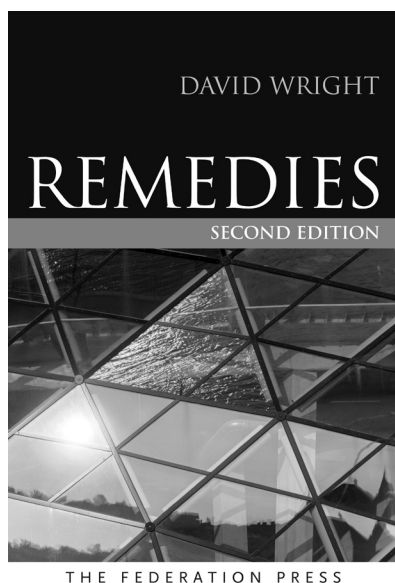


Remedies (2nd Edition)

By David Wright | Federation Press | 2014



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Remedies are, as the author of *Remedies* tells us, what clients want. Yet for the practitioner, they may sometimes be an afterthought. And by the time consideration of the remedy comes around, the time for evidence in support of the preferred remedy may have passed. *Remedies*, now in its second edition, is a welcome addition to the library of any private law practitioner, covering a broad array of remedies, both at common law, in equity and based in statute (to keep the book within manageable limits it does not deal with the remedial consequences that might attend if one of the disputing parties is the Crown). The book's style is simple and accessible. Its anticipated audience covers a wide spectrum of experience from law student to practitioner. There is much in this book for the experienced practitioner.

Whilst *Remedies* lacks the comprehensive detail and doctrinal analysis of a *McGregor on Damages*, *Meagher, Gummow and Lehane's Equity: Doctrines and Remedies* (MGL) or *Spry's Equitable Remedies*, it does provide an accessible

overview of the three main forms of remedies available in private law. *Remedies* is not a substitute for the detail and learning contained in these leading texts. Rather, it is complementary to them. The book serves as a useful springboard providing a comprehensive overview identifying the key principles and case law and important doctrinal disputes and lines of authority. Key principles are succinctly explained. Although intended to be accessible, Wright has achieved that accessibility without the cost of over simplification. Each chapter is well referenced, with footnotes indicating useful texts and academic articles and other relevant cases. Where relevant he also highlights further development in thinking contained in recent case law (for example, the gradual recognition of the High Court of the remedial constructive trust) and text writers (for example, the concept of the fusion fallacy in remedies developed in MGL).

There are 18 substantive chapters. Chapters 2 to 4 deal with compensation at common law including contractual damages, tortious damages and restitution. Chapters 5 to 15 deal with equitable remedies and includes a chapter each on: Lord Cairns' Act damages, account of profits, rectification, the (remedial) constructive trust, specific restitution, specific performance, rescission and injunctions (final and interlocutory). Finally, chapters 16 to 19 might best be described as 'other' remedies not readily characterised under

the common law or equity badges including *Mareva* orders, *Anton Pillar* orders, remedies under the *Competition and Consumer Act 2010* (Cth) and declarations. The second edition was published in 2014. It therefore contains a comprehensive account of the most recent authorities of the High Court in these areas (the most glaring omission, simply by virtue of the timing of publication, is that the section on the defence of change of position to a claim in restitution does not refer to the latest decision of the High Court in *Australian Financial Services and Leasing Pty Limited v Hills Industries Limited* (2014) 88 ALJR 552).

With an eye to the student market, and the increasing appetite of law schools to teach remedies, whether as a stand-alone subject or incorporated within key subject areas such as torts and equity, each chapter concludes with a problem question (with answer). For the practitioner this part of each chapter will be of limited utility (although not without a certain degree of passing curiosity and interest), however, it forms only a small part of each chapter and does not detract from the overall usefulness of the book for the private law practitioner.

Reviewed by Radhika Withana