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ANNOTATED BRITISH COLUMBIA LAW AND EQUITY ACT
A. Wolfgang Rao and Charlotte C. Gregory
Release No. 1, April 2024

The **Annotated British Columbia Law and Equity Act** is the only book of its kind on the **Law and Equity Act**. It provides everything you need to know regarding the issues, legislation, principles and more. Inside you'll find concise digests of all relevant decisions from the British Columbia courts, legislative history and commentary for each provision. Topics covered are broad and include: mortgages and purchase agreements; relief against penalties and forfeitures and acceleration provisions; sureties; assignments of personalty and debts; family law matters including status, guardianship, maintenance, access, custody and education of infants; charitable trusts; construction law issues; RSPs and contract law issues.

Legislative Highlights

This release includes 92 annotations and covers sections 4, 8, 10, 20, 24, 36, 37, 39, 52, 54, 56, and 59 of the *Law and Equity Act*, R.S.B.C. 1996, c. 253.

Case Law highlights

Section 8 — No restraint or prohibition by injunction — Three proposed class actions involving the same Defendant were brought simultaneously. In order to avoid a multiplicity of proceedings the Court granted an interlocutory stay of the first action (Kett) pending class action certification of a broader all-consuming action (Sibble), which had already consolidated the third action (Reid). On appeal, the court held that the judge's decision contained no palpable or over-riding error and was entitled to deference. Writing in dissent, Saunders J.A. determined that the court should have applied the test laid out in *RJR-MacDonald Inc. v. Canada (Attorney General)*, notwithstanding that s. 39 had not been plead or argued in either the Supreme Court or Court of Appeal: *Kett v. Google LLC* , 2023 BCCA 350 (B.C.C.A.) (appeal Reid v. Google LLC, 2022 BCSC 158).

Section 10 — Avoidance of multiplicity of proceedings — The issue of costs resulting from the dismissal of a proceeding subse-quently under appeal was addressed by the judge, who held that it was not appropriate to adjourn the question of costs merely because an appeal had been brought, based on s. 10 of the LEA. The judge noted that his order for costs could be raised as an additional issue on appeal: *Parker Cove Properties Limited Partnership v. Gerow*, 2023 BCSC 2275 (B.C.S.C.).

Section 20 — Cost in foreclosure proceedings — At summary trial a foreclosing party successfully sought special costs. The Court considered and extensively discussed the LEA. On Appeal, the Court upheld the foreclosure but set aside the order for special costs on the basis that such amounted to punishment for an otherwise normal level proceeding. The Court on Appeal said: "When all of these considerations are taken together, I have concluded that an order that Mr. Dietterle pay special costs of the proceeding comes inap-propriately close to punishing him for raising a bona fide, potentially meritorious, substantive defence by exercising a discretion that comes too close to establishing a presumption that special costs will be awarded whenever a foreclosure proceeding is moved away from a summary proceeding and an order nisi is ultimately pronounced. The delay, and for the most part the complexity of the proceedings, was inherent in the disposition of any proceeding on its merits..." (at para. 50): *Vanguard Mortgage Investment Corporation v. Dietterle*, 2023 BCSC 573 (B.C.S.C.) appealed at Dietterle v. Vanguard Mortgage Investment Corporation, 2023 BCCA 425 (B.C.C.A.).