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

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### Executive Summary (1 minute read)

**Attorney General of NSW v Homeland Community Ltd** (NSWCA) - trusts - company did not hold property on charitable trust

**Russell Gould Pty Ltd v Ramangkura (No 2)** (NSWCA) - restitution - leave to re-open appeal - no failure to make essential finding - appeal dismissed

**Commonwealth Bank of Australia Pty Ltd v Quinn** (NSWSC) - possession - summary judgment granted in favour of bank

**Parque Pty Ltd v Chungs Oriental Trading Pty Ltd** (VSC) - corporations - onus to show genuine dispute not discharged - statutory demand not set aside

# Benchmark

## Summaries with links (5 Minute Read)

### **Attorney General of NSW v Homeland Community Ltd [2015] NSWCA 15**

Court of Appeal of New South Wales

Macfarlan & Meagher JJA; Sackville AJA

Trusts - Attorney General of NSW sought declaration that respondent company held property upon a charitable trust for purposes identified in deed - primary judge dismissed proceedings - Attorney General appealed - held: primary judge did not err in permitting company to withdraw concession that it did not contest validity of charitable trust and to amend defence so as to withdraw admission it was bound by a trust - finding that company bound by trust required finding that it took transfer to it with notice that trustees intended it to hold property on trust - primary judge did not err in declining to make that finding - appellant's application to adduce further evidence refused - no significant prospect a different outcome would have ensued - appeal dismissed.

[Attorney General of NSW](#)

### **Russell Gould Pty Ltd v Ramangkura (No 2) [2015] NSWCA 14**

Court of Appeal of New South Wales

Bathurst CJ; Barrett & Ward JJA

Restitution - appellant company sought leave to re-open appeal in which judgment was given - company contended Court did not make finding essential to conclusion it reached, which was that director (Mr Gould) had company's authority to cause amount of company's money to be expended in satisfaction of indebtedness of company to director - held: Mr Gould had authority to cause company to pay amount to him by way of reduction of company's on-demand indebtedness to him and to effectuate payment by drawing on company's account with bank - leave granted to re-open - appeal dismissed.

[Russell Gould Pty Ltd](#)

### **Commonwealth Bank of Australia Pty Ltd v Quinn [2015] NSWSC 78**

Supreme Court of New South Wales

Beech-Jones J

Summary judgment - possession - bank sought to strike out amended defence or summary judgment in proceedings - amended defence raised general unconscionability - also sought to invoke *Contracts Review Act 1980* (NSW) - held: amended defence raised sufficiently clear claim under *Contracts Review Act* and of unconscionability - Court declined to strike out amended defence - no material from defendant to resist otherwise straightforward claim of default in repayment of loans - summary judgment granted to bank.

[Commonwealth Bank of Australia Pty Ltd](#)

### **Parque Pty Ltd v Chung's Oriental Trading Pty Ltd [2015] VSC 30**

Supreme Court of Victoria

Gardiner AsJ



Corporations - plaintiff applied pursuant to s459G *Corporations Act 2001* (Cth) to set aside statutory demand served on it by defendant on basis it had genuine dispute in respect of debts subject of claim - held: plaintiff did not discharge onus it bore that it had a genuine dispute in respect of debt remaining on statutory demand - plaintiff's position not supported by contemporaneously generated documentation - defendant's evidence inherently plausible - application dismissed.

[Parque Pty Ltd](#)

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