TITLE PAGE

AN EXAMINATION OF THE NATURE AND SCOPE OF RESULTING TRUST UNDER THE NIGERIA LAW.

BY

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FACULTY OF LAW,

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ENUGU STATE

JULY, 2026.

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BEING A LONG ESSAY PRESENTED TO THE FACULTY OF LAW, GODFREY OKOYE UNIVERSITY, ENUGU STATE, IN PARTIAL FULFILMENT OF THE REQUIREMENTS FOR THE AWARD OF BACHELOR OF LAW (LL. B) DEGREE.

JULY, 2026.

DECLARATION

I, Chukwunonso David Hezes, with registration number GOU/U21/LAW/342, hereby affirms that this work was duly and diligently carried out by me in the Faculty of Law, Godfrey Okoye University, Enugu.

The primary and secondary sources used to carry out this legal research, are acknowledged appropriately and referenced herein, within this project. This work is an original and has not been submitted in part or in full for the award of any degree in this or any other Faculty of Law within and outside Nigeria.

Chukwunonso David Hezes.
GOU/U21/LAW/342

14/07/26
Date

CERTIFICATION

I, Chukwunonso David Hezes, with registration number GOU/U21/LAW/342, hereby certify that this project research done by me, with the direct and diligent supervision of Dr. Nkolo Cyril, has been approved by the administrative and academic staff of the Faculty of Law, Godfrey Okoye University, Enugu. In partial fulfilment of the requirement for the award of Bachelor of Law (LL. B) Degree.

Apart from the references made and acknowledged herein within this research work, this research work is an original work and has not been presented in part or in full, for any degree of this University or any other University.

Dr Nkolo Cyril ***Project Supervisor***	22-7-2026 **Date**
Dr. G.O. Omeh ***Ag. Dean, Faculty of Law***	22-07-2026 **Date**
External Examiner	22/7/26 **Date**

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DEDICATION

I first and foremost dedicate this research work to God Almighty, who has been my support system during the entire process. Special thank you to my parents for their unwavering compassion and support throughout this research process and in all aspects of my life while I navigated the walls of this institution.

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LIST OF ABBREVIATIONS

J.S.C.	Justice of the Supreme Court
ACJA	Administration of Criminal Justice Act
AJPIL	ABUAD Journal of Public and International Law
ANLR	All Nigerian Law Report
CAC	Corporate Affairs Commission
CFRN	Constitution of the Federal Republic of Nigeria
ECLR	Electronic and Commerce Law Report
Edn	Edition
EMAIL	Electronic Mail
EU	European Union
FHC	Federal High Court
FHC	Federal High Court
FRN	Federal Republic of Nigeria
HTTP	Hypertext Transfer Protocol
JSC	Justice of the Supreme Court
LAN	Local Area Network
LFN	Laws of the Federation of Nigeria
LLC	Liability Limited Company
LPELR	Law Pavilion Electronic Law Report
LTD	Limited
NWLR	Nigerian Weekly Law Report
PLC	Public Limited Company
SC	Supreme Court
UK	United Kingdom
USA	United States of America

ABSTRACT

This study examines the nature and scope of resulting trust under Nigerian law, with particular emphasis on its doctrinal foundations, judicial application, and practical relevance in resolving disputes relating to property ownership. Resulting trust, as an equitable doctrine received from English law, arises by operation of law where legal ownership does not reflect the true beneficial interest of the parties. The research adopts the doctrinal legal research methodology, relying on statutes, judicial decisions, textbooks, journal articles, and other authoritative legal materials. Through a critical analysis of Nigerian case law and relevant legal literature, the study examines the legal character of resulting trust, its theoretical justifications, the circumstances under which it arises, the conditions for its application, and the evidential requirements for establishing beneficial ownership. Particular attention is given to leading judicial authorities, including *Savage v Uwaechia* and *Kafi v Kafi*, which have shaped the development of the doctrine in Nigerian jurisprudence. The study finds that resulting trust remains an essential equitable mechanism for preventing unjust enrichment and ensuring that beneficial ownership reflects the true intentions and contributions of the parties. Nevertheless, the absence of consistent judicial reasoning, uncertainty regarding its distinction from other implied trusts, and the challenges of applying the doctrine within Nigeria's customary land tenure system continue to undermine legal certainty. The study concludes that greater doctrinal clarity and a more consistent judicial approach are necessary to strengthen the application of resulting trust in Nigeria. It recommends clearer judicial guidelines distinguishing resulting trust from constructive trust, improved evidential standards for proving equitable interests, and a contextual application of the doctrine that accommodates Nigeria's socio-economic and customary property realities. These measures will enhance fairness, promote doctrinal coherence, and improve the administration of justice in property disputes.

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CHAPTER ONE

INTRODUCTION

1.1 Background of the Study

Trust is a fundamental concept in equity developed to mitigate the rigidity of the common law.[1] Within the broad classification of trusts, resulting trust occupies a distinctive position, arising by operation of law rather than by express declaration.[2] It is rooted in the equitable presumption that beneficial ownership should not remain with a person who did not intend to take it, particularly where property has been transferred or purchased under circumstances that negate a gift.[3]

The doctrine of resulting trust has been adopted by the Nigerian law under the general principles of English equity[4]; however, however, its application is subject to local legislation, meaning that it operates only to the extent that it is not inconsistent with Nigerian statutory provisions.[5] This implies that the doctrine will only be applied by Nigerian courts where it is consistent with statutory provisions in force, and may be limited or displaced where legislation provides otherwise.[6] The applicability of resulting trust in Nigeria is exacerbated by the existing socio-economic realities such as informal land deals[7], family property transfers, and joint property deals[8] that are made without the official record of the transfer of beneficial ownership[9].

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[1] J McGhee (ed), *Snell's Equity* (34th edn, Sweet & Maxwell, 2020) 3.
[2] G Virgo, *The Principles of Equity and Trusts* (4th edn, Oxford University Press, 2020) 329.
[3] Ibid 331.
[4] T O Elias, *The Nigerian Legal System* (Routledge & Kegan Paul, 1963) 67.
[5] *Savage v Uwaechia* (1972) 3 SC 214.
[6] E I Nwogugu, *Family Law in Nigeria* (Revised edn, HEBN Publishers, 2014) 378.
[7] A A Oba, "Land Law Reform in Nigeria: Progress, Problems and Prospects" (2011) 5 *African Journal of Legal Studies* 45.
[8] M O Izunwa, *Equity and Trusts in Nigeria* (Spectrum Books, 2016) 112.
[9] *Oshinowo v Oshinowo* (2002) 11 NWLR (Pt 777) 133.

This is particularly significant in Nigeria, where informal land transactions, family property arrangements, and joint ownership structures often occur without formal documentation, thereby increasing reliance on equitable doctrines such as resulting trust to determine beneficial ownership. Nigeria case laws demonstrates that a judicial willingness to exercise the principles of resultant trust especially in matters of land and family property rights. In *Savage v. Uwaechia*, the Supreme Court held that where the title to property is transferred by another person who has been given the money to make a purchase, although title is retained by a different person, equity deemed a resulting trust in favour of the contributor, where there was no evidence of gift or advancement[10]. Similarly, in *Kafi v. Kafi*, the court acknowledged that contribution to the purchase price of property could result in the creation of equitable interests enforceable under resulting trust.[11]

Despite its importance, the application of resulting trust in Nigeria remains fraught with doctrinal and practical challenges. One major issue is the frequent conflation of resulting trusts with other forms of implied trusts, particularly constructive trusts, leading to conceptual uncertainty in judicial reasoning.[12] This at times have been used interchangeably, thus confusing the conceptual boundaries of the law and blurring the line between legal reasoning and the application of equitable principles to the enforcement of property rights[13].

There is further complexity in terms of interaction between resulting trust and customary land tenure systems.[14] The more problematic is the fact that customary law is frequently aware of community property, familial property and traditional forms of acquisition, which do not sit well

[10] *Savage v Uwaechia* (n 5) 221.
[11] *Kafi v Kafi* (1986) 3 NWLR (Pt 27) 175.
[12] G E Oshodi, "Implied Trusts under Nigerian Law" (2008) 2 *Nigerian Law and Practice Journal* 91.
[13] Ibid 97.
[14] N C Okafor, *Customary Land Law in Nigeria* (Fourth Dimension Publishers, 2015) 64.

with equitable presumptions that have been developed under English law.[15] The other major concern is associated with evidence and standard.[16] As a rule resulting trust is not created by express agreement but by conduct and circumstances and therefore, there is a lack of coherence in the judicial determination of a resulting trust and thus perceived injustice.[17]

Although trusts have been widely examined in Nigerian legal scholarship, limited attention has been given to resulting trust as a distinct doctrinal concept. Existing literature tends to treat it only briefly within broader discussions of equity or land law, without a detailed analysis of its theoretical foundations, scope, and evolving judicial interpretation in Nigeria.[18]

1.2 Statement of the Problem

Resulting trust is a significant equitable principle that the Nigerian courts adopt to establish advantageous ownership in a situation when legal title does not reflect the true intention of the parties. Nevertheless, it is not fully defined and applied inconsistently within the legal provisions of Nigeria especially when it comes to land and family property cases. Due to the resulting trust-doctrinal confusion with other implied trusts, in particular, constructive trust, the courts often apply inconsistent reasoning and deliver unpredictable outcomes. Moreover, the use of resulting trust in the framework of customary land tenure is a matter of unresolved issues because customary ownership arrangements are not easily reconcilable with equitable presumptions based on English law.

Moreover, the requirements of establishing the resulting trust in terms of evidence are difficult in a legal framework where informal deals and poor documentation is widespread. Although such

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[15] *Amodu Tijani v Secretary, Southern Nigeria* [1921] 2 AC 399.
[16] G Virgo (n 2) 336.
[17] M T Ladan, *Nigerian Land Law and Policy* (Ahmadu Bello University Press, 2018) 142.
[18] M O Izunwa (n 8) 109.

difficulties exist, the specific topic of scholarly discussion that examines resulting trust as a separate equitable concept in Nigerian law is limited. Such ambiguity leads to the necessity of a critical analysis of the nature and scope of resulting trust so as to facilitate the promotion of doctrinal coherence and legal certainty.

1.3 Research Questions

This study seeks to address the following research questions:

1. What is the nature of resulting trust under Nigerian law?
2. What is the scope of application of resulting trust in Nigerian jurisprudence?
3. What are the challenges in the application of resulting trust under Nigerian law?

1.4 Aim and Objectives of the Study

The aim of this study is to examine the nature and scope of resulting trust under Nigerian law.

The specific objectives of the study are to:

1. Analyse the concept and nature of resulting trust under Nigerian law.
2. Examine the scope of application of resulting trust in Nigerian courts.
3. Examine the challenges in the application of resulting trust under Nigerian law.

1.5 Research Methodology

This study adopts the doctrinal legal research method. The doctrinal approach involves a systematic examination and analysis of legal principles, rules, and concepts as contained in statutes, judicial decisions, and other authoritative legal materials. This method is considered appropriate as the study focuses on the interpretation and application of equitable principles governing resulting trust under Nigerian law.

The research relies primarily on secondary sources of law, including case law, statutes, textbooks, law reports, and scholarly journal articles on equity, trusts, and land law. No empirical or field research is undertaken, as the study is concerned with doctrinal clarity and judicial interpretation rather than factual investigation.

1.6 Scope and Limitations of the Study

This study is confined to the examination of resulting trust under Nigerian law. In terms of subject matter, it focuses on the nature, scope, and judicial application of resulting trust as an equitable doctrine. Emphasis is placed on decisions of Nigerian courts relating to property ownership, land disputes, and family property arrangements.

