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## Daily Banking A Daily Bulletin listing Decisions of Superior Courts of Australia

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### Executive Summary (1 minute read)

**AusNet Transmission Group Pty Ltd v Federal Commissioner of Taxation** (HCA) - taxation - income tax - payments were of a capital nature and therefore not tax deductible under s8-1 *Income Tax Assessment Act 1997* (Cth) - appeal dismissed

**Grover v NSW Trustee & Guardian** (NSWSC) - succession - family provision order in favour of deceased's grandson - burden of provision borne out of share of residue passing to primary beneficiary

**Coles v Dormer** (QSC) - copyright infringement - conversion - reproduction of house plans and construction of house - remedies - injunction

# Benchmark

## Summaries With Link (Five Minute Read)

### **AusNet Transmission Group Pty Ltd v Federal Commissioner of Taxation [2015] HCA 25**

High Court of Australia

French CJ; Kiefel, Bell, Gageler & Nettle JJ

Taxation - income tax - State of Victoria embarked on privatisation of publicly owned electricity supply industry in 1993 - in 1997 State-owned electricity transmission company incorporated under *Electricity Industry Act 1993* (Vic) sold its assets to appellant including transmission licence held by company under Act - whether payments by appellant of statutory charges imposed on company as holder of licence transferred to appellant and thereafter payable by appellant were payments of capital or of a capital nature within of s 8-1(2)(a) *Income Tax Assessment Act 1997* (Cth) - held (by majority): primary judge and majority in Full Court of the Federal Court were correct to conclude charges paid by appellant were capital in nature and were therefore not tax deductible under s8-1 - appeal dismissed.

[AusNet](#)

### **Grover v NSW Trustee & Guardian [2015] NSWSC 1048**

Supreme Court of New South Wales

Hallen J

Succession - grandchild of deceased made claim for family provision under Pt 3.2 *Succession Act 2006* (NSW) - prior testamentary intentions of deceased - extension of time - eligibility - factors warranting making of application - inadequacy of provision - held: adequate provision for proper maintenance or advancement in life not made by Will of deceased - according to prevailing community standards Court satisfied adequate provision for proper maintenance, education or advancement in life not made for grandson - deceased's disappointment in grandson as a wise and just testator should not have blinded him to needs of only grandson - grandson to receive lump sum out of deceased's estate - Court of view that burden of provision made for grandson should be borne out of share of residue passing to primary beneficiary - orders made.

[Grover](#)

### **Coles v Dormer [2015] QSC 224**

Supreme Court of Queensland

Henry J

Copyright infringement - conversion - remedies - plaintiff alleged defendants converted house plans in which he held copyright by assignment from building designer to their own use and infringed copyright by reproducing or substantially reproducing plans and constructing house substantially based on those plans - ss14, 21, 31, 32, 35, 36, 78, 115, 116 & 196 *Copyright Act 1968* (Cth) - whether building designer was owner of copyright - effectiveness of purported assignment - whether infringement of copyright or conversion - held: infringement of copyright and conversion established - plaintiff entitled to injunction though not in form contemplated when proceedings began - judgment for plaintiff.

[Coles](#)

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