



Knowing receipt:

How has Byers v Saudi National Bank [2023] UKSC 51 changed existing thinking about knowing receipt and dishonest assistance?

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Start with the basics: knowing receipt

- (1) Breach of trust / fiduciary duty owed by T
- (2) Receipt by D of C's assets / their traceable proceeds
- (3) Knowledge on part of D that assets are traceable to a breach of trust / fiduciary duty

Start with the basics: dishonest assistance

- (1) Breach of trust / fiduciary duty owed by T
- (2) Conduct by D in procuring or assisting that breach
- (3) Dishonesty on part of D
- Disgorgement of profits made by D, not by T:
Hotel Portfolio II UK Ltd v Ruhan [2023] EWCA Civ 1120 at [86]

Byers v Saudi National Bank: the facts

- C: Saad Investments (Cayman)
- T: Mr Maan Al-Sanea
- D: Samba Financial Group / SNB (Saudi)
- Trust assets: shares in five Saudi companies
- Effect of Saudi Arabian law: destruction of proprietary interest



Byers v Saudi National Bank: the boundaries of knowing receipt

- (1) Property transferred to mere volunteer
- (2) Property transferred to equity's darling
- (3) Equity's darling subsequently discovers breach
- (4) Equity's darling transfers property to X
- (5) Equity's darling transfers property back to T
- (6) Extinction of proprietary interest by law

Remaining areas of uncertainty (1)

- Knowledge requirement: such as to make it unconscionable for D to retain the benefit
- Byers at [82]: “*an unruly and unpredictable test*”
- Knowing receipt claims against banks
- Agip (Africa) Ltd v Jackson [1990] Ch 265

Remaining areas of uncertainty (2)

- Knowing receipt claims brought by money laundering vehicles
- Harrington & Charles Trading Company v Mehta [2023] EWHC 2420 (Ch)
- Winsome > web of companies (including Cs) > Ds
- Whether money laundering vehicle acquires proprietary interest in monies