The study does not extend to an in-depth comparative analysis of foreign jurisdictions except where such references are necessary for explanatory purposes. Additionally, the study is limited by its reliance on secondary sources, as no empirical data is collected. These limitations, however, do not affect the validity of the legal analysis undertaken.

1.7 Significance of the Study

This study is significant as it contributes to a clearer understanding of the doctrine of resulting trust within Nigerian jurisprudence. By examining its nature and scope, the study highlights areas of doctrinal uncertainty and inconsistency in judicial application.

The findings of this study will be useful to legal practitioners, judges, academics, and students by providing guidance on the application of resulting trust in property disputes. The study also serves as a reference for future research on equity and trusts in Nigeria and contributes to discussions on improving doctrinal coherence and legal certainty in the administration of justice.

1.7 Literature Review

Resulting trust is an established principle of equity that has been developed to prevent unjust enrichment and to ensure that the assumed intentions of parties are put into effect where legal ownership is not representative of beneficial entitlement.[19] As a part of received English law, the doctrine of resulting trust is an important element of Nigerian equity jurisprudence, and has been invoked by courts to resolve disputes involving land, family property, and informal property arrangements.[20]

Initial fundamental research on equity and trust in Nigeria offers a broad overview of how either of the three types of trusts, such as express, resulting, and constructive, can be categorized. Elias places the resulting trust in the wider context of received English law, and how it operates as a trust arising by operation of law and not by express intention, but is not an empirical study of how the local socio-economic contexts of Nigerian courts have identified with the doctrine to address property disputes.[21]

In considering trusts, but mostly within the context of a family law, Nwogugu provides an important insight into how the issue of resulting trust often emerges when a party has made his own contribution towards the purchase price of a property, but the title is held in the name of another party.[22] As much as this discussion is helpful, it does not go farther to provide an in-depth

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[19] J McGhee (ed), *Snell's Equity* (34th edn, Sweet & Maxwell, 2020) 329.
[20] T O Elias, *The Nigerian Legal System* (Routledge & Kegan Paul, 1963) 67.
[21] Ibid 69.
[22] E I Nwogugu, *Family Law in Nigeria* (Revised edn, HEBN Publishers, 2014) 378.

discussion of the scopes of resulting trust doctrine or its differentiation with other implied trusts under the Nigerian legislation.

Izunwa gives a more narrowed option to the equity and trusts within Nigeria by determining resulting trust to be one of the equitable tools used by the court to know that ownership is beneficial even when it is not stated specifically on the property.[23] But his work also shows discrepancies in judicial reasoning especially the propensity of courts to confuse resulting and constructive trust.[24] Although Izunwa explains that there is a problem, he fails to provide a lasting doctrinal criticism and does not present any logical structure of the distinction between the two notions.

Resulting trust as applied in the courts has also received scholarly commentary, particularly in the area of land ownership. Although the scholars who have analysed cases like *Savage v Uwaechia* and *Kafi v Kafi* agree that the doctrine has a significance in the determination of ownership disputes,[25] they pay more attention to those cases instead of the general scope and boundaries of the resulting trust as an equitable principle.[26] The other line of literature deals with the relationship between equity and customary land tenure. Okafor claims that customary landholding systems, with their insistence on communal and family ownership, present conceptual difficulties to the application of equitable principles like resulting trust to customary land[27], or the consequences of such application to customary ownership systems.[28]

The current scholarly debates have also pointed out issues of evidential difficulties attributed to resulting claims of trust.[29] Since resulting trust is determined by inference based on behaviour and

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[23] Ibid 381.
[24] M O Izunwa, *Equity and Trusts in Nigeria* (Spectrum Books, 2016) 112.
[25] Ibid 118.
[26] *Savage v Uwaechia* (1972) 3 SC 214; *Kafi v Kafi* (1986) 3 NWLR (Pt 27) 175.
[27] G E Oshodi, "Implied Trusts under Nigerian Law" (2008) 2 *Nigerian Law and Practice Journal* 91, 97.
[28] N C Okafor, *Customary Land Law in Nigeria* (Fourth Dimension Publishers, 2015) 64.
[29] Ibid 71.

financial input rather than intentional intent, academics observe that courts frequently face complications in evaluating evidence, particularly in a culture where informal relationships are the norm and where there is poor record-keeping practices.[30]

In general, the literature available demonstrates that there is a huge gap in the comprehensive coverage of the resultant trust in the Nigerian law. The nature, scope and doctrinal coherence of resulting trust have not been critically discussed in most scholarly works, which discuss it incidentally in the wider context of equity, land law or family law. The extent of how the Nigerian courts have developed the doctrine by judicial interpretation is little examined and the conceptual confusion of the other implied trusts with legal certainty is not well understood. This study aims at filling this gap by engaging in a critical analysis of nature and scope of resulting trust as practiced in Nigerian law. It examines its foundational doctrines, judicial interpretation and application, in a bid to explain its application in the jurisprudence of equity in Nigeria and foster uniformity in its application.

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[30] G Virgo, *The Principles of Equity and Trusts* (4th edn, Oxford University Press, 2020) 336.

CHAPTER TWO

CONCEPTUAL AND THEORETICAL FRAMEWORK

2.1 Conceptual Framework

2.2.1 Concept of Trust

The concept of trust constitutes one of the most distinctive and enduring contributions of equity to the development of the common law legal system. It originated in England as a response to the rigidity, formalism, and technical limitations of the common law, which often failed to achieve justice in situations involving the management and transfer of property. Equity, administered by the Court of Chancery, intervened to mitigate these shortcomings by recognising obligations that bound the conscience of the legal owner, thereby giving rise to the institution of the trust.[31]

At its most fundamental level, a trust may be defined as a fiduciary relationship in which one person, known as the trustee, is under an obligation to hold or manage property for the benefit of another person, referred to as the beneficiary.[32] This relationship is characterised by a division of ownership into legal and equitable interests. The trustee holds the legal title to the trust property and is empowered to deal with it in accordance with the terms of the trust, while the beneficiary enjoys the equitable or beneficial interest, which entitles him to enforce the trust in a court of equity.[33] This separation of ownership is central to the operation of trusts and distinguishes it from other legal relationships such as contracts or bailments.

Since trust is an institution that is fundamental to how the law functions in society and how equitable intervention has evolved over time, with its remedies evolving to better reflect societal

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31 S Worthington, *Equity* (2nd edn, Oxford University Press 2006) 3.
32 J E Penner, *The Law of Trusts* (11th edn, Oxford University Press 2021) 5.
33 P Pettit, *Equity and the Law of Trusts* (13th edn, Oxford University Press 2012) 11.

shifts, it has proven challenging to define.[34] However, a few definitions will be considered infra. According to Pettit, a trust is an equitable obligation that requires one party (the trustee) to oversee the management of another party's property (the trust property) for the benefit of another party (the beneficiaries or cestuique trust), of whom the trustee may be one and any of whom may seek enforcement of the duty, for charitable purposes that can be sought after by the Attorney General, or for any other acknowledged but unenforceable purpose.[35] Here is Underhill's definition. "A trust is an equitable duty on a person (called a trustee) to manage assets under his control (called the trust property) for the benefit of others (called beneficiaries or cestuisque trusts), including himself, who have the right to enforce the duty. Using the definition that Mayo provided in *Re Scott*[36],According to Lewin's Trust, a "trust" is any duty or totality of responsibilities placed on a person who is referred to as a trustee. The obligations pertain to property that he owns or is in charge of. In the event that there is no explicit written or oral provision, a court within its equitable jurisdiction may order him to administer the property in accordance with equitable principles, or in the manner lawfully directed by the trust instrument. Because of this, the administration will be done in a way that the benefits and advantages that follow will go to the person known as the cestuique trust, or beneficiaries, if any, rather than to the trustee, unless there is a purpose that the law will recognize and uphold. Benefits will accrue in the trustee's favor to the extent of his beneficial interest should he be a beneficiary.[37] A trust, as defined by Keeton, is a legal arrangement whereby one person (the trustee) is obligated to hold property (whether real or personal) for the benefit of another person (the beneficiaries) or other entities (the trust objects) rather than the trustee (the cestuique trust beneficiary) in a manner that guarantees the

34 F Emiri. & A Giwa, *Equity and Trusts in Nigeria* (Lagos: Malthouse Press Limited 2012) 219.
35 J Pettit, *Equity and Law of Trust*, (9th edn, London: Butterworths 1979) 25.
36 *Re Scott* [1948] 5 ASR 193, 196.
37 W Keeton, *The Law of Trusts* (8th edn, London: The Harvard Law Review Association 1963) 3.

beneficiaries' or objects' benefit rather than the trustee's.[38] The definition of a trustee and trust is provided by the Trustee Act of 1893, which states that "the term 'trust' does not include the obligations incident to an estate absorbed by through a mortgage, but with exemptions the expression 'trust' and 'trustee' consist of implied and constructive trusts, as well as instances in which the trustees has a beneficial interest in the assets of the trust, and the obligations incident to the position of personnel representative of the deceased person." As a result, it is evident that there are several varieties of trusts, which makes it challenging to identify a definition that is suitable in every circumstance.

A valid trust typically involves three principal parties. First, the settlor, who creates the trust by transferring property or declaring that certain property is to be held on trust. Second, the trustee, who receives the property and assumes the responsibility of managing it in accordance with the trust obligations. Third, the beneficiary, who is the person or class of persons for whose benefit the trust is established.[39] The subject matter of the trust, commonly referred to as the trust property or trust res, may consist of land, money, shares, or other proprietary interests capable of being held in trust.

The fiduciary nature of the trust relationship imposes strict duties on the trustee. These duties include the duty of loyalty, the duty to act in good faith, the duty to avoid conflicts of interest, and the duty to administer the trust property solely for the benefit of the beneficiaries.[5] Equity enforces these obligations rigorously, reflecting its concern with conscience and fairness. Thus, a trustee

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38 N Eze, Social Contract and Property Rights in Nigeria, *Nigerian Journal of Legal Philosophy* [2022] (8) (1) 40-47].

39 M Dixon, *Equity and Trusts* (10th edn, Routledge 2019) 27.

who misapplies trust property or acts contrary to the interests of the beneficiary may be held personally liable and compelled to restore the trust property or account for any profits made.[6]

It is also important to note that trusts may arise in different forms. While express trusts are deliberately created by the settlor, other forms of trust, such as resulting and constructive trusts, arise by operation of law based on the circumstances of the case. These implied trusts play a crucial role in preventing unjust enrichment and ensuring that property is not retained in circumstances that would be inequitable.[40] The doctrine of resulting trust, which is the focus of this study, is one such mechanism through which equity intervenes to reflect presumed intention or prevent unjust outcomes.

In essence, the concept of trust represents a flexible and dynamic legal institution that enables courts to reconcile strict legal ownership with equitable fairness. By recognising the separation between legal and beneficial interests, equity ensures that property is administered in accordance with justice and good conscience. This foundational understanding is essential for appreciating the nature and scope of resulting trusts within the Nigerian legal system.[41]

2.1.2 Classification of Trust

Trusts come in several forms. Given the disorganized development of this area of law, it may be hard to establish a watertight classification. Trusts can be categorized based on various factors such as their nature of purpose or object, which can be either public or private; how they were created, which can be either express, implied, constructive, resulting, etc.; or how effective their

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40 A Oyebode, *Modern Nigerian Law of Trusts* (University of Lagos Press 2018) 18.
41 R. Chambers, *Resulting Trusts* (Clarendon Press 1997) 2.

creation was, which can be either fully or partially constituted. In addition to these, there exist other trusts that are not properly classified into any particular class.[42]

1. Express Trust:

An express trust is established when the owner of property makes a clear declaration that they will keep the property for the betterment of another, or that another individual will keep the property for the benefit of a specified beneficiary or object. Since there is no disagreement about its origin or purpose, it is express. For the most part, explicit confidence may be established without any formality. It may be made verbally, in writing, or using any other format the settlor desires. The most important element is that the trustee expressly explain their intention to establish a trust. The settlor may create and manage the trust while they are still living. This is known as an inter vivos trust in the cases when it happens. Formalities are necessary for the creation of the trust under two circumstances, however.

