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Daily Construction A Daily Bulletin listing Decisions of Superior Courts of Australia

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Executive Summary (1 minute read)

Illawarra Retirement Trust v Denham Constructions Pty Ltd (NSWSC) - security of payments - construction contract - adjudicator's decision in respect of payment claim not void - summons dismissed

Acquista Investments Pty Ltd v The Urban Renewal Authority (No 2) (SASCFC) - costs - commonality of interests - need for separate representation - successful respondents to have costs of appeal and trial

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Summaries With Link (Five Minute Read)

Illawarra Retirement Trust v Denham Constructions Pty Ltd [2015] NSWSC 1173

Supreme Court of New South Wales

McDougall J

Security of payments - plaintiff and first defendant made written contract under which first respondent undertook to construct residential aged care facility - contract was "construction contract" under *Building and Construction Industry Security of Payment Act 1999* (NSW) - adjudicator made determination in relation to payment claim - whether adjudicator's determination void because he did not carry out task due to failure to decide essential element of claim namely entitlement to extension of time - whether determination void for error of law on face of the record - whether plaintiff entitled to permanent injunction restraining enforcement of determination - held: no failure to undertake task required by Act - adjudicator entitled to conclude first defendant entitled to recover "cash held" component of its claim - plaintiff did not make out good case for injunctive relief - summons dismissed.

[Illawarra](#)

Acquista Investments Pty Ltd v The Urban Renewal Authority (No 2) [2015] SASCFC 117

Full Court of the Supreme Court of South Australia

Vanstone & Lovell JJ; Debelle J

Costs - successful respondents sought costs of appeal and trial - appellants accepted they should pay first and second respondents' costs of appeal but opposed order in third respondent's favour in respect of appeal - appellants submitted only one set of costs should be awarded for appeal given commonality of interests between third respondent and first and second respondents - appellants submitted costs order of trial judge should not be disturbed or only minimally - r269 *Supreme Court Civil Rules 2006* (SA) - held (by majority): appellants' argument that respondents should receive only one set of costs not made good - respondents were ultimately successful - despite commonality of interests, there were compelling reasons why respondents' separate representation was necessary - appellants to pay respondents' costs of appeal and trial.

[Acquista](#)

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