



Tuesday, 30 January 2024

## Daily Construction

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

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#### Executive Summary (One Minute Read)

**Star Aged Living Limited v Lee** (QCA) - trial judge had erred when extending a limitation period by finding that a material fact of a decisive character was not within the means of knowledge of an injured worker before a particular date

**Babstock Pty Ltd & Anor v Laurel Star Pty Ltd & Anor (No 5)** (QCA) - primary judge had erred in finding the buyer of a real estate business and rent roll had had relied on misrepresentations, and in declaring the rent roll contract void *ab initio* under the *Australian Consumer Law*

## Summaries With Link (Five Minute Read)

### **Star Aged Living Limited v Lee [2024] QCA 1**

Court of Appeal of Queensland

Bowskill CJ, Bond, & Flanagan JJA

Limitation periods - a worker said she was injured at work due to her employer's negligence in 2015 - she did not consult a lawyer until 2019, after the three-year limitation period had expired - she sought an extension under s31 of the *Limitation of Actions Act 1974* (Qld) to bring a claim under s275 of the *Workers' Compensation and Rehabilitation Act 2003* (Qld) - the primary judge granted the extension - the employer appealed - held: a necessary prerequisite to the exercise of the discretion under s31 was that a material fact of a decisive character was not within the means of knowledge of the worker before a particular date (s31(2)(a)) - the primary judge had erred in finding this prerequisite was met - the worker had had within her means of knowledge a "critical mass of information" which was sufficient to justify bringing the action before the relevant date - although it was not strictly necessary to consider the further grounds of appeal, the employer had not shown that the primary judge had erred in assessing prejudice to the employer, or had erred in the *House v The King* sense in exercising the discretion under s31 - appeal allowed.

[Star Aged Living Limited](#)

### **Babstock Pty Ltd & Anor v Laurel Star Pty Ltd & Anor (No 5) [2024] QCA 3**

Court of Appeal of Queensland

Mullins P, Bond, & Dalton JJA

Misleading or deceptive conduct - the buyer of a real estate business (for \$5,000) and rent roll (for \$820,000) sued the seller, alleging misleading or deceptive conduct - the seller counterclaimed, alleging the buyer had not been entitled to terminate the contracts - the primary judge found the buyer had validly terminated the contract for sale of the business under a clause entitling it to do so even without breach, and had validly terminated the contract for sale of the rent roll due to anticipatory breach by the seller - the Court of Appeal set aside the finding regarding the rent roll contract and remitted the issues regarding that contract to the primary judge - the primary judge then set aside both contracts *ab initio* and gave judgment against the seller in the amount of the deposit, and gave judgment for the buyer on the counterclaim - the seller appealed - held: the primary judge had erred in determining that the buyer relied upon the misrepresentations in entering into the rent roll contract - the primary judge had erred in finding that the misrepresentations caused the buyer loss because they caused the buyer to become bound to the terms of the rent roll contract - the primary judge had erred in law in declaring the rent roll contract void *ab initio* pursuant to s237 of the *Australian Consumer Law* when it could not be shown that the buyer had suffered, or was likely to suffer, loss or damage as a result of misleading and deceptive conduct - appeal allowed, and judgment for the seller under the counterclaim.

[Babstock Pty Ltd & Anor](#)

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