

Scott v Scott (1963-64) 109 CLR 649

<http://lawcasesummaries.com/knowledge-base/scott-v-scott-1963-64-109-clr-649/>

Facts

- A trustee used trust money along with his own money to purchase property in his own
- The price of the property increased substantially
- He agreed to pay the \$\$ back
- He said he only had to pay it back - not give up the property

Issue

- Could the trustees claim an increased sum as the value of the property has increased?

Held

- Trustee must account for the profit on a proportionate basis
- It would be unjust for the trustee to retain the profit
- If a profit results from breach of trust, a constructive trust will arise.
- Cannot make direct or indirect profit from fiduciary position
- Beneficiary's entitled to a lien over property, or claim a proportionate claim to the property.

Law case summary from www.lawcasesummaries.com