considerations. Lawyers who handle transnational disputes and other matters concerning property will appreciate the explanation of specific terminology, application, and procedure. An introduction outlining the essential legal, cultural, and historical considerations affecting property is followed by a discussion of the various types of property. Further analysis describes how and to what extent legal subjects can have or obtain rights and interests in each type. The coverage includes tangible and intangible property, varying degrees of interest, and the various ways in which property is transferred, including the ramifications of appropriation, expropriation, and insolvency. Facts are presented in such a way that readers who are unfamiliar with specific terms and concepts in varying contexts will fully grasp their meaning and significance. The book includes ample references to doctrine and cases, as well as to relevant international treaties and conventions. Its succinct yet scholarly nature, as well as the practical quality of the information it provides, make this book a valuable time-saving tool for any practitioner faced with a property-related matter. Lawyers representing parties with interests in Lithuania will welcome this very useful guide, and academics and researchers will appreciate its value in the study of comparative property law.

This interdisciplinary examination of corporate insolvency law assesses recent reforms and anticipates new legislation.

This thorough and detailed Research Handbook explores the complexity of governance of sales contracts in the modern world. It examines many topical aspects of sales law and practice, with considerable emphasis being placed on the diversity of: commercial and transactional contexts; in which sales contracts are made and performed, including digital technologies, long-term contracts and global supply chains and sources governing such contracts, particularly those emanating from commercial players, such as standard form contracts, trade usages and trade terms. Written by leading experts from an international and comparative perspective, the Research Handbook is relevant to anyone with an interest in commercial sales and contract law.

Proprietary Rights and Insolvency in Sales Transactions
Goode on Proprietary Rights and Insolvency in Sales Transactions

Proprietary Interests in Commercial Transactions

Tuesday 5th March 2013, Quay West, Auckland

Party Autonomy in International Property Law

International and Comparative Secured Transactions Law

The Law of Restitution

Regulatory Property Rights: The Transforming Notion of Property in Transnational Business Regulation offers fresh impetus for rethinking modern property theory.

Recent leading cases have demonstrated the urgent need to modernize the learning on breach of trust, which has lagged behind the flourishing scholarship on the creation of trusts.

Since breach of trust or fiduciary duty occupies the centre of the legal stage, it comes as a surprise that, although one or two novelists have chosen 'Breach of Trust' as the title to their

book, no lawyer has so far thought it necessary to produce a specialized work on the subject. To fill the gap, this book, written by a team of leading trust lawyers from a number of common law jurisdictions, investigates all the principal aspects of the subject. The nature of the trustee's duties and of the liability for breach is closely examined, and all available defences and excuses are reviewed. Two substantial chapters consider the consequences of assisting a breach or receiving trust property from a trustee acting in breach. The book closes with a critical overview of the entire topic. CONTENTS: 1 Robert Chambers 'Liability for Breach'; 2 Joshua Getzler 'The Duty of Care'; 3 Edwin Simpson 'The Conflict of Interest'; 4 David Fox 'Overreaching'; 5 Lionel Smith 'Property Transferred in Breach'; 6 Charles Mitchell 'Assistance'; 7 Peter Birks 'Receipt'; 8 James Penner 'Exemption clauses'; 9 John Lowry and Rod Edmunds 'Honest and Reasonable Breach' ; 10 Jennifer Payne 'Consent'; 11 William Swadling 'Limitation'; 12 Gary Watt 'Laches, Estoppel and Election'; 13 David Hayton 'An Overview'.

The Core Text Series takes the reader straight to the heart of the subject, providing a reliable and invaluable guide for students of law at all levels. Written by leading academics and renowned for their clarity, these concise texts explain the intellectual challenges of each area of the law. The Law of Trusts provides a concise, yet academically rigorous, textbook that skilfully engages with both controversial and complex issues within the subject. James Penner provides perceptive analysis and original and thought-provoking commentary to give students an excellent grounding in what is considered to be a challenging subject. Drawing on a variety of learning features, including summaries of key issues discussed in each chapter, must-read cases, assessment questions, and carefully selected further reading, this approachable and thorough textbook equips students with the tools they need to engage critically with the subject.

Party autonomy is a subject that is traditionally rejected in the field of property law. Legal systems throughout Europe and most parts of the world still found their property law on the *lex situs*. This point of view, however, is challenged more and more. The immense intensification of worldwide trade may have turned boundaries between countries into barriers in a world that needs flexibility. This book deals with important questions concerning this problem, including: What happens to property rights related to movables and claims when borders are crossed? Do we recognize a German retention of title or an American security right? Which law will apply: the law of the country of origin, the *lex situs* or the law of the country of destination? How does legislation concerning financial instruments relate to the problem, and what is it all worth in insolvency situations?

Property Rights in Investment Securities and the Doctrine of Specificity

The Law of Trusts

Goode on Proprietary Rights and Insolvency in Sales Transactions

Property and Trust Law in Japan

Proprietary rights and insolvency

"This topical title explains the circumstances in which a creditor of an insolvent debtor can take priority over other creditors by claiming a proprietary interest in assets held by the debtor. It focuses on the situation where the proprietary interests are created by operation of law or implied from the arrangements between the parties, rather than by express transfer or taking of security. The book clarifies the current state of the law in an important area of insolvency law (especially in times of economic crisis) where the law is not settled, taking into account the latest developments in case law, and suggesting how it might be simplified by going back to first principles, such as the way proprietary interests are transferred at common law and in equity. The book concerns both insolvency law and property law, being essentially concerned with the limits of the law of property, marking out its boundary with the law of obligations. It is of particular importance in common law systems because of the nature of equitable proprietary interests, and includes reference to Commonwealth authorities where relevant, including Australia, New Zealand and Canada. This work provides a structured and principled analysis of the topical and important area of creditors' proprietary rights in the event of insolvency of a debtor"--Provided by publisher.

This new edition of *Unjust Enrichment* by the editor of the Clarendon Law Series, is a fully updated, clear and concise account of the law of unjust enrichment. It attempts to move away from the use of obscure terminology inherited from the past. This text is the first book to insist on the switch from restitution to unjust enrichment, from response to event. It organises modern law around five simple questions: Was the defendant enriched? If so, was it at the claimant's expense? If so, was it unjust? The fourth question is then what kind of right the claimant has, and the fifth is whether the defendant has any defences. This second edition was revised and updated by Peter Birks before his death from cancer on 6 July 2004 at the age of 62. It represents the final thinking of the world's leading authority on the subject.

Can a Framework for an Efficient Interaction of Common Law and Civil Law Be an Alternative to Uniform Law?

Unjust Enrichment

Proprietary and Quasi-proprietary Rights Arising Upon Insolvency

Corporate Insolvency Law

Corporate Finance Law