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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)

Williams v Pisano (NSWCA) - building and construction - misleading representations made in connection with sale of residential premises did not constitute conduct in trade or commerce - appeal allowed

Kzacos v Shuangling International Development Pty Ltd (NSWSC) - freezing orders - order restraining third party from dealing with net proceeds of sale of property



Summaries With Link (Five Minute Read)

Williams v Pisano [2015] NSWCA 177

Court of Appeal of New South Wales

Bathurst CJ; McColl & Emmett JJA

Building and construction - trade practices - negligence - plaintiffs purchased house from owner-builder and husband - house was profoundly defective in its construction - sale preceded by false information given by owner-builder and appellant husband to real estate agent which was then passed on with their authority to purchasers - information played significant part in purchasers' decision to buy - purchasers sought damages for reasonable cost of remedying defects - primary judge gave judgment for purchasers - primary judge satisfied sale was a transaction in trade or commerce and that conduct complained of was in trade or commerce - falsity of representations established - mis-statements made in advertising material direct and intended positively to influence reader to buy - misleading conduct induced purchasers to enter contract - reliance established - claim in negligence not made out - held: primary judge erred in concluding that representations constituted conduct engaged in by appellant in trade or commerce - no contravention on the part of appellant of either ss18 or 30 Australian Consumer Law - appeal allowed.

[Williams](#)

Kzacos v Shuangling International Development Pty Ltd [2015] NSWSC 835

Supreme Court of New South Wales

Darke J

Freezing orders - plaintiffs sought freezing orders including orders restraining non-party from dealing with a property or net proceeds of any sale of the property - property was adjacent to property subject of proceedings and owned by third party - plaintiffs contended first defendant retained a beneficial interest in the property and that it was its only substantial asset - held: there was serious question to be tried whether first defendant had beneficial interest in property - plaintiffs' claim for damages against first defendant had reasonable prospect of success - order made restraining third party from dealing with net proceeds of sale of property.

[Kzacos](#)

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