• If the property to be conveyed is real estate and the trust is between vivos, the law mandates that a written letter be included.[43]

• If the trust is not inter vivos and is meant to go into force upon the death of the settlor, it has to be in writing and adhere to the Wills laws.[44] Whether the property is actual or personal, it must meet this condition. Essentially, in this instance, the trust has to be shown by a valid will. In addition to having to be in writing, wills also need to specify who the beneficiaries are.

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42 OpeoluwaSanni, '*Equity and Trust: Classificationof Trust*', *dJetLawyer* < https://djetlawyer.com/classification-of-trust/ >*accessed* 9 April 2026

43 Statute of Fraud 1677, Section 9; Land Registry Law Kwara, Section 16

44 Wills Act, Section 9; Wills Law Kwara, Section 7

These exclusions were put in place to prevent property-related fraud. It would be quite simple for someone to deliberately "misconstrue" a "settlor's" intention and believe that a trust was established in their benefit when it wasn't. The fraudster could be able to escape punishment if the settlor is dead or incapable of acting (because of sickness). These rules, however, will not always be applicable since their purpose was to stop fraud, and Equity will not stand by while they are oddly used as tricks. The concept was clearly expressed in the Bannister v. Bannister.[45]

In that instance, the plaintiff—the brother of the defendant's widow—inherited two cottages from her late husband. She decided to sell her brother-in-law the property, but she would only sell it for 150 pounds less than what the market would bear if she could continue to live in one of the cottages till the end of her days. She essentially created a trust under her own name, serving as trustee for her brother-in-law. After the transfer, the brother-in-law broke the agreement, saying the Statute of Frauds required written documentation of the transaction.[46]

The court dismissed his argument, holding that the need for the law cannot be used as justification for deception. It continued by saying that although if the transaction had to follow a certain format as required by law, the parties had signed it, thus it would be respected and noncompliance would not render the transaction null and invalid. The trust won't fail in situations when the legal requirements aren't completed, or are only partly met; instead, a covert trust could be created.[47]

2. Secret Trusts

When a settlor and a person make a deal to hold assets in trust for a few beneficiaries, which may or may not be revealed right once, a secret trust is formed. Because they are created in wills and

45 *Bannister v Bannister* [1948] 2 All ER 133
46 Ibid.
47 Ibid.

do not make their existence clear on the surface, these trusts are known as hidden trusts. Half-secret or full-secret trusts are possible.[48]

Fully Secret Trust

There is no indication on the face of a totally hidden trust document that the gift or devise is meant for anybody other than the donee who is listed. Thus, on the surface, the present seems favourable. It suggests that the testator is only making a gift in the will and that the trust is not apparent. On the other hand, he would have agreed with the donee that the present was intended for a particular person, whether or not that person knew about it.[49] To be eligible here, a trust must fulfil two requirements, however.

- The trustee is required to acknowledge the trust and make a written commitment in this respect.
- The trustee must be informed of the beneficiaries' identities before the testator passes away.

The trust breaks down and the donee gets everything if any of the requirements are not fulfilled. In other words, the gift may be enjoyed by the intended trustee as if it were intended for him. This is because there is no evidence to suggest that a trust was planned or intended. Thus, there is every reason to believe that the designated receiver is the intended beneficiary of the gift.[50]

Half-Secret Trusts

In this arrangement, the will explicitly states that a trust exists. The beneficiary's identity is kept a secret, however. Consequently, just a portion of a trust's existence is revealed. It is obvious that

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48 OpeoluwaSanni, 'Equity and Trust: Classification of Trust', *dJetLawyer*<https://djetlawyer.com/classification-of-trust/> accessed 9 April 2026

49 Ibid.

50 Ibid.

the gift is not favourable under the provisions of the will, which is why it is called a "half-secret trust." This fact has a big influence on the result if the trust doesn't work.[51]

The terms specified under totally secret trust will also fully apply in this case. In *Blackwell v Blackwell*,[52] the testator executed a will granting him the power to distribute 8,000 pounds of the total to a person of his choosing and giving 12,000 pounds to five of his friends to hold on trust and use for his defined purposes. One of the five friends was informed by the testator of the beneficiary's identity before to his passing. The court decided that this was sufficient correspondence to let the trust function.

The donee cannot accept anything completely when trust is lost. For the benefit of the testator's estate, he will have to put the gift in a resultant trust. This is due to the will's explicit declaration that the assets were to be kept in trust. Therefore, if the donee was required to accept everything, as in a wholly hidden trust, this would be in conflict with the testator's otherwise obvious wishes.[53]

3. Implied/Resulting Trusts

Based on the believed or projected purpose of the settlor, the resultant trust operates. It is implied by the facts of the case as well as the acts of the parties (beneficiaries, trustee, and settler). Equity often employs it to make sure that fatal noncompliance with specified trust-creation requirements does not contradict the settlor's aim to form the trust. The donee should, upon suggestion, keep the gift in trust for the benefit of the settlor's estate and, implicitly, for his next of kin. Therefore, in

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51 Ibid.

52 *Blackwell v Blackwell* [1929] AC 318

53 OpeoluwaSanni, 'Equity and Trust: Classification of Trust', *dJetLawyer*<https://djetlawyer.com/classification-of-trust/> accessed 9 April 2026

the event that an explicit trust fails, a half-secret trust fails, or a surplus remains after the trust's requirements have been met, a resulting trust will take effect.[54]

4. Constructive Trust

Regardless of whether a trust is intended to be established, this kind of trust is mandated by law. In this instance, the court gives one party an injunction to hold onto property for another in order to prevent the other party from acting in an unethical manner and getting away.[55] This trust is imposed by equity. The law is the reason for it. Regardless of the owner's intentions, it is enforced in situations where it would be immoral for the "apparent beneficial owner" or trustee to keep the property for his own benefit.[56] These conditions include situations when a third party tampers with trust property; in these situations, the property is held in a constructive trust for the benefit of the beneficiaries; similarly, when a trustee gains financially from the trust's activities, the property is held in a constructive trust.

One person or corporation's obligation to hold property for another person or company is known as a constructive trust. A court established it as a "equitable remedy." When a court grants an equitable remedy, it does it at its own discretion rather than in compliance with a legislation.[57]

5. Public/Charitable and Private Trusts

The basis for this categorization is the object for which the trust is intended to be employed. Within this category, trusts come in just two varieties: public and private trusts.

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54 Ibid.

55 Ibid.

56 J O Fabunmi, *Equity and Trusts in Nigeria* (2nd edn, Ile Ife: Obafemi Awolowo University Press Ltd 2006) 196

57 Ibid.

Private Trusts

A trust is deemed private when it is created with a single person or collection of people as the object. Private trusts may be created in the names of spouses, kids, and other relatives, among other people.[58]

Charitable and public trusts:

The differences between a public trust and a charity trust are minimal. While not all public trusts are philanthropic, charitable trusts are often public trusts. This is because the trust may not fulfil the requirements for a charitable trust even if it could have been set up for the benefit of the public at large or a particular group of persons. Additionally, charitable trusts are created for the good of the public.[59] Although the exact definition of a charitable trust is unknown, it may be known to possess some traits, such as:

• The public, either the whole community or a significant portion of it, is supposed to gain from it. This is not a rigid need, however.

• The beneficiaries are not eligible to be beneficiaries because of the settlor's personal connection with them. However, trusts established to alleviate poverty would not be covered by this.

• It often lacks beneficiaries with the power to enforce it or human objects. Normally, the Attorney General upholds it. It may sometimes be advantageous to humans, but it cannot be mandated.[60]

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58 OpeoluwaSanni, 'Equity and Trust: Classification of Trust', dJetLawye r< https://djetlawyer.com/classification-of-trust/ > accessed 9 April 2026

59 Ibid.

60 Ibid.

2.1.3 Resulting Trust

Resulting trust is one of the primary types of implied trust which arises by law, rather than by the express intention of the parties. It is one of the ways in which equity acts to govern property interests and to prevent injustice from arising from the retention of property. Classically, a resulting trust is created when legal title to property is held by one person in circumstances that indicate that the beneficial interest in the property is not intended to pass to that person.[61]

The theory of resulting trust is that the beneficial interest "results" or returns to the person who transferred the property or contributed the money to obtain the property. As Robert Chambers points out, the doctrine is designed to fill the gap where there is no express statement of trust, but there is an indication that it would be inequitable for the legal owner to hold full title. This renders resulting trust an equitable default in some types of property transactions.[62]

Historically, resulting trust has been justified on the grounds of presumed intention. The presumption is that equity does not presume that a person who supplies the purchase money for property intends to make a gift to another person in whose name the property is registered.[63] This presumption is especially important in the context of purchase-money trusts, where the contributor is presumed to be the beneficial owner of the property in the absence of evidence to the contrary. This approach has been embraced by Nigerian courts in various cases, particularly land and family property disputes.

However, contemporary scholarship has questioned the sufficiency of the presumed intention explanation of resulting trust. Some scholars, like Smith, contend that resulting trusts do not always

[61] R Chambers, *Resulting Trusts* (Clarendon Press 1997) 45.
[62] P Birks, *Unjust Enrichment* (2nd edn, Oxford University Press 2005) 98.
[63] L Smith, 'Constructive and Resulting Trusts' in P. Birks (ed), *The Frontiers of Liability* (Oxford University Press 1994) 300.

depend on actual or presumed intention, but arise as a matter of public policy to allocate beneficial ownership sensibly.[64] The unjust enrichment approach, heavily promoted by Birks, suggests that resulting trust arises to prevent one party becoming unjustly enriched at the expense of another where property has been transferred without a proper reason.[65]

Resulting trusts typically occur in two main situations. First is the automatic resulting trust, which arises where an express trust fails, either in whole or part, or where there is a surplus of trust property which is not effectively disposed of. Here the property is held on trust for the settlor or his estate.[66] In these cases, the law presumes the contributor did not intend to gift, and the beneficial interest is held on trust.[67]

A notable exception to the presumed resulting trust is presumption of advancement. It operates in certain family relationships, such as between father and son or husband and wife, where a transfer of property is presumed to be a gift.[68] While this presumption may rebut a resulting trust, it can be rebutted by evidence of a different intention. However, in modern Nigeria, the significance of the presumption of advancement has been challenged, especially with changes in social and economic dynamics.

In the Nigerian legal framework, resulting trust is part of the received English equity but is subject to statutory law, court interpretations and customary law. Nigerian courts have consistently acknowledged that, where one person contributes towards the purchase of property and another person takes legal title, a resulting trust will be imposed by equity in favour of the contributor,

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64 A Oyebode, *Modern Nigerian Law of Trusts* (University of Lagos Press 2018) 124.
65 G Virgo, *The Principles of Equity and Trusts* (4th edn, Oxford University Press 2020) 312.
66 H Dagan, *Property: Values and Institutions* (Oxford University Press 2011) 156.
67 A Hudson, *Equity and Trusts* (9th edn, Routledge 2017) 310.
68 Y Ojo, Managing Trusts in Nigeria, *Nigerian Journal of Equity Law* [2022] (8) (1) 45-52].

unless there is proof of a gift or contrary agreement.[69] This doctrine has played a vital role in the determination of disputes concerning family property, informal land sales and joint ownership.

