

## **Closing remarks – Queensland Law Society 15<sup>th</sup> Annual Property Law Conference Brisbane, 12 September 2014**

- [1] This conference has reflected the dynamic nature of property law and illustrated the opportunities and challenges which face property lawyers practising in contemporary times.
- [2] When I was at university the expression ‘property law,’ in the context of realty, conjured up concepts such as estates, future interests, incorporeal hereditaments, mortgages, indefeasibility of registered interests in the Torrens system and the like. Such matters are, of course, of continuing importance and it is critical that property lawyers stay abreast of the law on such things as easements, about which you heard during the conference.
- [3] Over the last few decades however, there has been an exponential growth in the range and complexity of laws which are specifically concerned with property transactions and also in other areas of law which, directly or indirectly, affect property and consequently, the interests of clients of property lawyers. Legislation relating to environmental constraints, superannuation, the law of insolvency, and revenue law, including with respect to GST and CGT, about which you have heard in the course of the conference, are examples of the latter.
- [4] Indeed, such is the breadth of laws which have some impact on the interests of the clients of property lawyers, that we have arguably reached the point where it might be difficult to accurately describe something as broad as “property law” as a discrete specialty, unless it is given a very constrained meaning.

- [5] There has also, over the last few decades, been an escalation in the regularity and rapidity with which laws have been subject to amendment or substantive reform. Examples of that have been the subject of the conference program.
- [6] All of this change and complexity must somehow be assimilated by a practitioner faced with the day to day practical demands of running a practice.
- [7] This presents both challenges and opportunities to contemporary practitioners. It goes without saying that all practitioners need to actively stay abreast of recent developments in their area of practice. Further, clients now increasingly require expert advice on particular issues from those with a comprehensive knowledge of a very specific area. Environmental law is just one example of that. This creates the need for what might be regarded as specialists or sub-specialists within the broader church of property lawyers and consequently, presents opportunities for those who wish to fulfil that need.
- [8] On the other hand not all property lawyers will specialise or sub-specialise. Clients do not generally appreciate being shunted from one lawyer to another in the search for advice. In a world of increasing specialisation there remains a need for the property lawyer who is the client's first and primary port of call and who has the overall responsibility for looking after the client's interests more generally, even if that lawyer makes use of the expertise of specialists or sub-specialists in particular areas.
- [9] The critical challenge both for the property law generalist and specialist alike is to ensure that, between them, the client's needs are comprehensively and appropriately met. This necessarily requires the modern practitioner (of either kind) to:

- keep their professional knowledge current, notwithstanding constant change;
- be conscious of the limitations of the practitioner's own competence, whether that limitation be by reason of a generalists lack of sufficient depth of knowledge in a particular area or a specialists lack of breadth of knowledge beyond a particular area. In short, a practitioner needs to be able to identify those issues upon which the expertise of another is reasonably required. For example, a practitioner is unlikely to ensure that his/her client is properly advised, or referred for advice, on contamination of land issues, if the practitioner is oblivious to the relevant statutory regime; and
- form associations or relationships (whether they be among groups within a large firm or between firms/sole practitioners or between solicitors and barristers) to ensure access to the totality of the expertise needed for a client to be properly advised. I note that referral arrangements has been a topic of discussion at the conference.

[10] In this context, the Queensland Law Society, through its conference program, provides a valuable opportunity for practitioners to:

- (i) obtain information relevant to the development and maintenance of a practice, which I note was the subject of yesterday's first session;
- (ii) update their knowledge, by reference to recent developments, as a number of sessions have done;
- (iii) grow the scope of their own area of knowledge and competence, so as to provide a more comprehensive service to their clients, and
- (iv) be introduced to particular areas of law which might be beyond the practitioner's core area of competence, but some appreciation of which will

assist the practitioner to more readily identify relevant issues upon which their clients require appropriate advice.

[11] The 2014 conference program has offered each of those opportunities.

[12] I congratulate the Queensland Law Society on its 15<sup>th</sup> Annual Property Law Conference.

**Rackemann DCJ**