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### LAW OF VENDOR AND PURCHASER

Victor DiCasteri

Release No. 7, July 2025

The *Law of Vendor and Purchaser* is the classic work on the law relating to the sale of real estate in Canada. The 3rd edition, in 20 chapters, surveys the statutes and case law in the common law provinces and territories. The first eight chapters explore the formation of the contract for sale or the agreements of purchase and sale. Chapters 9 to 14 canvass the legal issues that arise from the investigation of title to repudiation or abandonment, and from construction of the contract to the position of the parties pending completion. Chapters 15 to 18 examine the selection and pursuit of remedies for vendors and purchasers upon default. Chapters 19 and 20 address the standard of care to be met by solicitors acting for parties to a real estate transaction, and the rights and duties of real estate agents and brokers.

This release features updates to Chapters 3, 5, 9, 10, 12, 13, 14 and 16.

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## Highlights

**REMEDIES FOR DEFAULT—JURISDICTION—OF THE COURT—INJUNCTIONS—***2607087 Ontario Limited v. 2654993 Ontario Ltd.*, 2025 CarswellOnt 4879 (Ont. S.C.J.) (motion by defendant real estate companies to enjoin sale of property by plaintiff mortgagee; defendant acquired \$11M property with payment of \$6.5M and vendor take mortgage for balance; property consists of four parcels which were historically used for golf course; defendants allege plaintiff represented property appropriate for residential development; easement registered on title in favour of neighbouring development property authorizes operation of storm water management facility on property and prohibits development of subject property until 2041; prior to closing, neighbouring landowner already advised plaintiff easement would not be discharged; plaintiff did not disclose this information prior to entering post-closing agreement requiring plaintiff to use best efforts to resolve easement issue and took no steps to remove easement; defendants have established serious issue to be tried respecting fraudulent misrepresentation; alleged costs incurred by defendants and risk of non-payment of damages does not establish irreparable harm to defendants if property sold by plaintiff; defendants undertaking as to damages hollow given that they have already defaulted on mortgage; injunction denied.)

**REMEDIES FOR DEFAULT—SPECIFIC PERFORMANCE—NATURE OF—***Willy Van Paassen Farm Limited v. P. & S. VanBerlo Limited et al.*, 2025 CarswellOnt 4163 (Ont. S.C.J.) (plaintiff seeks rescission of agreement to sell farm property to defendant; agreement provided defendant would take title, apply to sever property into two lots and transfer lot with existing house and structures and back to plaintiff and retain lot consisting of 70 acres of farmable land for commercial farming operation; purchase price \$780,000 for farmable land subject to further payment of \$300,000 and rent free lease for 21 years if severance not approved; purchaser obtained consent to severance which lapsed when purchaser failed to register because plaintiff refused to pay severance costs and taxes as demanded; agreement expressly provided for sharing of costs of severance equally; no basis for implied term and defendant obligated to pay property taxes as land owner of entire property; parties directed to re-apply for same severance obtained in 2019; if new severance application not approved, defendant's failure to register after obtaining consent to severance constitutes breach of fundamental condition; since severance was actually granted, inequitable to permit defendant to simply pay \$300,000 when plaintiff will not obtain title to his home; appropriate to grant rescission and restore parties to pre-contract positions.)