

Tuesday, 20 October 2020

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

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Executive Summary (1 minute read)

Griffith Local Aboriginal Land Council v Attorney General of New South Wales (FCA) - native title - 'unopposed non-claimant application' - applicant sought determination that native title did not exist in land parcel - determination granted

Cromwell Corporation Limited v ARA Real Estate Investors XXI Pte Ltd (FCA) - discovery - corporations - 'prospective applicants' sought order for preliminary discovery against 'prospective respondents' - application dismissed

Neville's Bus Service Pty Ltd v Total Group Constructions Pty Ltd (NSWSC) - notice to produce - contract - defendant served notice to produce on plaintiff - notice to produce set aside

Yuanda Vic Pty Ltd v Facade Designs International Pty Ltd (VSCA) - stay - security of payments - Court gave judgment for respondent against applicant - applicant sought stay of order pending outcome of application for leave to appeal - stay granted

Davidson v Suncorp-Metway Ltd (QSC) - stay - possession - application for stay of enforcement warrant for possession of land until 'one month after' delivery of judgment in Federal Circuit Court matter - application dismissed

Neo Modular Pty Ltd v Enderby Apartments Investment Pty Ltd [No 2] (WASC) - costs - indemnity costs - Court dismissed defendant's application for security for costs - plaintiff sought indemnity costs - defendant to pay plaintiff's costs - indemnity costs order refused

Summaries With Link (Five Minute Read)

Griffith Local Aboriginal Land Council v Attorney General of New South Wales [2020]

FCA 1501

Federal Court of Australia

Abraham J

Native title - 'unopposed non-claimant application' - applicant sought determination that native title did not exist in land parcel - whether 'formal requirements' in s66 *Native Title Act 1993* (Cth) had been complied with - principles in *Bahtabah Local Aboriginal Land Council v Attorney General of New South Wales* [2020] FCA 1236 - power of Court to make order - held: determination granted.

[Griffith](#)

Cromwell Corporation Limited v ARA Real Estate Investors XXI Pte Ltd [2020] FCA 1492

Federal Court of Australia

Anderson J

Discovery - corporations - 'prospective applicants' sought order for preliminary discovery against 'prospective respondents' under r7.23 *Federal Court Rules 2011* (Cth) - whether Cromwell had reasonable belief it may have right to relief - whether Cromwell "does not have sufficient information to decide whether to start a proceeding" - whether reasonable belief prospective respondents were 'likely to have, or are likely to have had' 'directly relevant' documents - ss606(1) & 671B(1) *Corporations Act 2001* (Cth) - held: application dismissed.

[Cromwell](#)

Neville & Bus Service Pty Ltd v Total Group Constructions Pty Ltd [2020]

NSWSC 1433

Supreme Court of New South Wales

Stevenson J

Notice to produce - contract - alleged defects in 'concrete works' - defendant served notice to produce on plaintiff - whether to set aside notice - whether 'fishing expedition' - relevance - Practice Note SC Eq 11 - held: notice to produce set aside.

[View Decision](#)

Yuanda Vic Pty Ltd v Facade Designs International Pty Ltd [2020] VSCA 269

Court of Appeal of Victoria

McLeish, Niall & Sifris JJA

Stay - security of payments - Court gave judgment for respondent against applicant - applicant sought to appeal from judgment on basis of 'special and exceptional circumstances' - applicant stay of order pending determination of application - whether special or exceptional circumstances - whether arguable appeal ground - whether risk appeal would be 'rendered nugatory' if stay not granted - successful party's entitlement to fruits of judgment - *Maher v Commonwealth Bank of Australia* [2008] VSCA 122 - *Loftus v Australia and New Zealand*

Banking Group Ltd [2016] VSCA 114 - *ASEA 1 Pty Ltd v Rudyard Pty Ltd* [2020] VSCA 122 - s12(2) *Building and Construction Industry Security of Payment Act 2002* (NSW) - held: stay granted.

[Yuanda](#)

Davidson v Suncorp-Metway Ltd [2020] QSC 315

Supreme Court of Queensland

Bowskill J

Stay - mortgage - possession - applicant sought stay of enforcement warrant for possession of land until 'one month after' delivery of judgment in Federal Circuit Court matter - in Federal Circuit Court applicant purporting to challenge mortgage's validity on basis of non-compliance with s78(2)(c) *Land Title Act 1994* (Qld) - whether basis to stay enforcement warrant's execution - held: application dismissed.

[Davidson](#)

Neo Modular Pty Ltd v Enderby Apartments Investment Pty Ltd [No 2] [2020] WASC 375

Supreme Court of Western Australia

Registrar Whitby

Costs - indemnity costs - defendant sought security for costs under O25 r5 *Rules of the Supreme Court 1971* (WA) - Court dismissed application - plaintiff sought costs on indemnity basis - whether 'exceptional circumstances' - whether 'special or unusual feature' warranting indemnity costs - whether 'unreasonable or improper' conduct - whether 'ulterior purpose' in making of application for security for costs - held: defendant to pay plaintiff's costs - indemnity costs order refused.

[Neo Modular](#)

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