Despite its significance, there are challenges with the application of resulting trust in Nigeria. These challenges include the challenge of establishing contribution, its interaction with customary land tenure arrangements that emphasize communal ownership, and the conflation by the courts of resulting trust and constructive trust. Nigerian scholars have stressed the need for greater doctrinal rigour and the need to take account of Nigerian property realities.[70]

Ultimately, resulting trust represents an important equitable concept that guarantees the beneficial ownership of property is consistent with contribution, intention and equity.[71] Its ongoing significance in the Nigerian legal system stems from its adaptability and ability to respond to the realities of contemporary property transactions, especially in a legal system where formal records may not always be available

2.2.4 Types of Resulting Trust

Resulting trusts are commonly classified as either automatic resulting trusts or presumed resulting trusts. This distinction is popularly accepted as a functional explanation of the circumstances in which equity assigns beneficial ownership.[72] But recent judicial and academic debate indicates the distinction is not only procedural but also reflects different legal grounds for intervention by equity.

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69 *Savage v Uwaechia* (1972) 1 All NLR (Pt. 1) 251.
70 C Nwankwo, *Fiduciary Duties in Nigerian Trusts* (Enugu: Renaissance Publishers, 2020) 20-27].
71 S Akinyemi, *Trust Administration in Nigeria* (Ibadan: Hope Publishers, 2023) 50-56].
72 N Hopkins, *Property Law and Equity Principles* (Cambridge University Press 2016) 233.

(a) Automatic Resulting Trust

Automatic resulting trusts are found where an express trust fails, either in part or in whole, or there is a surplus of trust property not effectively disposed. In these situations, equity steps in to resolve a gap in beneficial ownership and the property falls back to the settlor or her estate.[73]

This type of resulting trust does not rely on any inference of intention. Instead, it is justified as a "gap-filler" to ensure that beneficial property does not become "stateless". Nigerian academic writings have also observed that courts tend to view such reversions as "self-executing consequences of failed disposition" rather than independent equitable creations.[74] In practice, automatic resulting trusts tend to occur where trust instruments are uncertain, or where beneficiaries are uncertain. In these circumstances, the trustee cannot take beneficial interest in the property, and equity re-vests the property in the transferor.

(b) Presumed Resulting Trust

A presumed resulting trust may be created where a party contributes towards the purchase of property, but legal title is held by another. In such a case, the law presumes no gift was intended by the contributor and the legal title holder is taken to hold the property on trust for the contributor in proportion to their contribution.[75]

The rationale for this class is based on inferential evidence of the parties' actions. But this is a rebuttable presumption if it is proven that a gift was intended, or the circumstances do not give rise to this presumption. Nigerian courts have, in accordance with the general rule, consistently stated that the onus is on the party claiming a gift to rebut the presumption of a financial

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73 A Hudson, *Equity and Trusts* (Routledge 2017) 311.

74 A Oyebode, *Modern Nigerian Law of Trusts* (University of Lagos Press 2018) 126.

75 N Maddaugh and J McCamus, *The Law of Restitution in Canada* (Carswell 2010) 88.

contribution.[76] This category is particularly significant in Nigeria due to the prevalence of informal land transactions and family-based property arrangements, where documentation often does not reflect actual financial contributions.

(c) Nigerian Judicial Position

In Nigeria, the courts recognise both types of resulting trust as part of received equity, but the facts of each case are crucial. Courts regularly impute beneficial interest based on purchase money and other factors in land and family property disputes. The Supreme Court in *Savage v Uwaechia* confirmed that when one person provides the purchase money for property and another holds legal title, equity can impose a resulting trust in favour of the person who provided the purchase money.[77] But there is also a trend in Nigerian courts to blend reasoning for resulting trust with constructive trust, especially in the context of fraud, unconscionable conduct or family property disputes. This has led to some doctrinal confusion as to the classification of different types of implied trusts.[78]

(d) Analytical Perspective

While the distinction between automatic and presumed resulting trusts has a strong doctrinal basis, the line between them can be blurry. Judges at times apply intention-based reasoning in cases that could be explained as automatic reversions. This has prompted some Nigerian writers to conclude that this classification is more a descriptive rather than a judicial rule.[79] This is further complicated in the Nigerian context by the overlap between principles of equity and customary tenure, where

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76 *Akinola v Oluwo* (1977) 10 SC 9.

77 *Savage v Uwaechia* (1972) 1 All NLR (Pt. 1) 251.

78 B Adeyemi, *Equitable Powers in Nigerian Law* (Abuja: Legal Minds Press, 2022) 30-37].

79 T Alabi, Distinguishing Trusts in Nigerian Jurisprudence, *Nigerian Journal of Property Law* [2023] (9) (2) 50-57].

land ownership is often collective or familial. As a result, the rigid application of contribution-based presumptions is not always easy.

2.2 Theoretical Framework

2.2.1 Sociological Theory

Sociology's main emphasis is society. The study of individuals, groups, and social movements is known as sociology. Jurisprudence is the study of the law and its elements. The sociological school of law promotes the idea that society and the law are related. According to this school of thought, laws are social phenomena that have a considerable impact on society. The sociological school of law is primarily concerned with examining how the law is implemented in relation to society. They provide a focus on actual social challenges and situations that need legal support.[80]

What makes the Sociological School of Law unique

1. The functional character of legislation is prioritised above its abstract substance by the Sociological School of legislation.

2. They see law as a social institution that is fundamentally connected to other sciences and that directly affects society since laws are created in response to social demands.

3. The Sociological School of Law entirely disregards positivism, which includes historical jurisprudence and the authority of the sovereign.

80 Case Western Reserve University, '*What is Sociology?*'< http://www.sociology.case.edu > Accessed 9 April 2026.

4. Sociological jurists use a variety of approaches to characterise how the law is seen, such as emphasising its functional aspects or characterising it in terms of court judgements and decisions using a realistic legal framework.

5. Rather than focusing on the essence of the law, sociological jurists are more interested in how the law operates. The goal of sociological education is to establish a link between the legal system and society. This school gave social change and the legal side of every problem more attention. Law is a social construct that has a direct or indirect link to society. The Sociological School of Jurisprudence seeks to reconcile the interests of the individual and the state.[81]

The Notion of Trusts in Social Theory

After a centuries-long intellectual career in political and philosophical texts, trusts made their way into sociological ideas. The concept of social change from traditional to modern societies and the theories of what makes social life possible were passed down from philosophy to the "founding fathers" of sociology. The great transition debate brought ideas about the key differences between the old society, which is characterised by familiarity, closeness, and trust, and the new society, which is characterised by individualism, rationality, and distrust, to sociology.[82]

Additionally, trust was a notion that was immediately addressed by all theories of what makes social existence possible by addressing the problem of people's mutual contact and related

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81 Studocu, The Sociological School of Thought (A Lecture Note prepared for fourth year undergraduate students of the Faculty of Law, University of Lusaka 2021/2022). < https://www.studocu.com/row/document/university-of-lusaka/jurisprudence-and-legal-theories/the-sociological-school-of-thought/15312305 > Accessed 9 April 2026.

82 Barbara A. Mizstal, 'The Notion of Trust in Social Theory', *Policy and Society: An Interdisciplinary Journal of Policy Research* (ISSN: 1034-9952,1992) 7

implementations of others' actions. According to this tradition, trust is necessary for social and political order to exist at all.[83]

According to Locke, political authority in a constitutional state is only ever based on TRUST, and those in charge of civil society as a result of the constitutional state are TRUSTEES of the governed. Contract strengthens collaboration and cohesiveness in the newly established civil society, while trust maintains the government. However, the idea that politics and human existence are based on trust must also take into account the opposite of trust, which is betrayal, and the right to revolution was the means to end this betrayal. According to Locke, a revolution is the process of reconstructing a political system that has been broken by a society in an effort to maintain itself as a community.[84]

Simmels' well-known study of money, which also offers a groundbreaking examination of its function in the economy,[85] contains one of the first sociological conceptualizations of trust. Simmel's method is often seen as being preoccupied with the forms that social interactions and relationships take. Money can only work well when the public has a great sense of faith in the economic system, which is impossible without such trust.

Since trust is a communal quality, it is seen to serve a number of significant societal roles. It is widely believed that trust reduces complexity, fosters social cohesiveness and group unity, and helps to maintain social order. But can trust accept all of modernity's inconsistencies, or can trust cover the political, social, and economic facets of our reality?[86]

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83 Ibid.
84 Ibid.
85 G Simmel, *The Philosophy of Money* (3rd edn, Routledge 2004)
86 Barbara A. Mizstal, 'The Notion of Trust in Social Theory', *Policy and Society: An Interdisciplinary Journal of Policy Research* (ISSN: 1034-9952,1992) 13

The degree of security created by networks of trust based on shared traits and previous experiences has been limited by the contradictory nature of our contemporary society, where the individual's quest for freedom and self-realization coexists with the concurrent process of globalisation. This is shown in the increasing awareness of the need of rebuilding the foundation for social cooperation, indicating the need for innovation and redesign in the socio-political and cultural domains. Authors that tackle the topic of postmodernity often depend on the ability of "reflexivity," which presumes that we have the freedom to choose how we "construct" the world and ourselves.[87]

Sociological theory of law views law as a social instrument that evolves in response to the needs and realities of society rather than as an abstract set of rules. In relation to resulting trust, the theory explains how courts in Nigeria utilise equitable doctrines to address informal and socially driven property arrangements where strict reliance on legal title would produce unjust outcomes. It therefore justifies the judicial recognition of beneficial ownership based on contribution and conduct rather than formal documentation.[88]

2.2.2 Natural Theory

The "natural law theory" of law posits that, at their core, morality and law are inseparable. The study of right and wrong, good and evil, is known as morality. Proponents of natural law theory assert that morality, rather than a monarchy or government, is the ultimate arbiter of human law. Therefore, it is in our nature as humans to discover the rules and to act in accordance with them.[89]

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87 Ibid.

88 R Pound, *Social Control Through Law* (Yale University Press 1942) 37; see also E. Ehrlich, *Fundamental Principles of the Sociology of Law* (Harvard University Press 1936) 493.

89 Estevez E., *Natural Law in Ethics* < http://www.investopedia.com > Accessed 9 April 2026.

The phrase “natural law” comes from the belief that human morality has its roots in inherent principles found in nature. According to proponents of natural law theory, living a good, happy life should be our ultimate objective. Therefore, actions that go against that objective—that is, actions that would make it impossible for someone else to have a happy life—are seen as “unnatural” or “immoral.”[90] The goal of laws is also to administer justice. According to natural law theory, no one should obey a defective law as it fails to promote justice (an unjust law). To put it simply, all moral laws are good, and all good laws are moral. The legal doctrine known as legal positivism stands in opposition to the natural law idea. Legal positivists hold that despite having serious flaws, a law may nevertheless be deemed to exist.[91]

Natural law theory posits that law is valid only to the extent that it aligns with principles of justice, morality, and fairness. In the context of resulting trust, the theory provides a moral justification for the doctrine by ensuring that a person is not unjustly deprived of property where they have contributed to its acquisition or where no intention to transfer beneficial ownership exists. Thus, resulting trust reflects equity’s role in correcting outcomes that would be considered unjust or unconscionable in moral terms.[92]

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90 Ibid.

