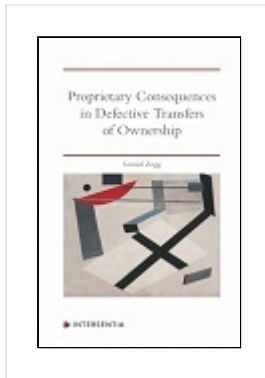


PROPRIETARY CONSEQUENCES IN DEFECTIVE TRANSFERS OF OWNERSHIP



Auteur: Samuel Zogg

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This book analyses proprietary restitution, at law and in equity, and inquires whether proprietary relief is available in defective transfers of property, such as mistaken payments. Refining the Birksian event-based classification of rights, it offers a coherent and rationalised approach to the transfer, creation and tracing of proprietary rights in general. The book sets out the current state of the law and discusses a vast body of case law. It is argued that the scope of proprietary relief following defective transfers of property is quite limited. Legal or equitable title in the transferred property remains vested in the transferor if his intention to execute the transaction is virtually absent altogether. If only equitable ownership is retained, a resulting trust comes into being. If legal and equitable ownership passes, the law of rescission might provide a power in rem which equips the respective party with a proprietary interest. Apart from that, however, no proprietary relief is available in defective transfer cases. In particular, constructive trusts have no role to play in this context. Proprietary Consequences in Defective Transfers of Ownership is a comprehensive work of interest to academic and professional readers alike.