

REVIEW

Contract Law in New Zealand – Lawyers' Handbook*

by Ian Bassett

Reviewed by Noel Ingram QC

In the law of contract, New Zealand is extremely well served by Burrows, Finn and Todd, *Law of Contract in New Zealand*.

The quality of that treatise is such that the likely first blush response to the publication of a further New Zealand work on contract is that, regardless of quality, a second text is unnecessary. Be assured that the practitioner who adopts that approach to Ian Bassett's *Contract Law in New Zealand – Lawyers' Handbook* would be sadly mistaken.

Bassett's work is not pitched to compete with Burrows, Finn and Todd; indeed, he issues the prefatory caveat that his book is not intended as an exhaustive statement of contract law, and that one of the leading contract textbooks should be consulted for that purpose. Instead, Bassett's intention is that the book be used as a framework for analysing contract law problems. It is an outline of broad principles of contract law, and, as such, it can serve as the companion to the comprehensive treatises on the law of contract, including remedies in contract.

Moving from the matter of the place in the market at which this book is directed to the issue of how successfully the work fulfils its objective, the suitable starting point is that of style; for style of writing is a distinguishing feature of this publication. Bassett's technique is to provide concise legal propositions with supporting authorities; the end product reads with the crispness and clarity of a written synopsis of argument prepared by an able advocate. For example, whereas Burrows, Finn and Todd devotes some 20 pages to the topic of undue influence, Bassett successfully transposes the subject in six pages, advancing a series of 21 succinct, well-considered propositions, including the following as part of the discussion on bank guarantees and third parties:

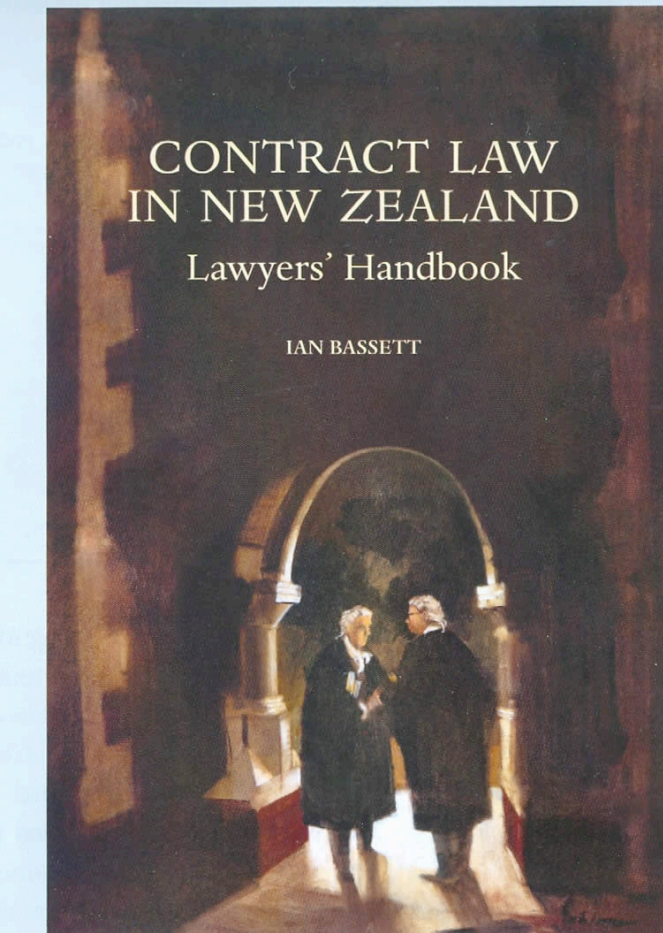
"12. A bank is put 'on inquiry' if there is a non-commercial relationship between borrower and guarantor – for example where a wife guarantees the debts of her husband and likewise for unmarried same or different gender couples.

Royal Bank of Scotland v Etridge (No.2) supra at 466-476."

It is an effective style by which the author conveys and develops with lucidity the propositions relevant to a particular topic, and it provides the practitioner with a properly structured, readily understandable, brief analysis of the particular area of law.

As to matters of substance, although the work is entitled a handbook, it should not be viewed as a mere student's primer. The scope of the book extends from contractual formation through to discharge, cancellation, and remedies. The emphasis is upon those last three aspects, with almost two thirds of the book's 190 pages being devoted to those topics.

The usefulness of this book to practitioners as an analytical framework is well illustrated in Bassett's treatment of damages within his chapter on



remedies. The right to compensatory damages for breach upon discharge or cancellation is outlined with reference to heads of recovery, including expectation, reliance, indemnity, and restitutionary interests. And the manner in which quantification of damages may vary according to the ambit and character of the contractual obligation and the nature of the breach is identified with reference to not only contracts for sale of goods, for physical works, for provision of information, and for provision of professional advice, but also contracts containing a negative promise, loss of opportunity, non-pecuniary loss, and breach of an obligation to pay money. While it claims to be merely a framework, it is a most thorough, analytical framework.

In summary, Ian Bassett has written a well-structured and highly readable book which provides a carefully researched and considered analytical framework for contractual problem solving – a work which should prove to be a valuable handbook for the conveyancer, the commercial lawyer, and the civil litigator alike.

*For sale at www.contract-law.co.nz or at UBS University Bookshop, 2 Alfred Street, Auckland. RRP \$77 GST inclusive.