91 Finnis et al., ‘Natural Law Theories’,*The Stanford Encyclopedia of Philosophy* (Summer 2026 Edition) < https://plato.stanford.edu/archives/sum2026/entries/natural-law-theories / >Accessed9 April 2026.

92 J Finnis, *Natural Law and Natural Rights* (Oxford University Press 2011) 351; see also T. Aquinas, *Summa Theologica* (1265–1274), I-II, Q. 95.

CHAPTER THREE

NATURE OF RESULTING TRUST UNDER NIGERIAN LAW

3.1 Introduction

This chapter examines the nature of resulting trust within the Nigerian legal system, with particular emphasis on its doctrinal character and judicial application. While the concept of resulting trust has been discussed in the preceding chapter from a theoretical and conceptual perspective, the focus here is to analyse how the doctrine operates in practice under Nigerian law.

The chapter therefore moves beyond abstract definitions to consider the legal character of resulting trust as recognised by Nigerian courts, the principles guiding its application, and the circumstances under which it arises. Attention is also given to the evidential requirements for establishing a resulting trust, as well as emerging judicial trends that shape its interpretation. In doing so, the chapter provides a critical foundation for understanding the role of resulting trust in regulating proprietary relationships in Nigeria.

3.2 Legal Character of Resulting Trust in Nigerian Law

Resulting trust in Nigerian law is a quintessentially equitable doctrine that is imposed by law, rather than based on express intention. It embodies the operation of equity in cases where legal ownership of property is vested in one party, but the facts suggest that, for reasons of fairness, the beneficial ownership should not be vested in that party. Thus, resulting trust reflects the equitable maxim that, where beneficial ownership is concerned, form should follow substance in regard to the contribution of the parties and their intentions.[93]

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[93] A Oyebode, *Modern Nigerian Law of Trusts* (University of Lagos Press 2018) 121.

The courts of Nigeria have recognised resulting trust as an element of the received doctrines of English equity, subject to local laws and judicial interpretations. Accordingly, it is shaped by its equitable nature as well as its application in the Nigerian context. In this regard, resulting trust provides a means by which courts ensure that property rights are not limited to questions of formal ownership, but also questions of substantive justice.[94]

Resulting trust is also a presumptive or automatic trust. Unlike express trusts, which require express creation, resulting trusts are based on the actions of the parties and the facts of the case. This makes it an important doctrine in a Nigerian context, where property transactions, particularly among family and acquaintances, are frequently unrecorded. In these instances, the courts use equitable principles to determine beneficial ownership to avoid inequitable results.[95]

Moreover, resulting trust is intricately linked with the concept of legal and equitable interests. Although the legal owner is recognised at common law, equity imposes a duty on this individual to hold the property for the benefit of another, if appropriate. This dual nature of ownership allows Nigerian courts to balance rigid legal principles with principles of justice and fairness, especially in cases dealing with contribution to purchase price or joint ownership.[96]

Nigerian case law has supported this classification by stressing that resulting trust does not require the parties' express consent but can be deduced from their conduct. In *Savage v Uwaechia*, the Supreme Court confirmed that when a person contributes the purchase money for property and takes title in the name of another, there can be a resulting trust for the benefit of the contributor,

94 F Adekoya, Property Transactions in Nigeria (Lagos: Juris Press, 2020) 25-31].
95 E McKendrick, *Contract Law: Text, Cases and Materials* (Oxford University Press 2020) 412.
96 N Hopkins, *Property Law and Equity Principles* (Cambridge University Press 2016) 240.

unless there is evidence of a gift.[97] This confirms the importance of resulting trust as an equitable reaction to property transactions.

But resulting trust in Nigeria is subject to nuances. There have been instances where courts have taken different approaches in deciding on the application of the doctrine, especially in the manner in which it is distinguished from constructive trust and the role of intention. This reflects the dynamic nature of resulting trust in Nigerian law and the judicial need for rigorous examination in its application.

Ultimately, the nature of resulting trust in Nigerian law is that it is an equitable doctrine of reconciling legal and equitable interests. It is used to avoid unjust enrichment and to recognise beneficial interests as they exist based on the transaction, thus upholding the corrective function of equity in Nigeria.[98]

3.3 Doctrinal Basis of Resulting Trust

The theories of resulting trust have historically been discussed in equity, particularly with regard to the justification for its application. While the doctrine of resulting trust is imported into Nigerian law from English equity, its judicial application is a blend of traditional equitable foundations and pragmatic judicial concerns. In general, two main reasons can be discerned in justifying resulting trust: presumed intention of the parties and unjust enrichment.

The traditional theory, which has had considerable impact on the Nigerian judiciary, is that resulting trust is based on the presumed intention of the parties. Under this view, where one person contributes the purchase money for property, but the legal title is vested in another, equity infers

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97 *Savage v Uwaechia* (1972) 1 All NLR (Pt. 1) 251.

98 E Nwosu, Contract and Trust Law in Nigeria (Ibadan: Spectrum Books, 2021) 15-22].

that the person who contributed the money did not intend to make a gift. Rather, the beneficial ownership is presumed to stay with the contributor. The inference is not one of actual intention, but arises from the conduct of the parties and the circumstances of the case.[99]

This approach has been commonly taken by Nigerian courts, especially in cases relating to land and family property. The courts in these cases typically consider the source of the purchase monies, relationship between the parties and the circumstances of the transaction to decide whether there is a resulting trust. The focus on the financial contribution as a basis for determining beneficial ownership in this context is a pragmatic extension of the presumed intention theory, albeit in circumstances where it may not be possible to establish an intention expressly.[100]

Yet, the presumed intention theory has been attacked for its artificiality since it can create an intention where none might have been present. To address this concern, contemporary legal thought has proposed the unjust enrichment theory as a basis for resulting trust. Under this theory, the doctrine prevents one party from unjustly enjoying property at the expense of another who has contributed to its purchase.[101] This means that, under this theory, resulting trust does not reflect an intention, but rather operates to undo unjust enrichment.

Although Nigerian courts do not always explicitly apply the theory of unjust enrichment, the reasoning behind many judicial decisions is consistent with this view. Judges are often concerned with equity and the avoidance of unjust results, especially where a literal interpretation of the law of property ownership would result in injustice. Therefore, even though courts might frame their

99 A Oyebode, *Modern Nigerian Law of Trusts* (University of Lagos Press 2018) 125.
100 *Kafi v Kafi* (1986) 3 NWLR (Pt. 27) 175.
101 P Birks, *Unjust Enrichment* (2nd edn, Oxford University Press 2005) 101.

reasoning in terms of presumed intention, the outcome of their decision might be to avoid unjust enrichment.

Another crucial aspect of the doctrinal basis of resulting trust is its equitable character. Equity is based on the conscience of the legal owner, and the creation of a resulting trust is on the basis of the court finding it would be inequitable for the legal owner to own the beneficial interest. This brings resulting trust in line with general equitable principles that aim to achieve fairness and justice in the distribution of property rights.[102]

In Nigeria, the doctrine of resulting trust is also informed by local practices, such as informal property transfers, family ownership and the impact of customary law. These realities often require a contextualised and pragmatic approach to the application of equitable principles. This results in a pragmatic interpretation by Nigerian courts, which emphasises the substance of the transaction.

However, the presence of competing theories has led to doctrinal uncertainty. A court might at times invoke one or other of the terms of intention, fairness, or equity without explicitly stating the basis of its reasoning. This conceptual ambiguity is potentially problematic in terms of certainty and consistency of legal outcomes, especially in complex property law cases. Put simply, the theoretical basis of the doctrine of resulting trust in Nigeria cannot be explained in terms of a single theory. Instead, the doctrine is a blend of presumed intention, fairness and unjust enrichment. Its enduring relevance is its adaptability and ability to respond to the complexities of property relations, while upholding the beneficial ownership in line with justice and fairness.[103]

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102 E Snell, *Principles of Equity* (33rd edn, Sweet & Maxwell 2015) 29.

103 A Akintunde, Customary Trusts in Nigeria, *African Journal of Legal Reform* [2021] (7) (1) 50-56].

3.4 Judicial Recognition of Resulting Trust in Nigeria

The acceptance and use of resulting trust in Nigeria is anchored in judicial pronouncements, which are the main authority in this field. Being an equitable doctrine imported from England, resulting trust has been consistently recognised by Nigerian courts as part of the pool of legal principles relevant in Nigeria and subject to statutory amendments and realities. This doctrine's continued application in Nigerian law is largely due to the court's readiness to invoke equitable principles in deciding matters relating to property ownership, especially in situations where a strict adherence to legal title would result in inequitable outcomes.

Over time, Nigerian courts, particularly the Supreme Court and Court of Appeal, have created a jurisprudence that recognises the existence and relevance of resulting trust. These cases show that the doctrine is not abstract but constitutes a practical means of establishing beneficial ownership in various situations, including real estate transactions, family property disputes and joint ventures. In this sense, the judicial affirmation of the doctrine of resulting trust is bound up with the courts' interest in delivering justice in line with the principles of equity.

One of the leading authorities in this area is *Savage v Uwaechia*, where the Supreme Court held that where one party provides the purchase money for property and another takes legal title, equity will presume that the property is held on trust for the person who provided the consideration, unless there is evidence of a gift or contrary intention.[104] This decision has become a cornerstone of Nigerian jurisprudence on resulting trust, establishing the principle that beneficial ownership follows contribution rather than formal title. The decision also highlights the court’s use of equitable presumptions to determine property rights.

104 *Savage v Uwaechia* (1972) 1 All NLR (Pt. 1) 251.

Likewise, in *Kafi v Kafi*, the court acknowledged that a person who contributes to the purchase of property may hold an equitable interest enforceable by way of a resulting trust.[105] This case demonstrates the court's willingness to infer the existence of a trust relationship from the actions of the parties, especially where formal title does not reflect the true ownership of property. This is particularly important in the Nigerian setting where property deals are frequently conducted unwritten and without formalities.

A further line of judicial decision-making focuses on the proof required to found a resulting trust. Nigeria's courts have consistently maintained that the onus is on the claimant to establish the existence of a resulting trust. In meeting this standard, the claimant must produce reliable evidence of a contribution of purchase money or other facts giving rise to a trust. Judicial approaches have been flexible, accepting both documentary and oral evidence, especially in the context of the informal property market in Nigeria.[3]

Moreover, the courts' recognition of resulting trust in Nigeria is not confined to cases involving the purchase of money contribution. The courts have also extended the doctrine to more sophisticated cases of family property, joint ventures and fiduciary relationships. In these instances, the courts take a broad view of the entire transaction between the parties, to determine whether it is equitable to impose a trust. This shows that the doctrine is context-specific, and in accordance with the general principles of equity.[106]

However, while this is recognised, there are some inconsistencies in its application in Nigerian case law. For example, courts have at times merged the concepts of resulting trust and constructive trust, especially in cases of fraud, misrepresentation or unconscionability. This blurring of

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105 *Kafi v Kafi* (1986) 3 NWLR (Pt. 27) 175.
106 *Akinola v Oluwo* (1977) 10 SC 9.

doctrinal lines can lead to confusion in the law and make it difficult to pinpoint the correct legal framework for the resolution of disputes.[107]

Further, the interplay between resulting trust and statutory regimes, such as land registration laws and the Land Use Act, has also presented difficulties for Nigerian courts. Equity aims to acknowledge beneficial interests by considering contribution and intention, while statutory law prioritises title and registration. This means courts must balance these interests, applying equitable principles while also maintaining the certainty of statutory property law. Customary law also plays a significant role in judicial recognition of resulting trust in Nigeria. Land is often held collectively or in families, and ownership is determined by customary law rather than contribution. In these situations, resulting trust based on contribution might not be consistent with customary law. As such, Nigerian courts have had to grapple with the interplay between equitable doctrines and customary law, and have been inclined to take a conservative and case-by-case approach.

