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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)

Nugawela v Deputy Commissioner of Taxation (FCAFC) - bankruptcy - dismissal of applications to set aside bankruptcy notice and extend time for compliance with it - appeal dismissed

Robert Peter Campbell ATF the Joan Macpherson Trust and the Banandra Pastoral Settlement Trust (NSWSC) - judicial advice - trusts and trustees - whether trustee justified to settle proceedings - whether terms of settlement appropriate - judicial advice given

Award Accounting Pty Ltd v WGC Aust Pty Ltd (NSWSC) - injunction - claim for amounts owing under agreements - danger of dissipation of assets - freezing order granted

Loftus v Australia and New Zealand Banking Group Ltd [No 2] (VSCA) - real property - possession - orders made at trial 'either wrong or attended by sufficient doubt' warranting making of consent orders

Summaries With Link (Five Minute Read)

[Nugawela v Deputy Commissioner of Taxation \[2016\] FCAFC 164](#)

Full Court of the Federal Court of Australia

North, Dowsett & Edelman JJ

Bankruptcy - appellant appealed against primary judge's dismissal of application to set aside Deputy District Registrar's orders - Registrar had dismissed appellant's applications to set

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aside a bankruptcy notice and extend time for compliance with it - whether erroneous failure to set aside bankruptcy notice due to matters s41(5) *Bankruptcy Act 1966* (Cth) - whether failure "to 'go behind' judgment debt or failure to grant extension of time - ss40(1)(g), 41, 41(5), 41(6), 41(6C), 41(6C)(a) & 41(6C)(b) *Bankruptcy Act 1966* (Cth) - *Taxation Administration Act 1953* (Cth) - held: no error in failure to exercise discretion to extend time or in failure 'to go behind the summary judgment' - appeal dismissed.

[Nugawela](#)

Robert Peter Campbell ATF the Joan Macpherson Trust and the Banandra Pastoral Settlement Trust [2016] NSWSC 1751

Supreme Court of New South Wales

Sackar J

Judicial advice - trusts and trustees - plaintiff trustee sought judicial advice of whether he was justified in settling proceedings and whether terms of settlement in Second Deed of Settlement were appropriate - trustee submitted Court should answer both questions in the affirmative - trustee also sought indemnity costs paid out of settlement trust funds - nature of judicial advice - s63 *Trustee Act 1925* (NSW) - held: judicial advice given.

[Robert Peter Campbell](#)

Award Accounting Pty Ltd v WGC Aust Pty Ltd [2016] NSWSC 1757

Supreme Court of New South Wales

Schmidt J

Injunction - freezing order - plaintiff sought ex parte freezing order under Pt 25 *Uniform Civil Procedure Rules 2005* (NSW) - proceedings concerned plaintiff's entitlement to sum for accounting services provided to defendants under various agreements - plaintiff contended there was danger of dissipation of defendants' assets - *Uniform Civil Procedure Rules 2005* (NSW) - held: there was danger defendants would dispose or diminish value of assets if order not made - balance of convenience favoured making order sought - orders made.

[Award Accounting](#)

Loftus v Australia and New Zealand Banking Group Ltd [No 2] [2016] VSCA 308

Court of Appeal of Victoria

Redlich, Osborn & McLeish JJA

Real property - possession - applicant was registered proprietor of property - applicant sought to appeal against judgment granting respondent possession of mortgaged property - parties proposed consent orders allowing and remitting matter with mediation orders pending retrial - parties filed a joint memorandum - whether to grant orders sought by parties - whether applicant's lack of representation required court to 'to play a greater role in ensuring fair trial' and court had failed to do so - held: Court satisfied orders made at trial 'either wrong or attended by sufficient doubt' to warrant granting relief sought - consent orders made.

[Loftus](#)



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