

PUBLICATION UPDATE

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Real Estate Transactions: Purchase and Sale of Real Property

Publication 658 Release 31

May 2018

HIGHLIGHTS

Release 31 of *Real Estate Transactions: Purchase and Sale of Real Property* includes updates throughout the publication.

Important issues discussed in this release include the following:

N.Y. Court of Appeals held that prospective purchaser's commencement of lawsuit seeking reformation of amendments to contract based on purported misrepresentation as to condition of the property and specific performance of original contract did not constitute anticipatory repudiation of contract. *Princes Point LLC v. Muss Development L.L.C.*, 30 N.Y.3d 127, 65 N.Y.S.3d 89, 87 N.E.3d 121 (2017). *See* § 2:2.17[B].

N.Y. Court of Appeals has held that substantial performance is ordinarily not applicable to excuse nonoccurrence of an express condition precedent to a contract. *Oppenheimer & Co., Inc. v. Oppenheim,*

Appel, Dixon & Co., 586 N.Y.2d 685, 660 N.E.2d 415, 636 N.Y.S.2d734 (1995). *See* §§ 2:3.1[F], 2:2.24.

NYSBA ethics opinions on retainer agreements and collecting legal fees. *See* § 1.01[1][f], 7.01[1][e].

Requirement of title companies to report identity of beneficial owner[s] of purchasing entities. *See* § 10.01[5][a].

Case disbaring attorney for facilitating fraudulent loan applications. *See* § 37.04[4].

Cases on settlement conferences in home mortgage foreclosures. *See* § 36.07[10][h].

Cases on NYRPAPL 881, which allows an owner to go to court to obtain a license to temporarily go on a neighboring property to enable construction or repairs. *See* § 34.04[2].

Cases on caveat emptor and "as is" clause. *See* § 40.01.

Cases on remedies. *See* §§ 39.01, 39.02.

Case holding home heating service company liable for overfilling home heating oil tanks. *See* § 31A.03[8].

Cases on statute of frauds. *See* § 32.02.

Cases on covenants and easements. *See*

§ 34.04.

Cases on time of the essence. *See* § 37.01.

Cases on remedies. *See* §§ 39.01, 39.02.

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May 2018

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