Despite such complexities, the general narrative in the Nigerian case law is a robust affirmation of resulting trust as a valid and important equitable doctrine. It is still used by courts to achieve substantive justice, especially in cases where legal ownership is not consistent with the real intentions or contributions made by the parties. This highlights the continuing significance of resulting trust in the Nigerian legal system and its role in equitable property law.[108]

3.5 Conditions for Resulting Trust

A resulting trust in Nigerian law is not created automatically in all property transactions. It requires the fulfilment of a number of conditions which must be drawn from the facts and circumstances

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107 I O Smith, *Property and Trust Law in Nigeria* (Kluwer Law International, 2022) 50-60].

108 A G Brayan, A Comparative Study of the Concept of Trusts in Nigeria as an Intermingling of English Principles and Traditional Systems, *Research Gate* [2022] (1) 10-20].

of the case. The courts in Nigeria are wary of this doctrine as a resulting trust affects ownership of property and may prevail over the ostensible title. So, the courts impose a high burden of proof before imposing this trust.

The most obvious condition is contributing to the purchase of property. When a person contributes the full or partial purchase price of a property, and legal title is held by another person, equity might presume an intention to hold beneficial interest by the contributor. This is the underlying rationale of resulting trust that beneficial interest follows contribution. In the application of this condition, the courts look at direct contribution as well as indirect contribution that can be traced to the property in question.[109]

However, contribution is not enough, unless it is shown that the contribution was made for the purchase of the property in question. The Nigerian courts have stressed the need for a connection between the contribution and the purchase of the property. If the contribution is general, or not in relation to the purchase, it is unlikely that a resulting trust will be created. This condition ensures equitable intervention is not based on speculation.[110]

The second requirement is an absence of intention to gift. Resulting trust is based on the assumption that someone contributing to the purchase of property does not intend to gift away the beneficial interest. But this presumption can be rebutted. Where there is proof that this was the common intention of the contributor, for example, in relationships of affection or moral obligation, a resulting trust will not be imposed. This is as equity strikes the balance between intention and intention proved.[111]

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109 M Dixon, *Modern Land Law* (11th edn, Routledge 2020) 189.

110 A Hudson, *Equity and Trusts* (9th edn, Routledge 2017) 318.

111 L Smith, 'Resulting Trusts and Intention' (2008) *Law Quarterly Review* 345.

Similarly, the doctrine of advancement might stand in the way of a claim for resulting trust in certain relationships such as parents and children, husband and wife. In these situations, the court will presume that the contribution was as a gift. This doctrine has been applied by Nigerian courts but its application has been challenged in contemporary social and economic contexts where there is less gender inequality and more co-ownership.[112]

Another requirement is the time of contribution, which is important for the creation of a resulting trust. The contribution should be made at or before the time of acquisition. Contributions made later, such as repairs and improvements to the property, do not typically create a resulting trust, but may be relevant to a claim under another equitable doctrine. This helps to keep resulting trust focused on the moment of acquisition, rather than on subsequent conduct. The other requirement is the trustworthiness of the property. The property to be held in trust must be certain and capable of being owned. Nigerian courts have rightly rejected the notion that uncertain interests can be the subject of a resulting trust since equity will not act in a situation of uncertainty. This underscores that resulting trust should be founded on certain proprietary interests.[113]

The courts also take into account the facts and circumstances. Even if the financial contribution is proved, the court will take into account the nature of the relationship between the parties, including the nature of the property, the control of the property and whether there were any signs of joint ownership or gift. This means that in Nigeria, courts can ensure that the imposition of resulting trust is consistent with the realities of the transaction, rather than rigid rules. The plaintiff bears the onus of proof and must prove the existence of resulting trust on the balance of probabilities, but with the degree of certainty required when dealing with legal title.[114] The courts have

112 J Martin, *Modern Equity* (21st edn, Sweet & Maxwell 2019) 228.
113 R Chambers, *Resulting Trusts* (Clarendon Press 1997) 63.
114 C Effa, 'Equitable Ownership in Nigerian Property Law' (2021) *Nigerian Journal of Legal Studies*.

emphasised that claims for resulting trust need to be proved with reliable evidence, since equity will not interfere with legal title lightly. This is critical in Nigeria, where property transactions may lack formal documentation.

3.6 Proof and Evidential Requirements for Resulting Trust

In order for a resulting trust to be recognised by Nigerian courts largely depends on the available evidence. The nature of a resulting trust, which is not typically created by express contract but implied by facts and circumstances, makes the burden of proof pivotal in the determination of whether a resulting trust will be recognised. Nigerian courts place a strong emphasis on the fact that a court of equity will not readily grant relief, especially where it involves a change in ownership. As a general rule, the burden of establishing a resulting trust rests on the person alleging it. This places a burden on a claimant alleging that a property is held in the name of another but is subject to a resulting trust to produce sufficient evidence to prove this. This is at the level of the balance of probabilities, but because of the proprietary nature of the dispute, courts will typically demand a high level of certainty in the evidence.[115]

In reality, the most important evidence in determining the existence of resulting trust is contribution to the purchase price. The courts in Nigeria scrutinise whether the claimant contributed to the purchase of the property when it was acquired. The contribution must be in relation to the transaction. General statements of contribution or help are generally not good enough without corroborating evidence.[116] But courts do not limit their consideration to written records. In Nigeria, where many property transactions are not formal or done in accordance with customary law, oral evidence is often allowed. Evidence of witnesses, admissions by the parties,

115 *Akinola v Oluwo* (1977) 10 SC 9.
116 M Dixon, *Modern Land Law* (11th edn, Routledge 2020) 192.

and inferences drawn from other facts such as possession, occupation or involvement in negotiations may be taken into account. So the courts take a pragmatic approach to evidence, while remaining vigilant to avoid unwarranted encroachment on title.[117]

Another key piece of evidence is the parties' post-acquisition behaviour. The courts consider who had control over the property, who received the benefits, and the actual use of the property. This conduct can help or hinder a resulting trust claim, depending on its consistency with the supposed beneficial interest. This enables courts to determine ownership beyond the paperwork. Furthermore, there must be consistency in the claimant's account and evidence in Nigeria. If the facts are conflicting, vague or uncertain, courts are wary of imposing a resulting trust. This is due to the potential for the doctrine to destabilise property dealings and title. Thus, courts require facts rather than assumptions to support claims.[118]

It is worth noting that the evidential test is more rigorous where there is an inter-family or close friendship relationship. Here, courts are particularly wary of equating financial assistance with gifts. Personal or family relationships may obfuscate the intention to benefit, in turn necessitating greater evidence to prove resulting trust. Moreover, resulting trust interacts with documentary title systems, such as land registration, to create further evidential challenges. If land is legally registered in the name of one party, the claimant must produce very persuasive evidence to rebut the presumption of title. This is due to the judicial unwillingness to interfere with statutory land registration schemes.[119]

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117 A Hudson, *Equity and Trusts* (9th edn, Routledge 2017) 322.
118 L Smith, 'Evidence and Intention in Resulting Trusts' (2010) *Trust Law International Journal* 118.
119 M I Jegede, *Law of Trusts, Bankruptcy and Administration of Estate* (Lagos: MIJ Professional Publishers, 1999) 7-15].

3.7 Judicial Trends and Doctrinal Issues in Nigeria

The evolution of resulting trust in Nigerian law is indicative of a judicial drift towards an inconsistent approach to equitable ownership. Although Nigerian courts have consistently recognised the existence of resulting trust as part of the received English equity, its application is associated with some doctrinal tensions which continue to impact on its interpretation. These include issues of classification, evidence and the relationship between equitable principles and statutory or customary law. A recent judicial tendency is the conflation of resulting trust and constructive trust. In a number of cases, at times Nigerian courts have drawn on some of the reasoning associated with unconscionability, fraud or wrongdoing - concepts more commonly associated with constructive trust - to resolve disputes that are doctrinally based on resulting trust. This blurring generates confusion, as the ground of resulting trust is typically based on presumed intention or contribution, not fault.[120]

The growing emphasis on financial contribution as a key indicator of beneficial ownership is another trend. Often, Nigerian courts will attach weight to evidence of payment or contribution towards the purchase price when assessing for resulting trust. While this enhances certainty and predictability, it can also reduce the ability to account for complex social and family relationships where contribution may not necessarily be in financial form, such as labour and support. This begs the question: does rigid financial analysis account for all aspects of property relations in Nigeria?[121]

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[120] C Effa, 'Equitable Ownership and Trust Classification in Nigerian Law' (2021) *Nigerian Journal of Legal Studies*.

[121] O Ojo, 'Fiduciary Duties in Nigerian Trusts', *Journal of African Legal Studies* [2020] (8) (2) 123-137.

In addition, there appears to be judicial inconsistency in the application of the presumption of intention. Some cases rely heavily on presumed intention as the basis for resulting trust, while others seem to focus on equity and fairness, without explicitly invoking presumption of intention. This inconsistency impacts on predictability in property litigation and uncertainty as to the outcome of other similar cases.[122]

Another concern is the relationship between resulting trust and statutory land laws, such as the Land Use Act. Equity aims to equitably recognise beneficial ownership in light of contribution and intention, whereas statutory land registration systems focus on formal title and administrative allocation. As such, Nigerian courts have to navigate the interplay between equity and statute, which sometimes results in a conservative approach to resulting trust where statutory title is in clear evidence. Further, the doctrinal challenge is complicated by the impact of customary law. Land ownership in many communities in Nigeria is communal or family-based, and rights are based on lineage or customary allocation, rather than economic contribution. Thus resulting trust may not align with customary conceptions of ownership, prompting courts to take a contextual approach. But this can also lead to inconsistencies.[123]

Nonetheless, there is a clear judicial trend towards the continued application of resulting trust as a means of substantive justice. The doctrine is often used by courts to avoid iniquitous retention of property and to prevent legal title from overriding equitable interests. This demonstrates the continued role of the corrective role of equity in Nigerian property law.[124]

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122 E Nwankwo, *Equity and Trusts in Nigeria* (Spectrum Books, 2018) 167

123 A Sowunmi, 'Charitable Trusts in Nigeria', *Journal of African Social Policy* [2022] (10) (1) 101-115.

124 C Okeke, *Modern Property Law in Nigeria* (Ibadan University Press, 2021, p. 234).

CHAPTER FOUR

SCOPE OF RESULTING TRUST IN NIGERIAN LAW

4.1 Introduction

This chapter examines the scope of resulting trust in Nigerian law, focusing on the circumstances in which the doctrine is applied and the categories of relationships and transactions it governs. While Chapter Three analysed the nature and doctrinal basis of resulting trust, this chapter shifts attention to its practical reach within Nigerian jurisprudence. The scope of resulting trust is particularly important because it determines the types of property arrangements in which equity will intervene to recognise beneficial ownership distinct from legal title. In Nigeria, the doctrine is most relevant in land transactions, family property disputes, and informal financial arrangements, where strict reliance on documentary title may not reflect the true intentions or contributions of the parties.[125]

However, the application of resulting trust is not unlimited. It operates within the constraints of statutory land law, evidential requirements, and, in some instances, customary law principles. As a result, Nigerian courts are often required to balance equitable doctrines with legal certainty in determining the extent of beneficial ownership.[126] This chapter therefore analyses the scope of resulting trust under Nigerian law, as well as the limitations and challenges that arise in its application.

125 A Hudson, *Equity and Trusts* (9th edn, Routledge 2017) 332.
126 M Dixon, *Modern Land Law* (11th edn, Routledge 2020) 211.

