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LAW OF VENDOR AND PURCHASER

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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, 7, 9, 12, 13, 14, 16, 17 and 20.

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Highlights

PARTIES—PERSONS MENTALLY INCOMPETENT—CAPACITY TO CONTRACT—*Ruszkowski v. Kisil Estate*, 2025 CarswellSask 399 (Sask. K.B.) (application for specific performance of contract for sale of farm land at low price; vendor relies on lack of capacity to contract and bears onus of establishing dementia prevented her from understanding nature and effect of agreement; expert evidence establishes dementia prevented applicant from understanding true nature and consequences of transaction; at time of execution, vendor unable to appreciate value of land, financial circumstances, impact of sale on life and living arrangements and long-term care needs of her and dependent son; plaintiff ignored suspicious circumstances and made no inquiries into capacity and contracts not in good faith; even if plaintiff did not appreciate capacity was an issue, contracts voidable for unfairness; contracts also unconscionable given inequality of bargaining power and manifestly improvident bargain which advantaged plaintiff and disadvantaged defendant; land worth \$4—500,000.00 and purchase price only \$100,000.00; contract unenforceable for lack of capacity and unconscionability.)

DEDUCTION AND INVESTIGATION OF TITLE—POSSESSORY TITLE—ADVERSE POSSESSION AS FOUNDATION FOR POSSESSORY TITLE—*Bazar v. Bruce Trail Conservancy*, 2024 CarswellOnt 21996 (Ont. S.C.J.) (application for order of adverse possession over 1.6 acre triangular area of land; disputed area is three parcels of land which consist of two road allowances and farm property; adverse possession requires applicant to establish 10 years of exclusive use prior to conversion of parcels to Land Titles Registry; road allowances converted in 1999 and 2011 and farm property converted in 2004; applicant cleared land, excavated pond and planted trees in disputed area; no evidence of titled owner using or occupying area or objecting to applicant's use prior to conversion which might rebut open, exclusive and peaceful possession of applicant; trees planted on boundary of disputed area establishes intention to occupy and exclude others and titles owner was excluded for years prior to conversion; adverse possession established and order for survey to establish boundary of area.)

THE CONTRACT—RESTRICTIVE COVENANTS—CANCELLATION—*Kelowna (City) v. Watermark Developments Ltd.*, 2025 CarswellBC 3328 (B.C. C.A.) (City appeals cancellation of two restrictive covenants registered as condition of rezoning and subdivision approval; covenants prohibit construction of buildings in future road corridor; over years road project plans changed, construction of particular segment of roadway became uncertain and no progress on project and property owner successfully discharged covenants as obsolete; appellant alleges judge erred by concluding cancellation would not cause injury despite acknowledging covenants retained some practical benefit for City; roadway project not abandoned and historical changes in construction plan and proposed phased construction not material changes rendering covenants obsolete; purpose of covenant continues to be protection of future road corridor; project not speculative or effectively abandoned given future planning, funding and feasibility contingencies which impact any public project; clear injury to appellant arising from loss of ability to complete road project without significant additional expense; covenants not obsolete and cancellation will injure appellant; appeal allowed.)

COMPLETION—SUFFICIENCY OF VENDOR'S DOCUMENTATION—WHEN PURCHASER ENTITLED ON CLOSING TO REGISTRABLE DIS-

CHARGE OF MORTGAGE—*Pakravan v. Equitable Bank*, 2025 CarswellBC 3283 (B.C. S.C.) (petition for discharge of defendant bank’s mortgage; purchase contract required clear title which necessitated removal of 3 charges from title, including two mortgages and assignment of rents; petitioner relied on pay out statement provided by bank and paid funds into trust for vendor to clear all 3 charges and paid out remainder of sale proceeds from trust; bank accepted funds and did not advise petitioner funds insufficient to clear all charges; subsequently, bank indicated error in pay out statement, provided discharge document for only one mortgage and demanded additional funds to discharge second mortgage; purchasers filed action against petitioners for breach of undertaking pursuant to s. 244 of *Land Title Act*; petitioner breached trust conditions by accepting funds without providing registrable discharge of all charges; order for discharge of mortgage from title.)