20. Equitable Orders

Equity & Trusts: Text, Cases, and Materials (3rd edn)
Paul S. Davies and Graham Virgo

All books in this flagship series contain carefully selected substantial extracts from key cases, legislation, and academic debate, providing able students with a stand-alone resource. This chapter focuses on the commercially significant remedies of injunctions, specific performance, rectification, and rescission — paying particular attention to injunctions. Although it is true that damages for the breach of Common Law obligations are available ‘as of right’, and that equitable remedies are inevitably discretionary, it is important to recognize that such discretion is informed by a number of key principles. Importantly, equitable remedies are only available where Common Law remedies are inadequate: Equity can only intervene where the Common Law fails to do justice. However, equitable orders can be made in support of both legal and equitable rights. Failure to comply with an equitable order constitutes the crime of contempt, the punishment for which may be imprisonment, sequestration of the defendant’s assets, a fine, or a combination of these sentences.
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