Remedies in Equity
The Laws of Australia
Edited by David Wright and Samantha Hepburn
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Reviewed by BJM

Let me start with three questions.

1. Would you say, Mareeva Injunction or Mareeva Order?
2. What is the fundamental difference between a Search Warrant and an Anton Piller order?
3. Apart from obtaining an Order for specific performance, what other remedies are available in equity?

I ask these questions because they represent the three major areas of enlightenment which I gained through reading this book. Oh, and if you don't know the answers, the first is Mareeva Order, the second is that an Anton Pillar does not provide a right of entry on property without the consent of the respondent, although by refusing he or she is likely to be in contempt and as to the third, you will have to read the book for yourself as the answer is too complex to be summarized succinctly in a book review.

I have been involved in obtaining Mareeva Orders on several occasions, as have I been involved in advising a recipient of an Anton Piller Order, but this book has made me realise how woefully inadequate was my knowledge of those two remedies.

In terms of damages, we tend to be raised on a diet of common law remedies, with the backstop of seeking specific performance where a party refuses to complete a contract or the like. But think about concepts of "tracing" assets which have been disposed of, or merged with other assets, constructive trusts, seeking return of property, etc and we start to realise that we are familiar with other equitable remedies. And, what of Injunctions and seeking Restitution?

This book is, I must emphasise, written at a level of detail which puts it right up in the top echelons of research material for practitioners. It is not a student level text but, in my view is a formidable and first rate research text which all will find useful, be it as solicitor, counsel or judge.

As you would expect, it has copious citations of authorities and extensive footnotes. It would be a mistake to simply read the text and ignore the footnotes. I found myself being drawn to them in order to understand better, through a more detailed explanation, what is often a brief statement in the body of the text.

The outside back cover contains an overview of this book, which includes the following summary with which I entirely agree:

"Extensive case examples and factual discussion complement a thorough examination of established principles. This includes coverage of the latest judicial decisions and any statutory modification of the remedies in equity. This work also identifies the critical matters which can affect the exercise of a court's discretion and when remedies in equity may or may not be available".

I conclude by noting that it seems that the text is up to date as of June 2010. It is also published as Subtitles 15.5-15.12 in Title 15 of the Laws of Australia Encyclopedia (and accordingly contains many references to past editions thereof).

This book is highly recommended.