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ANNOTATED ONTARIO ESTATES STATUTES

Schnurr

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The *Annotated Ontario Estates Statutes* is a comprehensive reference that brings together, in a single loose-leaf volume, easy access to the legislation and case law critical to the practice of estates law in Ontario. The text includes complete annotations of estates-related legislative provisions, and section-by-section commentary written by a leading practitioner in estates law.

What's New in this Update

This release updates commentary and case law in Chapters 3 (Charities Accounting Act), 8 (Estates Act), 10 (Evidence Act), 13 (Land Titles Act), 14 (Limitations Act, 2002), 18 (Rules of Civil Procedure), 19 (Settled Estates Act), 20 (Substitute Decisions Act, 1992), 21 (Succession Law Reform Act) and 23 (Trustee Act). Appendix A - Related Legislation was also updated.

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Highlights

Related Legislation – Conveyancing and Law of Property Act – Section 15: What is Included in a Conveyance – Land owned by the deceased included a marina as well as other buildings and structures. The deceased left her interest in the marina to one beneficiary. The other beneficiaries claimed that all the other “buildings, structures and docks” formed part of the residue of the estate. The beneficiary who received the marina claimed that would it make no sense to own just the marina and that the deceased must have intended to leave him the rest of the lands. The Court found that the rest of the lands formed part of the residue. Under s. 15 of the *Conveyancing and Law of Property Act*, all the other buildings and structures go with the land, and not the marina: *MacPherson v. Wyszatko (Estate)*, 2023 ONSC 3910, 2023 CarswellOnt 10301 (Ont. S.C.J.).

Related Legislation – Powers of Attorney Act – Section 3: Exercise of Power after Termination – If a power of attorney is terminated but the attorney continues to act as attorney knowing that the power of attorney is terminated, then the attorney cannot use section 3 to validate their actions. In this case, the defendants were donees of a power of attorney granted to them by FB, who was also a legatee under the will of the deceased, MS. The defendants provided MS’s estate representatives with evidence of their power of attorney and asked for the legacy to be paid to them. Before the legacy was paid, FB died which ended the defendants’ power of attorney. MS’s estate solicitors, unaware of FB’s death, made partial payment of the legacy shortly after FB died. The Court agreed with MS’s estate and ordered that the payment be returned. The defendants could not rely on the fact that MS’s estate solicitors were unaware that FB had died to validate the transaction because the defendants themselves knew of FB’s death: *Schiketanz Estate v. Crainic*, 2001 CarswellOnt 1835 (Ont. S.C.J.).

Related Legislation – Old Age Security Act – Section 29: Application for pension by estate – A deceased mother did not apply for Old Age Security (OAS) pension benefits prior to her death, but her daughter applied after her mother’s death. Retroactive payment was made to the estate for the one-year maximum allowable under the OAS scheme. Additional retroactive pension benefits were refused and the estates’s application for judicial review was dismissed. The Review Tribunal was correct in finding that it could not grant additional retroactive OAS benefits to the applicant: *Stevens Estate v. Canada (Attorney General)*, 2012 FC 622, 2012 CF 622, 2012 CarswellNat 2157 (Fed. Ct.).

ProView Developments

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