

Book Review

Voumard: The Sale of Land, Victoria, 4th Edition

(Law Book Company, \$89.50 HC)

In recent years there has been a proliferation of reported conveyancing cases. To some extent this reflects the increasing volume of litigation generally, but in large measure results from the efforts of the authors of the C.C.H. and Butterworths conveyancing publications to deliver to their readers reports, or at least notes, of all conveyancing decisions of possible significance.

Many see the multiplication of specialised law reports in a whole host of different fields as undesirable because of the increasing burden of research time and subscription cost which it places upon the practitioner. The trend does however have at least one beneficial result. Prior to the publication of specialised reports, those with a large practice in a particular field tended to have vast collections of unreported decisions which were not available to all. The advantage that these collections provided has tended to be negated in recent years in fields such as conveyancing. Although the cost is high, the C.C.H. and Butterworths publications are well organised and indexed and one would think that the little extra time involved in research would be far outweighed by the savings resulting from avoiding having to argue a point which has been the subject of a decision of which counsel would otherwise have been unaware.

Like it or not, specialised reports are now a fact of life and a barrister arguing a case in a field where specialised reports exist, ignores them at his or her peril. It is curious in these circumstances that the editor of the recently published 4th edition of Voumard's *The Sale of Land in Victoria*, has consciously chosen to disregard these reports. They are dismissed in the Preface in the following terms:

"There have also been several publications of law reports in recent times. Some of these reports merely contain a brief summary of the reasons for judgment, which may not be of assistance to practitioners. I have not referred to any of these reports in this book?"

This feature of Voumard renders the book of limited value to practitioners, at least those in New South Wales from whence come most of the judgments reported or noted in the specialised reports.

By way of example, there is reference at page 78 of the 4th Edition to the principle in *Eccles v Bryant* [1948] Ch. 93, that where parties have shown an intention of agreeing to sell by the customary method, namely by exchange of contracts, there is no binding contract until exchange has occurred. The discussion would be more complete if reference had been made to the decision of the New South Wales Court of Appeal in *B. Seppelt & Sons Limited v Commissioner*

for *Main Roads* 1 B.P.R. 9147 which is reported only in the Butterworths Property Reports. In that case, the *Eccles v Bryant* principle was applied to an alleged contract made by a Government Department. Various factors attracting the application of the principle in the particular circumstances were discussed. Furthermore, an interesting extension of the principle is to be found in *Summit Properties v Comserv (No. 784) Pty. Limited* 2 B.P.R. 9173, again a decision of the New South Wales Court of Appeal reported only in the specialised reports. The concept of a ceremony necessary to mark the completion of a bargain in relation to Torrens title land was considered in that case to extend to the need for execution by both parties to a proposed lease of a registrable memorandum of lease.

Another example relates to the important decision of the High Court in *Sindel v Georgiou* 154 C.L.R. 661, in which it was held that a binding contract had been made despite the fact that the forms of contract which had been exchanged were not identical. The High Court considered that the parties had agreed upon the terms of their bargain and that the lack of correspondence between the two copies was capable of being remedied by rectification. The decision was distinguished by the New South Wales Court of Appeal in *Longpocket Investments Pty. Limited v Hoadley* (1985) C.C.H. N.S.W. Conv. R. 55-244, where the vendor's solicitor was found to have had no authority to make a relevant change to the form of contract and that therefore it could not be considered that the parties "intended to treat the documents actually signed and exchanged as merely sealing a bargain . . . negotiated and agreed upon".

These comments aside, it must be acknowledged that Voumard has, since publication of its first edition in 1939, acquired a well-deserved reputation as a work of scholarship and as a valuable aid to the practitioner. Although, for reasons given above, and for the obvious reason that its accent is, as the title suggests, on Victorian conveyancing law, it cannot be treated as the only source of reference for a New South Wales practitioner, it is a very valuable aid to research. Its counterpart in New South Wales, *Vendor and Purchaser by Stonham*, as good as it may have been, is now over 20 years out of date. Voumard on the other hand is up to date and on many topics provides the most detailed, if not the only, discussion to be found in the texts and services of many of the intricate questions that arise in conveyancing law. The high standard of previous editions has been maintained in the 4th edition. □

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