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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)

**Australian Securities and Investments Commission v Midland Hwy Pty Ltd (administrators appointed); in the matter of Midland Hwy Pty Ltd (administrators appointed)** (FCA) - corporations - winding up - "land banking" scheme - deed of company arrangement set aside - first defendant company wound up

**Woodward v Woodward** (NSWSC) - wills and estates - equitable remedies - taking of account - first defendant financial manager of estate required to pay amount to plaintiff executor of estate with interest - orders

**Construction Technologies Australia Pty Ltd v Doueihi (No. 3)** (NSWSC) - landlord and tenant - development consent - notices of motion dismissed

**SSC Plenty Road v Construction Engineering (Aust) (No 2)** (VSC) - security of payments - certiorari - parts of adjudication remitted - different adjudicator not appointed for remittal

## Summaries With Link (Five Minute Read)

**Australian Securities and Investments Commission v Midland Hwy Pty Ltd (administrators appointed); in the matter of Midland Hwy Pty Ltd (administrators appointed) [2015] FCA 1360**

Federal Court of Australia

Beach J

Corporations - "land banking" scheme - resolution passed at second meeting of creditors of first defendant company (Midland) that it execute deed of company arrangement (DOCA) embodying proposal by second defendant company (Bilkurra) - ASIC sought pursuant to s447A *Corporations Act 2001* (Cth) to set aside resolution and sought that Midland be wound up - ss435A & 445D - held: DOCA not in interests of creditors - DOCA might be unfairly prejudicial or discriminatory - aspects of DOCA imprecise and unsatisfactory - Bilkurra provided misleading picture to creditors to procure their votes - s445D(1)(a) may have been triggered if DOCA entered - public interest required winding up of Midland - orders sought by ASIC granted.

[ASIC](#)

**Woodward v Woodward [2015] NSWSC 1793**

Supreme Court of New South Wales

White J

Wills and estates - equitable remedies - plaintiff was son of deceased and executor of estate - plaintiff claimed that account be taken of all moneys received and disbursed by first defendant son of deceased as financial manager of estate and order that first defendant pay to estate amount which might be found to be due on the taking of accounts - *NSW Trustee and Guardian Act 2009* (NSW) - *Countess of Bective v Federal Commissioner of Taxation* (1932) 47 CLR 417 - held: first defendant liable to pay to amount to plaintiff and to deliver up possession of a motor vehicle purchased with deceased's money - first defendant liable to pay interest.

[Woodward](#)

**Construction Technologies Australia Pty Ltd v Doueihi (No. 3) [2015] NSWSC 1850**

Supreme Court of New South Wales

White J

Landlord and tenant - development consent - first to fourth defendants sought declaration plaintiff (CTA) failed to do all things necessary to obtain regulatory approvals for its occupation and use of CTA premises and its manufacturing facility at premises - CTA sought directions on enforcement of order that first to fourth defendants do all things necessary to obtain approvals referred to in undertaking it gave - CTA sought order that first to fourth defendants be restrained from delaying, frustrating or hindering approval of its application under s96 *Environmental Planning and Assessment Act 1979* (NSW) - held: notices of motion dismissed.

[Construction](#)

**SSC Plenty Road v Construction Engineering (Aust) (No 2) [2015] VSC 680**



Supreme Court of Victoria

Vickery J

Security of payments - Court found adjudicator erred by failing to carry out function under *Building and Construction Industry Security of Payment Act 2002 (Vic)* - plaintiff succeeded in claim for relief of certiorari in respect of Disallowed Variation Claims and Disallowed Deduction Claims.- whether Adjudication Determination or part thereof, should be remitted and if so, to a different adjudicator - held: parts of first adjudication remitted for determination - Court not satisfied it was appropriate to direct different adjudicator to be appointed for remittal.

[SSC Plenty Road](#)

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