

Benchmark

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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)

Ogbonna v CTI Logistics Ltd (FCA) - human rights - racial discrimination - payment of allowances and superannuation - dismissal of claims - appeal dismissed

Linfield Developments Pty Ltd v Shuangxing Development Pty Ltd (NSWSC) - contract - development agreement - enforcement of call option - specific performance granted

Australian Dream Homes v Stojanovski (VSCA) - security for costs - termination of domestic building contract - evidence of impecuniosity not compelling - matters of public importance - security for costs of appeal refused

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Summaries With Link (Five Minute Read)

Ogbonna v CTI Logistics Ltd [2016] FCA 239

Federal Court of Australia

Barker J

Human rights - racial discrimination - Federal Circuit Court dismissed applicant's claim alleging racial discrimination under *Racial Discrimination Act 1975* (Cth) against respondents and also dismissed further claim that applicant was not paid allowances and superannuation - applicant sought extension of time to appeal - whether time should be extended - whether appeal had merit - standard of review - appointment to perform first aid - role as team leader - admission of hearsay - direction to work at site - claims regarding allowances under *Road Transport and Distribution Award 2010* - travelling allowance - admission of evidence - defamation - held: extension of time failed - grounds of appeal failed - appeal dismissed.

[Ogbonna](#)

Linfield Developments Pty Ltd v Shuangxing Development Pty Ltd [2016] NSWSC 68

Supreme Court of New South Wales

Pembroke J

Contract - specific performance - plaintiff sought to enforce a call option contained in development agreement - first defendant was in administration - first defendant agreed to purchase land and entered development agreement with third party plaintiff - development agreement contained call option in plaintiff's favour - event of default occurred - plaintiff called for land under option - main dispute was between plaintiff and sixth defendant - sixth defendant claimed its interest as equitable mortgagee had priority over plaintiff's interest in respect of call option - *Australian Consumer Law - Contracts Review Act 1980* (NSW) - credit - contractual construction - contemporaneous notes and documents - held: no genuine dispute about circumstances of plaintiff's exercise of call option - arguments about exercise of option not supportable - plaintiff entitled to relief sought - specific performance granted - judgment for plaintiff.

[Linfield](#)

Australian Dream Homes v Stojanovski [2016] VSCA 38

Court of Appeal of Victoria

Santamaria & McLeish JJA

Security for costs - builder sought to appeal decision in which primary found it was not open to Tribunal to hold owners acted unreasonably in terminating domestic building contract - contract was in form of Master Builders Association of Victoria New Homes Contract (HC-6 Edition 1-2007) - owners sought security for costs - *Domestic Building Contracts Act 1995* (NSW) - termination provisions of contract - r64.38(2) *Supreme Court (General Civil Procedure) Rules 2015* (Vic) - held: evidence of builder's impecuniosity not compelling - there had been delay in seeking security - appeal concerned matters of public importance - security for costs refused.

[Australian Dream Homes](#)

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