

## Publisher's Note

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## Law of Vendor and Purchaser

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 1 (Introduction), 4 (Statute of Frauds), 5 (Offer and Acceptance), 6 (Options), 7 (Misrepresentation, Undue Influence and Fraud), 8 (Mistake and Illegality), 9 (Deduction and Investigation of Title), 12 (The Contract), 14 (Completion), and 17 (Remedies for Vendor).

### Highlights

#### Misrepresentation, Undue Influence and Fraud — Fraudulent Misrepresentation — Patent and Latent Defects as to Quality

*Tregobov v. Paradis et al*, 2017 MBCA 60, 2017 CarswellMan 295, [2017] M.J. No. 182 (Man. C.A.), affirming *Tregobov v. Paradis Estate*, 2015 MBQB 136, 2015 CarswellMan 441, (sub nom. *Tregobov v. Paradis*) 320 Man. R. (2d) 150 (Man. Q.B.), leave to appeal refused *Lianne Tregobov, et al. v. Normand Paradis, Irene Paradis, Glen Williams, et al.*, 2018 CarswellMan 26, 2018 CarswellMan 27 (S.C.C.) (vendors listed their home for sale; MLS listing disclosed “some foundation work may be required”; purchaser alleged vendors and real estate agent informed her that problems with foundation had been taken care of; purchaser did not seek disclosure statement; purchaser brought action against vendors and their agent alleging fraud on their part or negligence on part of their agent relating to alleged cover-up of damage to foundation,

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failure to make full disclosure, and failure to disclose condition of part of back yard; vendors brought successful application to dismiss purchaser's claim for lack of proof of reliance; trial judge held that, despite deficiencies in disclosure in listing and in information provided verbally by vendors and real estate agent, purchaser was aware of structural defect in one wall and that there was guesstimate to repair it for \$7,000 and although three walls needed repair, vendors were unaware of two of them; trial judge held that, there being no actionable fraud, purchaser could not recover damages because of terms of unconditional offer to purchase; finally, trial judge held that problem with back yard was patent defect and that it was up to purchaser to ask about it or seek its inclusion in property condition statement; vendor appealed; it was open to trial judge to not consider vendors' real estate agent's opinion as to cost of repair as material inducement; plaintiff negotiated further reduction of price by \$9,900 to address existing water damage in basement she was aware of, after speaking to vendors' agent about north wall that needed repair; it could not be said that trial judge made reversible error when he dismissed claim against vendors and their agent because of "lack of proof of reliance"; it was open to trial judge on record to conclude that purchaser was not induced to enter into contract to purchase home as result of fraudulent misrepresentations of vendors and or their agent or as result of any negligent misrepresentation on part of their agent).

#### **Completion — Easements — Creation in Equity**

*Young v. Beck*, 2017 BCCA 248, 2017 CarswellBC 1730 (B.C. C.A.), affirming 2016 BCSC 562, 2016 CarswellBC 854 (B.C. S.C.) (respondent cut off access over her property to neighbouring lot denying owners of that lot vehicular access to their home; access was longstanding and parties in past had operated on understanding of access, but there was no easement confirming right of access registered in Land Registry; trial judge found there was promissory estoppel in favour of petitioners and declared equitable easement as remedy; respondent appealed; trial judge made no error in his understanding of law of promissory estoppel; findings of fact challenged were open to judge on evidence; there was no error in refusing to apply doctrine of clean hands).