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

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### Executive Summary (One Minute Read)

**Pirina, in the matter of Ceylan Irmak Pty Ltd (in liq)** (FCA) - judicial advice given to liquidator that he could treat property owned by company in liquidation as subject to a trust - liquidator appointed manager and receiver of trust

# Benchmark

## Summaries With Link (Five Minute Read)

### **Pirina, in the matter of Ceylan Irmak Pty Ltd (in liq) [2024] FCA 1280**

Federal Court of Australia

Jackman J

Corporations law - a liquidator of a company discovered that the company owned property subject to a mortgage, and later was informed by an accountant that the company may own that property as trustee of a trust - the accountant gave the liquidator an unexecuted copy of a trust deed and the front page of a contract of sale showing the purchaser as the sole shareholder and director of the company, rather than the company itself - the liquidator discovered conflicting evidence as to whether the company held the property as trustee of a particular trust - the liquidator sought judicial direction under s90-15 of the *Insolvency Practice Schedule (Corporations)* as to whether he would be justified in treating the property and the funds received from leasing it as assets of the trust, and also sought an order under s57 of the *Federal Court of Australia Act 1976 (Cth)* that he be appointed as receiver and manager of the property and undertaking of the trust - held: the Court was satisfied that the company purchased the property as trustee for the trust and still held the property in that capacity - direction given that the liquidator would be justified in treating the property as trust property, despite the contradictory documents and information received - as for appointing the liquidator as receiver and manager of the trust, the trust deed provided that a corporate trustee of the trust would be removed as trustee if it went into liquidation - there was no evidence any replacement trustee had been appointed - therefore, the company, since going into liquidation, had held the property as a bare trustee, rather than as a trustee under the trust deed having all the powers granted by the trust deed - therefore, in order to sell the property, the liquidator required either a court order to sell or an order appointing him receiver - it was clearly appropriate to appoint the liquidator as receiver and manager of the trust - it was also appropriate to order the liquidator's remuneration for acting as receiver and manager be calculated on a time cost basis in accordance with his firm's current schedule of rates, to be paid from the property of the trust, on the proviso no amount be paid until fixed by the Court.

[Pirina, in the matter of Ceylan Irmak Pty Ltd \(in liq\)](#)

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