

## Book Review: ONG on Rescission



Author: [Denis SK Ong](#)

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Reviewed by Dominic Katter

*After the death in 2004 of the then Regius Professor of Civil Law at the University of Oxford, [Peter Birks QC FBA](#), the law of restitution has continued to be the subject of significant academic discourse.*

Professor Birks' [obituary](#) in The Times was relevantly titled: 'Professor Peter Birks: Regius Professor at Oxford Who Shaped the Law of Restitution as a Modern Discipline' (The Times (London), 9 July 2004 at 37).



Subsequently, the [Norton Rose Professor of Commercial Law at Oxford, Andrew Burrows QC](#)

[FBA](#), has stated that his "... depressing conclusion is that ... , with respect, the High Court [of Australia] has lost its way in relation to the Australian law of restitution. ... [I]t is incumbent on all of us interested in the Australian law of restitution – whether academic, judge or practitioner and whether from these shores or not – to try to ensure that the High Court is put back on track. (see <http://www.law.uq.edu.au/documents/cli-sem-series/papers/The-Australian-Law-of-Restitution.pdf>)"

In that academic context, Professor Ong's work is a new and very timely, detailed, analytical monograph on rescission in the Australian jurisdictions.

*Ong on Rescission* examines, *inter alia*: the ramifications of the distinction between rescission *ab initio* and termination of contract, with prospective effect; the difference between *restitutio in integrum* at common law and in equity; and the concurrent and exclusive jurisdiction of equity with respect to rescission *ab initio*. It also refers to intention-based and estoppel-based election, the interests of third parties, partial rescission, rescission by reason of contract formation being induced by non-fraudulent misrepresentation, and grounds for rescission.

The book provides detailed, yet succinct analysis of relevant legal principles, supported by thorough and appropriate quotation, explanation and evaluation of the authorities. Professor Ong assists the reader by adding emphasis to particularly important phrases within judgments. The work is extensively and appropriately referenced, and includes a comprehensive table of cases and statutes, and a useful index.

There are no secondary sources cited in the footnotes to this work. This is a significant contribution to scholarship as to restitution.

This is the author's fifth work on the topic of equity, with previous publications being *Ong on Equity*, *Trusts Law in Australia* (4th edition), *Ong on Specific Performance*, and *Ong on Subrogation*.

Denis Ong is now a Professor within the Faculty of Law at Bond University. The Professor acted as a consultant to the Law Reform Commission of New South Wales, lectured equity and trusts at the Australian National University, and served as the Head of the School of Law at Macquarie University. Denis has nearly four decades of academic and lecturing experience in securities, commercial law, trusts, equity and personal property transactions.

The book is 288 pages in length and carries a recommended retail price of \$125.00.

**Dominic Katter**