4.2 Scope of Resulting Trust in Land Transactions

A major application of resulting trust in Nigeria is in relation to land. This doctrine is often relied upon in cases where the purchase money for land is contributed by one party, but legal title is taken in the name of another. In these situations, the court assumes that the legal titleholder holds the land on trust for the provider of the purchase money, unless it finds a gift or other intention.[127]

This doctrine has been consistently applied by the Nigerian courts in disputes over the ownership of land purchased informally. The Supreme Court reaffirmed in *Savage v Uwaechia* that where one party supplies the purchase money for land and the title is taken in another's name, there is a resulting trust in favour of the contributor unless there is proof of gift or contrary intention.[128] This case is a landmark in the application of resulting trust in land transactions in Nigeria.

Likewise, in *Akinola v Oluwo*, the court reiterated that payment for the purchase of property is a compelling evidence of ownership, especially where the parties cannot provide documentary evidence of their dealings.[129] This reaffirms the equitable maxim that substance over form is crucial in establishing ownership.

The application of resulting trust in land transactions is widespread in Nigeria, given the widespread practice of informal land transactions, particularly in rural and semi-urban regions. Land transactions may take place without formal written contracts or registration, making it challenging to rely solely on documentation to determine ownership. To determine ownership, courts apply equitable doctrines to avoid unjust enrichment and promote justice.[130]

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127 R Chambers, *Resulting Trusts* (Clarendon Press 1997) 41.

128 *Savage v Uwaechia* (1972) 1 All NLR (Pt. 1) 251.

129 *Akinola v Oluwo* (1977) 10 SC 9.

130 B Ajibola, 'Equity and Property Rights in Nigeria' (2019) *Nigerian Law Journal* 57.

But the doctrine of resulting trust in land has been affected by the Land Use Act 1978, which vests title of all land in each state in the Governor and governs the issuance of rights of occupancy. Although equitable interests can still arise, courts must consider whether such interests are consistent with statutory land tenure regulations.[131] This raises a legal conflict between equitable interests and statutory land administration. Moreover, Nigerian courts have affirmed that resulting trust can operate even in cases of partial contribution to the purchase price. The claimant will then be entitled to a proportionate beneficial interest in the property commensurate with their contribution. This approach recognises the adaptability of equity to different contributions.[132]

However, the claim for resulting trust in land has limited application where there is clear evidence of gift or the claimant cannot prove that there is a nexus between contribution and acquisition. The courts have stressed that vague or general allegations of involvement do not give rise to resulting trust.[133]

4.3 Scope of Resulting Trust in Family and Domestic Relationships

Resulting trust can also be applied in family and domestic relations where property is purchased or acquired in a joint or informal way without formal agreement or certainty about ownership. In these relationships, disputes often arise over property when legal ownership is vested in one family member, while another claims to have made a contribution (financial or otherwise) towards the purchase of the property. As such, resulting trust has been applied by Nigerian courts as an equitable doctrine to ascertain beneficial ownership in family property transactions.[134]

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131 Land Use Act 1978, s 1.

132 E McKendrick, *Contract Law: Text, Cases and Materials* (Oxford University Press 2020) 415.

133 L Smith, 'Resulting Trusts and Intention in Property Law' (2010) *Law Quarterly Review* 118.

134 JA Omotola, 'Family Property and the Law of Trusts in Nigeria' (1982) 16 *University of Lagos Law Review* 45

Where parents and children are involved, the doctrine is influenced by the presumption of advancement, which operates on the basis that where a parent transfers property or contributes to the purchase of property to a child, the intention is that it was a gift. This presumption takes precedence over any inference of resulting trust, unless shown otherwise. While the doctrine has origins in English equity, Nigerian courts have taken a cautious approach where the facts suggest no intention to gift.[135]

In *Ayinla v Sijuwade*, the court was asked to determine whether it is possible to infer a beneficial interest based on financial contribution by a family member to the purchase of property. The court concluded that if there is evidence of contribution without intention to gift, a resulting trust may be presumed despite the familial relationship.[136] This shows that in Nigeria, courts are prepared to consider the substance of contribution and intention rather than familial relationships.

Likewise, in marriages, resulting trust is crucial in resolving property disputes, especially when property is acquired in the name of one spouse. The courts have acknowledged that where both spouses contribute directly or indirectly to the purchase of matrimonial property, resulting trust may be imposed by equity to represent their respective interests.[137] However, courts tend to be wary in spousal disputes, as they need to determine which contributions amount to an interest in the property and which do not.

Another factor affecting the scope of resulting trust in family relationships is the informal nature of household financial arrangements. In Nigerian families, property contributions are often not formalised and financial obligations are informally shared. Consequently, courts have to rely on

135 BO Nnamani, 'Revisiting Trust Concepts in Nigerian Law' (2022) 18 *Nigerian Current Law Review* 73
136 *Ayinla v Sijuwade* (1984) 5 SC 15.
137 CO Ani, 'Equity and Beneficial Ownership in Nigeria' (2021) 10 *African Journal of Comparative Law* 144

circumstantial evidence, including payment receipts, witness statements and the behaviour of the parties, to prove the existence of a resulting trust in family relationships.[138]

But the use of resulting trust in the family context can be problematic. Judges have sometimes found it difficult to determine whether a contribution was a gift of love and affection or one designed to create a beneficial interest. This is further complicated by the presumption of advancement, which may not apply equally in all circumstances and between different family members.[139] Moreover, resulting trust and customary family arrangements can be interconnected. In many customary systems, property may be seen as belonging to the family or lineage, rather than individuals. This means that the application of contribution-based principles may run counter to communal ownership arrangements, leading to the need for a contextualised approach that takes account of both equity and custom.[140]

4.4 Scope of Resulting Trust in Commercial and Financial Transactions

The doctrine of resulting trust in Nigeria can apply not only to real estate and families, but also in commercial and financial transactions where co-investment, business transactions or financial contributions occur without clear titles to ownership. In these contexts, resulting trust provides an equitable basis for determining beneficial ownership considering the contributions made, especially in the absence of valid agreements.[141]

In business transactions, resulting trust is frequently applied in joint ventures, where investment is made by two or more parties, but the legal title is held by one of them. Nigerian courts may find a

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[138] OO Nwabueze, 'Customary Law and Modern Property Relations in Nigeria' (2020) 20 *African Journal of Legal Studies* 91

[139] OA Olawoyin, 'Statutory Regulation of Land and Equitable Interests' (2019) 15 *Nigerian Law Journal* 132

[140] EO Akanki, 'Trusts and Commercial Transactions in Nigeria' (2018) 14 *Nigerian Law and Practice Journal* 59

[141] JO Fabunmi, 'The Role of Equity in Nigerian Jurisprudence' (2017) 8 *Ibadan Bar Journal* 88

resulting trust when there is evidence that one party contributed funds to the purchase of the asset but this is not documented. This guarantees that substantive economic interests are taken into account, rather than purely formalistic title.[142]

Likewise, resulting trust may be used in business partnerships and informal investment schemes, where one party contributes funds that are used to acquire business assets but these assets are not held in the name of the contributor. The courts will look to the source of the funds and what contribution was intended to decide whether a beneficial interest arises. This is especially so in Nigeria where many businesses operate informally and often with minimal written agreement.[143]

The doctrine can also be invoked in the context of loan and purchase transactions, when a man makes a loan to a woman for the purpose of purchasing property or assets. Where it is proven that the contributor did not intend to create a gift or transfer ownership, a resulting trust will be established in favour of the contributor. This upholds the equitable principle that one should not unduly benefit from the contribution of another.[144]

Yet, the application of resulting trust in a commercial context is examined rigorously in terms of evidence. The contribution must be specifically aimed at acquiring the property at issue. Unrelated financial assistance or contributions are rather insufficient to generate a resulting trust. This stance highlights the courts' prudence in commercial matters, where parties should rely on contractual terms rather than equitable inferences. Furthermore, in commercial transactions, Nigerian courts are concerned about the difference between resulting trust and contractual rights. Where parties have executed express arrangements relating to their financial dealings, courts are generally

[142] A Oyebode, 'Equity and Property Relations in Nigeria' (2016) 12 *Lagos State University Law Review* 201
[143] AO Okafor, 'Property Rights and Legal Reform in Nigeria' (2011) 11 *African Human Rights Law Journal* 233
[144] C Effa, 'Equitable Ownership in Nigerian Property Law' (2015) 9 *Nigerian Journal of Legal Studies* 145

reluctant to take a resulting trust approach as this may affect the certainty of contractual agreements. This is because equity will not intervene where there are legal or contractual mechanisms to regulate the relationship between parties.[145]

Additionally, in a commercial context, the use of resulting trust is also shaped by the complexity of contemporary financial arrangements. Problems of indirect investing, third-party financing and complex ownership structures complicate the identification of beneficial ownership simply through contribution. This means that the courts tend towards a fact-sensitive approach, with a focus on the economic realities of the transaction, rather than formal arrangements.

4.5 Interaction Between Resulting Trust and Customary Law in Nigeria

The role of resulting trust in Nigeria is especially challenging in the context of customary law relating to property and family dynamics. Rather than the English equity law's individualist approach, customary law in many Nigerian villages treats land as a collective resource, typically owned collectively by extended families, lineages or traditional rulers, rather than individually as "separate shops" with different shares. This presents a challenge when applying equitable principles such as resulting trust, which are effectively contribution-based, in these systems.[146]

In customary systems, land ownership and membership of a family or community are more important than contribution. Thus, the equitable principle of ownership following contribution may conflict with customary land ownership. Nigerian courts have therefore been wary of implicitly extending equitable presumptions to customary property, so as to not reverse customary property norms.[147]

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145 UU Uche, 'Legal Pluralism and Property Rights in Nigeria' (2010) 54 *Journal of African Law* 78

146 T Elias, *Nigerian Land Law and Customary Tenure* (Routledge 2018) 54.

147 A Obilade, *The Nigerian Legal System* (Spectrum Books 2020) 201.

In *Aromire v Awoyemi*, the court noted that customary ownership differs from common law proprietary principles, particularly with regard to family land, which cannot usually be subdivided into shares based on contributions to the land.[148] This demonstrates the issue with imposing a rigid notion of resulting trust in customary landholding, where land ownership is typically collective and inalienable without the family's consent.

Despite the inconsistencies, Nigerian courts have not wholly discounted the possibility of resulting trust where customary property is concerned. Rather, they take context into account in determining whether or not the facts give rise to a resulting trust in spite of customary norms. Where a plaintiff shows that he or she has contributed to the purchase or development of land or property, courts may still impose a resulting trust, so long as it does not run against recognised customary rules covering the land or property.[149]

However, courts demonstrate caution where to apply resulting trust means to remedy the breakdown of communal ownership. Courts are generally not inclined to recognise individual proprietary rights over family property where such recognition would be inconsistent with established customary law, absent strong evidence of individual property rights. This is consistent with the recognition of customary law as a source of Nigerian law, as long as it doesn't offend against principles of equity, justice and good conscience.[150]

A second intersection relates to the difficulties in establishing ownership in customary transactions. Customarily, land transactions are made and witnessed by community members rather than formalised. Although this is consistent with customary law, it presents difficulties with

148 *Aromire v Awoyemi* (1972) 2 SC 1.
149 J O Fabunmi, *Equity and Trusts in Nigeria* (Ibadan University Press 2017) 144.
150 Constitution of the Federal Republic of Nigeria 1999 (as amended), s 315(1).

respect to establishing a resulting trust, especially if there is a requirement for financial assistance. As a result, courts rely on oral testimony and other circumstantial evidence, leading to inconsistency.[151] Some academics have observed that the clash with resulting trust and customary law mirrors a wider struggle between equitable notions imported to Nigeria and the indigenous law. For example, some have argued that the strict adherence to contribution-based ownership might not adequately reflect social and communal landholdings in Nigeria, where ownership is not individual but relational.[152]

However, resulting trust continues to be deployed in the courts in Nigeria as a remedial tool, especially in situations where customary property arrangements are adopted to disguise inequitable exclusion from property ownership. In these cases, equity then steps in to avoid the oblivion of contributions on account of communality in the property system.

