

# Australian Property Law Journal

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(Articles and Case Note included in this part are linked to the LexisNexis platform)

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#### Articles

##### [Voluntary assignments of legal property: Why equity's intervention is not justified](#)

— *Alexander Stefas*

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The assignment of certain types of legal property, such as transfers of land, depend on the involvement of third parties for title to pass. In voluntary assignments of those types of property, equity intervenes once a transferor has taken all necessary steps that she alone can take vis-à-vis the transferee to give effect to the transfer. Equity's intervention has the effect of creating a position between the transferor and transferee which operates as if the transferor is able to transfer the property by her actions with the transferee alone. This article explains how equity's intervention is sought to be justified in Australia on the basis that it facilitates a transferor's freedom of disposition. This article then argues that equity's intervention cannot be justified on this basis. As a consequence, in the absence of any good reason for equity's intervention, equity should not intervene prior to title passing to a transferee.

##### [Can 'mere equities' arising via part performance over Torrens land be protected by caveat?](#)

— *Dr Glen Anderson*

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The present article enquires whether unregistered interests in Torrens land arising via part performance are capable of protection by caveat. The article argues that such interests are, in all likelihood, regular equitable interests, and should, like claims arising via proprietary estoppel, common intention constructive trusts and *Rochefoucauld v Boustead* express trusts, be capable of protection by caveat.

##### [Entrenching indefeasible title pursuant to the \*Real Property Act 1886\* \(SA\)](#)

— *P T Babie*

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This article offers a brief analysis of the prospective operation of ss 6, 10, and 11 of the *Real Property Act 1886* (SA), which together operate as a prophylactic against purported amendment to or repeal of the provisions of the Act. It contains four parts. Part II examines the judicial analysis of these provisions. Part III suggests that the South Australian Parliament may, inadvertently, have given some direction with respect to the meaning of s 6 in its curious treatment of that provision between 2013 and 2017 in the *Aboriginal Lands Trust Act 2013* (SA). Part IV briefly examines the result of the judicial and legislative analysis: that s 6 presents no bar to the operation of what has become known as the overriding legislation exception to indefeasibility of title. Part V concludes that the overriding legislation exception represents a challenge to maintain the accuracy and so integrity of the Torrens register.

## Case Note

The immovables rule in the Supreme Court of the United Kingdom: *Kireeva v Bedzhamov* [2024] UKSC 39

— *Laurence Brown and David Brown*