



Monday, 29 January 2024

Daily Construction

A Daily Bulletin listing Decisions of Superior Courts of Australia

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Executive Summary (One Minute Read)

Mastronardo v Remo West Ryde Pty Ltd (NSWSC) - a caveat cannot be lodged to protect a mere contractual or personal right

Port Adelaide Salvage Pty Ltd & Anor v Barry (a public officer) (SASC) - convictions upheld relating to conducting a waste depot and assaulting an EPA officer

Summaries With Link (Five Minute Read)

Mastronardo v Remo West Ryde Pty Ltd [2024] NSWSC 8

Supreme Court of New South Wales

Meek J

Caveats - a registered proprietor sought removal of a caveat - the registered proprietor's son appeared and said he had just been appointed director of the corporate caveator - son granted leave to appear for the company to argue the proceedings should be adjourned to him to obtain legal advice regarding a claim that the registered proprietor held the property on constructive trust for the company - held: the mere fact that a caveator is a creditor of the registered proprietor does not give rise to a caveatable interest - a caveat cannot be lodged to protect a mere contractual or personal right - the alleged payment appeared to be an unsecured loan rather than a payment specifically in respect of the property - the interests of justice favoured refusal of an adjournment - on the material provided to the Court, there was no sufficient interest to support the caveat - adjournment refused and caveat ordered withdrawn under s74A of the *Real Property Act 1900* (NSW).

[View Decision](#)

Port Adelaide Salvage Pty Ltd & Anor v Barry (a public officer) [2024] SASC 7

Supreme Court of South Australia

Hughes J

Environmental law - Port Adelaide Salvage Pty Ltd and its director carried on a business demolishing residential buildings and removing and disposing of the waste materials - the director agreed with a landowner to deposit materials on his land - neither the company, the director, nor the landowner held a licence or authorisation to conduct a waste depot - the company and the director were convicted of offences under the *Environment Protection Act 1993* (SA) relating to conducting a waste depot and assaulting an officer of the Environment Protection Authority - they appealed - held: the primary judge had not erred by failing to exclude the out of court statements of the landowner, who had died before trial - the power to exclude this evidence under s34KD of the *Evidence Act 1929* (SA) was discretionary - the appellants had not established that the primary judge had committed *House v King* error in exercising this discretion - the primary judge had not erred in concluding that the conduct of the appellants had amounted to the conduct of a waste depot - the primary judge had not erred in finding that the EPA officer had been assaulted - appeal dismissed.

[Port Adelaide Salvage Pty Ltd & Anor](#)

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