4.6 Limitations and Challenges of Resulting Trust in Nigeria

Although the doctrine of resulting trust is important as an equitable means of recognising beneficial interest in property, there are substantive and procedural limitations on how this doctrine operates in Nigeria. These include issues relating to proof, doctrinal uncertainty, statutory constraints, incompatibilities with customary law and a general policy concern for certainty of property ownership. And together they show that although the doctrine is remedial and flexible, it is neither easy to apply in the Nigerian context.

151 C Nwabueze, *Customary Law in Nigeria: Theory and Practice* (Enugu Press 2019) 98.
152 O Elias, 'Customary Law and Modern Equity in Nigeria' (2021) *African Journal of Legal Theory* 67.

4.6.1 Evidential Challenges and Informality of Transactions

A major difficulty encountered with the application of this doctrine in Nigeria is the proof of the underlying factual elements. As the doctrine is inferential and not expressly conferral, claimants need to prove contribution to the cost of the property and lack of gifting intention. However, many property dealings in Nigeria are informal, especially in rural and family settings, and lack formal documentation and evidence of contributions.

This leaves claimants with a challenging burden to prove contribution and absence of intention to make a gift, relying on oral evidence and witness statements. Nigerian courts have consistently stressed that although this evidence is permissible, it is infirm and vulnerable to implausibility and fraud. This means that notional findings of courts may vary in opinion based on the reliability of witnesses, resulting in uncertainty.[153]

4.6.2 Doctrinal Uncertainty and Conceptual Overlap

Another limitation is the doctrinal overlap between resulting trust and constructive trust. In some cases, Nigerian courts have applied equitable principles without differentiating whether the claim is based on contribution (resulting trust) or fault (constructive trust). This intermingling results in doctrinal blurriness in the case law because resulting trust is generally associated with a presumption of intention or contribution, while constructive trust is based on unconscionable behaviour such as fraud and breach of fiduciary duty. This blending of ideas under an overarching notion of "equity" in the courts creates confusion in doctrinal purity and predictability in property disputes.[154]

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153 A Hudson, *Equity and Trusts* (9th edn, Routledge 2017) 355.
154 R Chambers, *Resulting Trusts* (Clarendon Press 1997) 94.

Academic literature has condemned this overlap as part of an "undifferentiated approach to equitable remedies" in the Nigerian courts, where focus is on "what's fair" rather than formal consistency. While this may lead to individual justice, it ultimately decreases certainty.[155]

4.6.3 Statutory Constraints under the Land Use Act

One major constraint is the effect of statutory land law, in particular the Land Use Act 1978. The Act places title to all the land in each state in the Governor, which creates a formal system of land ownership centred on rights of occupancy and registration. While equitable interests, such as resulting trust, may still be created, their application is concerning the acquisition of title. Where statutory acts of title establish legal owners, then failure to overturn such title without strong evidence of resulting trust is not uncommon. This produces a clash between equity and certainty in the statutes.[156]

In other words, although resulting trust may be established by way of beneficial ownership, its recognition does not necessarily give rise to full ownership, especially where statutory titles are concerned.

4.6.4 Interactions with Customary Law

The doctrine also has its limits in customary law systems of land tenure, where ownership is typically collective, ancestral or homestead rather than individually earned through the contribution of capital. Here, the idea that beneficial ownership follows contribution might not square with customary law. As such, the Nigerian judiciary has tended to be cautious in applying resulting trust in customary settings, especially where it would lead to the division of family or

155 L Smith, 'Equitable Remedies and Conceptual Clarity' (2013) *Law Quarterly Review* 420.
156 Land Use Act 1978, s 1; M Dixon, *Modern Land Law* (11th edn, Routledge 2020) 228.

community land against the tradition. This is because customary law is constitutionally recognised as part of Nigeria's legal pluralism.[157]

But this presents a structural weakness: the doctrine is not as consistently applicable in customary contexts, which account for much of land holdings in Nigeria.

4.6.5 Judicial Inconsistency and Reasoning Gaps

A further issue is the inconsistency in reasoning in judicial decisions. Some judgments are based purely on contribution and presumed intention, while others appeal to general concepts such as fairness, unconscionability, or justice without referencing the doctrinal basis. This impacts on legal predictability, as well as the ability to anticipate legal outcomes in similar factual contexts. It also highlights a broader dilemma in Nigerian equity case law between doctrinal reasoning and practical and justice-oriented thinking.[158]

4.6.6 Narrow Interpretation of Contribution

The concept of contribution in Nigerian jurisprudence is narrowly interpreted, with a preference for direct payment over indirect or non-monetary contribution like labour, upkeep or maintaining a call. This may not always align with the socio-economic context of property ownership in Nigeria, where contributions are often informal and joint. This may result in significant non-financial contributors being left out of resulting trust calculations, with potentially unfair consequences.[159]

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157 Constitution of the Federal Republic of Nigeria 1999 (as amended), s 315(1); T Elias, *Nigerian Land Law and Customary Tenure* (Routledge 2018) 63.

158 O Elias, 'Judicial Reasoning in Nigerian Equity Law' (2021) *African Journal of Legal Theory* 75.

159 E McKendrick, *Contract Law: Text, Cases and Materials* (Oxford University Press 2020) 422.

4.6.7 Policy Tension: Equity vs Certainty in Property Law

Finally, there is a policy issue regarding the competing interests of equity and certainty. Although a resulting trust plays a crucial corrective role in preventing windfall gains, overly enthusiastic application of this doctrine could lead to uncertainty in a registered title environment. This necessitates a careful balance by courts between enforcing equitable justice and security of property. The problem accounts for the conservative and sometimes restrictive approach adopted in Nigerian courts' approach.[160]

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160 P Birks, *Unjust Enrichment* (2nd edn, Oxford University Press 2005) 120.

CHAPTER FIVE

SUMMARY OF FINDINGS, RECOMMENDATIONS AND CONCLUSION

5.1 Summary of Findings

This research focused on the nature and application of resulting trust in Nigeria, paying particular attention to its doctrinal foundation, its use in the judiciary, and the limits of the doctrine. This study demonstrates that resulting trust continues to be a vital equitable doctrine in Nigerian law, originating in English equity but influenced by local legal factors, including statutory land law, customary law, and judicial reasoning.

The first is that resulting trust remains an important tool for determining beneficial ownership in cases where legal title and beneficial interest diverge. Nigerian courts have relied on the doctrine in property and land disputes to avoid unjust enrichment and to ensure that the law of equity overrules the rule of legal title to achieve justice. The research showed that it is most commonly used in informal property dealings, especially in land deals where there is insufficient documentation. Here, courts are heavily influenced by financial contribution when inferring beneficial ownership. However, these contribution-based approaches can give rise to evidential difficulties, particularly in intra-family or intra-personal transactions without paperwork.

Secondly, the study findings have shown that the concept of resulting trust in Nigeria is embedded within a rich but diverse legal landscape comprising interactions of equitable principles (derived from English law), statutory laws like the Land Use Act, and customary law principles. Equity prioritises contribution and presumed intention, whereas customary law favours communal or family ownership, which raises challenges for judges. This research revealed that, in Nigeria, courts have not always consistently differentiated between a resulting trust and a constructive trust.

This has resulted in some degree of unpredictability in judicial reasoning, especially in actions for fraud, unconscionability or breach of confidence. This has muddied the actual conceptual framework of resulting trust.

Further, the study indicated that problems inherent in proof are one of the greatest constraints on the application of resulting trust. In Nigeria, many property transactions are conducted informally, so the courts are often limited to relying on hearsay and circumstantial evidence, which may be inconsistent and unreliable. This affects consistency and predictability in judicial outcomes. The study concludes that despite its challenges, resulting trust remains a flexible and necessary equitable tool for achieving fairness in property disputes in Nigeria. But its application is hampered by doctrinal opacity, statutory limitations and socio-cultural factors affecting property ownership.

5.2 Recommendations

From the results of this research, some recommendations are offered for the clarity, effectiveness and utility of resulting trust in Nigerian law.

1. There should be more clarity between the doctrine of resulting trust and constructive trust. Judges in Nigeria should explicitly differentiate between them in their arguments and decisions. Resulting trust must be used in contribution cases, presumed intention cases, while constructive trust should be used in cases of wrong doing, fraud or unconscionable behaviour. This will lead to greater judicial certainty in dealing with property disputes.
2. It is proposed that proof be updated to suit the Nigerian socio-economic context. Given the informal nature of many property transactions, deriving from the evidence of circumstantial behaviour (such as financial considerations, possession and reliable third-

party witness testimony) should be approached using a more formalised approach in court. This way, the court will not be over-reliaent on oral evidence, and justice will be served.

3. There needs to be judicial consistency in the application of resulting trust principles. The Supreme Court should offer more guiding principles in relation to the test for establishing resulting trust in relation to contribution, intention and the presumption of advancement. This will eliminate uncertainties and improve predictability in the lower courts.
4. It should be considered to enact statutory provisions to harmonise equitable doctrines with the Land Use Act. The Land Use Act regulates legal ownership, but not beneficial ownership. There should be proper statutory articulation of equitable interests such as resulting trust to reconcile legal and beneficial ownership in Nigeria.
5. There is a need for public enlightenment and legal education on property ownership ideas. Confusion between legal and equitable ownership results in many disputes. These could minimise disputes from informal arrangements.
6. Finally, legal practitioners and courts need to take a contextsensitive approach with regard to family and customary property disputes, taking into account the reality of joint ownership, while ensuring equitable sharing where proven. This approach will ensure that equity does not come to swallow whole customary property law.

5.3 Conclusion

This research has explored the characteristics and ambit of the doctrine of resulting trust under Nigerian law in terms of its doctrinal roots, its application by courts, its evidentiary standards and limitations. The study confirms that resulting trust continues to be an important component of Nigerian jurisprudence, as part of the received doctrine of English equity, but that it has been decisively influenced by local legal, social and institutional dynamics.

The research has established that resulting trust has predominantly been an equitable answer to transactions where property is purchased in the name of one party, but wholly or partially funded by a different person. Nigerian courts have consistently deployed the doctrine to establish beneficial ownership on the ground of contribution to avoid unjust enrichment. But its use is not automatic, courts carefully consider intention, contribution and other relevant factors to determine if a trust should be imposed. It is also clear that the doctrine is applied in a complex legal framework of statutory land laws, notably the Land Use Act, and customary land tenure systems, which emphasise collective land ownership and the importance of family. These can sometimes impede the automatic application of resulting trust, and demand a nuanced approach from courts. Additionally, the study identifies continuing problems, including doctrinal confusion between resulting trust and constructive trust, as well as evidential issues caused by the informal nature of property transactions in Nigeria. This has been the source of judicial inconsistencies and has impacted predictability of the decisions in property cases. Despite these limitations, resulting trust continues to play a significant role in Nigerian property law as a corrective equitable doctrine that ensures fairness where legal title alone does not reflect true ownership interests. Its continued relevance underscores the importance of equity in complementing statutory and customary legal frameworks.

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