

# Requisitions and Objections

- **Generally**
- **Requisitions** are written requests to vendor in form of statement, requests, demands or enquiries (usually from purchaser to vendor), requesting some information about the land/property or requesting some action to take place or for some confirmation of facts. **It is defined in clause 1 of the Contract**
- **Objection** is an assertion by purchaser that they are unable to perform the contract according to its terms – alleges a defect or obstacle to perform – if defect is serious and cannot be remedied, may result in termination by purchaser
- **Godfrey Constructions v Kanangra Park (1972)** - types of requisitions and objections
  1. As to title – assertion that there is a defect in vendor's title to the whole or part of the subject matter of the sale
  2. As to conveyance
  3. In the nature of general enquiries
  4. In the nature of reminders
- **Requirements for valid requisitions**
- Requirement must be served on vendor:
- **Clause 5.1** If a requisition is attached to contract, it is assumed the purchaser made those requisitions
- **Clause 5.2** If Purchaser becomes entitled to make any other requisition, purchaser can only make it by serving it –
- **5.2.1** – if it arises out of the question or is a general question about property or title: served within 21 days
- **5.2.1** – If it arises by something served by the vendor: served within 21 days after contract date and that service
- **5.2.3** – in any other case: served within a reasonable time
- **Requirements for valid replies**
- Nothing in the standard contract that specified when vendor must reply
- As there is no express term, clause **21.1** applies and vendor must respond within a reasonable time
- Lack of a response may indicate there is some title defect
- **A vendor who does not provide a response to a valid objection cannot be regarded as ready, willing and able to complete a sale of land: Adolfson v Jengedor [1996]**
- A vendor is prima facie cannot be forced to comply with a requisition or objection issued by a vendor and can rescind the contract – as long as it is on "reasonable grounds": **Clause 8.1.1**
- The refusal to comply must be on reasonable grounds and cannot be capricious; the removal of the words **implies that the vendor can refuse to comply just because they decide not to**; this is unfair on the purchaser as a particular requisition could be really easy to meet but the vendor can just decide not to per that section
- Responding to a requisition costs the vendor nothing
- Meaning of "**unwilling**" – **Duddell v Simpson [1866]**
  - Turner LJ – the word 'unwilling' does not confer with it an **arbitrary power** to the vendor to rescind
  - **If the vendor wants to rescind contract for unwillingness, he must demonstrate reasonable grounds for the unwillingness**
  - His honour gave the example where a vendor does not comply with a requisition because it would lead to substantial expenses, including costs of litigation
- **Undisclosed Title Defects**
- Title defects include – easements, covenants, leases, zoning
- A situation could arise where a purchaser asks a vendor if they are aware of any easements (which is a title defect) – a refusal by a vendor to answer such a question and then rescission would be unreasonable. Vendor would
- **Schedule 1** of Sale of Land (Conveyancing) Regulation 2017 – **Clause 4(a)** easement is a prescribed document – failure to provide prescribed documents – breach of **s52A(2)(a)** – prescribed documents must be provided by vendor